

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-fifth Session
May 28, 2009**

The Senate Committee on Natural Resources was called to order by Chair David R. Parks at 4:03 p.m. on Thursday, May 28, 2009, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Allison Copening, Vice Chair
Senator Dean A. Rhoads
Senator Dennis Nolan

COMMITTEE MEMBERS ABSENT:

Senator Mark E. Amodei (Excused)
Senator Bob Coffin (Excused)
Senator Bernice Mathews (Excused)

STAFF MEMBERS PRESENT:

Randy Stephenson, Committee Counsel
Michelle Van Geel, Committee Policy Analyst
Shirley Parks, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Policy Director, Nevada Conservation League
Anthony Lesperance, Ph.D., Director, State Department of Agriculture
Susan Lynn, Great Basin Water Network
Allen Biaggi, Director, State Department of Conservation and Natural Resources
Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority;
Las Vegas Valley Water District
Steve Walker, Truckee Meadows Water Authority

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CHAIR PARKS:

I will open today's meeting to discuss Senate Bill (S.B.) 373. We received this bill by re-referral from the Senate Committee on Legislative Operations and Elections. I have asked Senator Copening to chair this portion of the meeting. We do have a quorum present.

SENATE BILL 373: Directs the Legislative Commission to appoint a subcommittee to conduct an interim study concerning projects for the importation of water and to develop a sound strategy for the proposed use of water in this State. (BDR S-849)

VICE CHAIR COPENING:

Senator Parks will introduce S.B. 373.

SENATOR DAVID R. PARKS (Clark County Senatorial District No. 7):

The summary of this bill request is to direct the Legislative Commission to appoint a subcommittee to conduct an interim study concerning projects for the importation of water and to develop a sound strategy for the proposed use of water in this State. The bill draft suggests the Legislative Commission, which appoints interim studies, create a committee to study the importation of water and develop a water strategy.

KYLE DAVIS (Policy Director, Nevada Conservation League):

Our organization spoke to Senator Parks about this bill before the Session started. Essentially, the genesis of the idea is the fact that water is a very precious resource in our State. There are many proposals in the south, the north and the rural areas about importation of water to meet water needs. Periodically, the Legislature has taken a look at the water resources in the State and how effectively we are utilizing these water resources. Are we being fair to all citizens of the State? Are we taking adequate care of the impacts to our environment? We felt the time is right to take another look at this, because in the past several years we have had predictions and now realize the runoff decline of the Colorado River Basin as well as the Sierra Nevada. The changes in water use and changes of the timing of water as it is coming to us in Nevada give us a reason to take a second look at this issue. The possibility was discussed in the Senate Committee on Legislative Operations and Elections that the interim Legislative Committee on Public Lands (LCPL) could do this study. We are comfortable with this suggestion. We definitely want to bring this to the attention of the Legislature, keeping in mind that water is a statewide issue.

SENATOR RHOADS:

The LCPL has jurisdiction over most water issues. It would be fitting to place the study with this committee. This study has merit, as water will become so precious over the next several decades. I welcome a study like this, especially in the rural areas.

VICE CHAIR COPENING:

I have a question. How do you see the committee coming together? Will there be a series of field trips going out to different areas? I can see Senate and Assembly members meeting, but how often? What would they do during the meeting time?

MR. DAVIS:

It would be an information-gathering type of meeting. Yes, field trips are very possible, looking at the water sources and the impacts to the environment as well as looking at the new sciences and studies that may be available. I would say the LCPL could determine the best way to go about the study.

SENATOR RHOADS:

The LCPL has nine meetings scheduled during the interim. We go all over the State. Sometimes we schedule a two-day meeting when we take tours and actually go out onto the grounds to see the different problems. We can thoroughly cover the study in nine meetings. This would be a beneficial study.

VICE CHAIR COPENING:

I was reviewing the fiscal note on this issue. It was not a large fiscal note. Legislative travel expenses were \$1,800. It did not seem adequate for that kind of travel. I hope we have not underestimated the budget for this study.

SENATOR RHOADS:

Travel and expenses are covered in our budget. There might not be a need for additional money.

SENATOR PARKS:

When the Senate Committee on Legislative Operations and Elections re-referred S.B. 373 to the Senate Committee on Natural Resources, it was their intent that the water study could be conducted by the LCPL.

ANTHONY LESPERANCE, PH.D. (Director, State Department of Agriculture):

The State Department of Agriculture was created in 1915 by legislative action. One of the primary functions of the Department was to protect agriculture. In Nevada, agriculture as we know it today is totally dependent on water. Obviously, the Department is equally concerned about water. I will not mention several things we have done recently in regard to water, but I have a letter that I sent to Governor Gibbons that I will read to you for the record. You may follow along as I read ([Exhibit C](#)).

For your information, I have attached a copy of our water policy statement to [Exhibit C](#). It is strongly worded, and we intend to implement it again to the best of the board and the Department's ability. I would also like to cover an area of concern for me and that is the political aspects. We have all heard U.S. Senator Reid say time and time again that there are better uses for Nevada's water than for agriculture. I disagree with that statement. The one thing you have never heard him say is that there are not better uses for Nevada's water than for the environment. What Senator Reid fails to recognize is that those two things are tied very closely. The environment we have in rural Nevada today that we all love and cherish, the fields, the meadows, the streams, the reservoirs, the fishing, the hunting and the upland birds, are all essentially a product of Nevada agriculture. Before Nevada agriculture was established, you could not get across Nevada without paying a very high price. It was not a pretty picture. Today, we have abundant game, fishing and wildlife within the beauty of nature that is beyond our comprehension, because of agriculture. When that beauty is removed and agriculture is gone, you must understand absolutely clearly that Nevada's environment will be forever harmed. It will never be like it is today. That is a very steep price to pay. Our Department supports a thorough look at this. We work closely with Senator Rhoads on a number of issues already, and it would be helpful if you would place this issue with the LCPL.

SENATOR RHOADS:

I have heard that 70 percent of Nevada's water is used by agriculture. Is this true?

DR. LESPERANCE:

Yes, I believe the figure is in that vicinity. A large percentage of water does currently go to agriculture.

SUSAN LYNN (Great Basin Water Network):

I will dispense with my written comments ([Exhibit D](#)). I want to second what Dr. Lesperance has just said. In addition to agriculture, tourism is a major operation in Nevada. Gaming and tourism are the drawing cards that are important to this State. We are supportive of taking another look at water importation, exportation and the cost to both urban and rural areas. We are looking at California as a poster child. They have numerous water projects. They have many canals and aqueducts across the state. Right now, because of the drought, population and economy, California's house of cards is beginning to tumble. We do not want this to happen in Nevada. We want to plan ahead and we want to encourage the committee to take a look at these issues. We agree the LCPL should be the committee to do this. They are an established committee. This would delete the need to allocate three Assembly members and three from the Senate and any others needed to form a new committee.

Removing water from public lands and rural counties has drastic impacts. We are seeing that dust creates a problem for the snow pack and the skiing industry and all sorts of other problems. This does affect tourism. We hope you do move ahead and use the existing LCPL. This is an important step in the future of water in Nevada.

ALLEN BIAGGI (Director, State Department of Conservation and Natural Resources):

We are very interested in this important natural resource to Nevada. As you are aware, an interim study was conducted between 2003 and 2005 on water issues. Interbasin transfers were extensively discussed and thoroughly vetted at the time. A substantial number of bills came forward during the 2005 Legislative Session addressing this very issue. I am not here to say Nevada water law is a perfect set of laws. No set of laws are. But Nevada water law is recognized as one of the best in the West. It has extensive criteria and requirements for the Office of the State Engineer to look at interbasin transfers from a resource and environmental perspective.

I want to point out that interbasin transfers are not new. The first was actually in 1873 as a result of a transfer from the Lake Tahoe Basin and the Truckee River Basin for the Newlands Project in the Fallon area. Since that time, there have been numerous other interbasin transfers for both surface water and groundwater.

With regard to S.B. 373, we do have some concerns with it in the fact that interim studies are labor- and resource-intensive for the Office of the State Engineer. The 2003 to 2005 interim study was a perfect example of that. The state engineer and his management staff were tied up substantially for that interbasin study. With the budget and resource reductions that have been put in place in the next biennium, we have additional concerns. However, if you do desire to move forward, we would support the LCPL proceeding with the study because they are aware of the water issues. They can address this issue very clearly. We will participate in any way we can to the best of our ability and provide any information that is asked of us.

It has been alluded to with regard to the Southern Nevada Water Authority (SNWA) interbasin transfer project that perspective studies and evaluations by an interim committee and the changes that may occur in the 2011 Legislative Session and beyond would have the ability to address the ongoing proposals that SNWA is making right now. Those applications were made in the 1980s to the Office of the State Engineer. He has ruled with regard to all but one of those proposals. The due process is ongoing with these projects. The LCPL can address future interbasin transfer proposals as they may come after legal changes made in the *Nevada Revised Statutes* (NRS).

ANDY BELANGER (Senior Management Analyst, Southern Nevada Water Authority; Las Vegas Valley Water District):

When I originally heard this bill, I expressed some concern about the necessity to provide the bill with all the studies that have occurred in the last several interims. In 2003, there was a bill, S.B. No. 216 of the 72nd Session, which we supported that gave the LCPL authority to study water issues for several interims. In 2005, S.C.R. No. 26 of the 73rd Session created a committee that studied water issues extensively and held meetings throughout Nevada. I should note that this committee was formed as a direct result of the water authority's plan to ask the State's permission to develop unused waters of the State. This study was done with the understanding and context of our applications already in the Office of the State Engineer. In 2007, we supported S.B. No. 267 of the 74th Session, which provided the LCPL continued oversight in perpetuity for water issues in Nevada, with SNWA, Truckee Meadows Water Authority (TMWA) and every water agency in the State required to submit a report to the LCPL. This committee has full discretion to study the use, management and allocation of water in the State. We would recommend that if the Committee decides to process this bill, they grant to the LCPL additional authority to study

interbasin transfers of water. It is already granted in NRS 218.536, if it needs to be specified that we are comfortable with this statute.

The discussions by the proponents of the bill left the impression that the water authority's project is not in the best interest of the State. I would submit to you that without a project and a plan to provide the 2 million residents of southern Nevada with a reliable water supply, we would be in violation of our duty to provide a water supply for those communities. If we are not allowed to use the water of the State, where are we going to get water? No other states are willing to give us their water.

STEVE WALKER (Truckee Meadows Water Authority):

I represent Lyon, Douglas and Storey Counties and Carson City. The 2005 interim water study was significant in water legislation. Several improvements were made in water law. They were incremental improvements, not jumps. Some of the improvements included redefining how we do our hearings, domestic well water identification, water rights dedication to land parcels and all of these are good incremental changes that have improved operations in the Office of the State Engineer.

Although I am neutral on S.B. 373, I have a concern that we are going to jump and look right into interbasin transfer law. This concept has worked for Nevada for a long time. I am supportive of a review of rural water issues using the LCPL. This is a good idea. A good report will come from this. I do not think that is what this legislation is all about. If we are going to process legislation, it does need to be changed to focus on what we want to do.

MS. LYNN:

I think we need to be perfectly clear. This is not just about SNWA. This is about water in northern Nevada, eastern Nevada and central Nevada. It applies to virtually every county whether importation or exportation. From this point of view, it would be difficult to choose water for cities or water for food or water for lifestyles. We are coming to these sorts of choices all over the West, and all over the world, for that matter. We need to be very cognizant that this is about the entire State.

CHAIR PARKS:

How do we process this last bill? This is our final hearing. If it is our intent to act on S.B. 373, we need to ask staff for their insights on the process.

MICHELLE VAN GEEL (Committee Policy Analyst):

If the Committee chooses to amend the bill to add language about the LCPL, this could be a motion today. It could be done on the Senate Floor in a meeting behind the bar. It is my understanding the other three committees have been chosen, so this bill could not be processed the way it is presented now. It has not been chosen as one of three to be processed. Another option could be to not process the bill and then let the LCPL use the language in statute to cover the study. The bill could be amended to specify some of the language that is currently in the bill to the statute, asking the LCPL to do this particular study.

RANDY STEPHENSON (Committee Counsel):

In the existing provisions of NRS chapter 218, the LCPL has very broad authority to look at these issues concerning water use and also to consider public lands in relation to water use on those lands. This is certainly one option. Another option would be to draft with specific language from this bill that could be written into the statute that requires the LCPL to do this study.

SENATOR NOLAN:

I think we can ask Senator Rhoads how they might do this. They have been meeting for many legislative sessions, and I am sure water issues have been part of the discussions. Possibly a letter from the chair or a resolution could require them to do the study. This is an enormous issue for the State.

SENATOR RHOADS:

At almost every meeting, we hear about off-road issues, water issues and public lands issues. It would be a stronger mandate if we could amend the bill to say we have jurisdiction to do this. This would be stronger than a letter of intent. There was a bill that expanded the size of the LCPL. I do not know if it has been passed. The committee currently has seven members: six legislators and one county commissioner.

MS. VAN GEEL:

Yes, A.B. 535 has been enrolled. It was delivered to the Governor on May 23, 2009. It increases the membership of the LCPL from seven members to eight members.

ASSEMBLY BILL 535: Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (BDR 17-957)

CHAIR PARKS:

Since this is our last meeting, any action we take will have to be to amend and do pass. It would then have to go to the Assembly for its review and concurrence. I do not know if we have the time for this process.

SENATOR NOLAN:

If there is no time to process S.B. 373, we should at least write some type of letter. I know Senator Rhoads was correct, and I agree with him. If we are going to compel the LCPL to actually look into these water issues, we should give them some guidelines. We can provide suggestions for a sound strategy with a proposed use of water in conjunction with the Office of the State Engineer. An amendment to this effect could be in order for S.B. 373. The Office of the State Engineer has already developed some plans. We could possibly review their plan. They are the experts. I believe the LCPL has the ability to report back to the Legislature with their research and recommendations.

CHAIR PARKS:

As a Committee, we can make a written recommendation to incorporate these concerns and suggestions and all this other information, along with portions of the bill, to the chair of the LCPL to build into their planned interim activities.

SENATOR NOLAN MOVED TO SEND A LETTER TO THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS OUTLINING THE RECOMMENDATIONS OF THE SENATE COMMITTEE ON NATURAL RESOURCES.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

This completes our agenda today. The official business is concluded for the Senate Committee on Natural Resources. We are adjourned at 4:43 p.m.

RESPECTFULLY SUBMITTED:

Shirley Parks,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____