

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE, AND MINING**

**Seventy-Ninth Session
May 4, 2017**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Heidi Swank at 1:28 p.m. on Thursday, May 4, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada and to Room 107, Health Sciences Building, Great Basin College, 1500 College Parkway, Elko, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Heidi Swank, Chair
Assemblywoman Lesley E. Cohen, Vice Chair
Assemblyman Chris Brooks
Assemblywoman Maggie Carlton
Assemblyman John Ellison
Assemblywoman Sandra Jauregui
Assemblywoman Lisa Krasner
Assemblywoman Robin L. Titus
Assemblyman Justin Watkins
Assemblyman Jim Wheeler
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Susan E. Scholley, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Nancy Davis, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jason King, P.E., State Engineer and Administrator, Office of the State Engineer,
Division of Water Resources, State Department of Conservation and Natural
Resources
Angela K. Slaughter, Natural Resources Program Manager, Colorado River
Commission of Nevada
Susan Juetten, representing Great Basin Resource Watch
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
Mike L. Baughman, Executive Director, Humboldt River Basin Water Authority
Stacy Shinn, representing Progressive Leadership Alliance of Nevada
Kyle Davis, representing Nevada Conservation League
Paul Taggart, representing Taggart & Taggart, Ltd.
Andrew M. Belanger, representing Southern Nevada Water Authority; and Las Vegas
Valley Water District
Susan Joseph-Taylor, Deputy Administrator, Office of the State Engineer, Division of
Water Resources, State Department of Conservation and Natural Resources
Omar Saucedo, representing Southern Nevada Water Authority

Chair Swank:

[Roll was called and standard rules of the Committee were reviewed.] We will begin with
Senate Bill 47 (1st Reprint).

**Senate Bill 47 (1st Reprint): Makes various changes relating to the appropriation of
water. (BDR 48-499)**

**Jason King, P.E., State Engineer and Administrator, Office of the State Engineer,
Division of Water Resources, State Department of Conservation and Natural
Resources:**

Senate Bill 47 (1st Reprint) is a bill that our office introduced and we are here to testify in
support of. The purpose of S.B. 47 (R1) is to address issues throughout the water law that we
believe need clarification, correction, or addition, and include provisions added by the
Senate Committee on Natural Resources. With your approval, I plan to read my testimony
into the record and not go through the bill word-by-word, but summarize the sections.

Section 1. The amendment in section 1 is one of the amendments proposed by the
Senate Committee on Natural Resources requesting our office prepare water budgets for
groundwater basins.

Section 1.3. The amendment found in section 1.3 is proposed by our office to specifically provide in law that surface water and groundwater resources of the state should be managed conjunctively.

Section 1.7. This proposes that a water right applicant not only identify the rate of diversion they are requesting in an application, but also the volume of water measured in acre-feet they intend to use, with an exception for applications for generating hydroelectric power and diversion rate-only applications. We need to know how much water the applicant is requesting for the proposed use in order to make the determination as to whether there is available water to appropriate. Currently we only request the diversion rate; we need the volume as well. When an application does not have that information, we have to write a letter to the applicant requesting it.

Section 2. We propose amending the language as to where a notice of an application is published to be in the county where the proposed point of diversion is located. It is not relevant where a newspaper is printed and published; what is relevant is where the paper is circulated.

Section 3. Proposes to allow an applicant filing for an interbasin transfer of groundwater greater than 250 acre-feet to waive the time limit of one year for the completion of the inventory required by law. The proposed language waiving the one-year time frame was brought about when we had an applicant with a particular project that spanned four basins, so four inventories were required to be conducted. The water right applicant himself was performing the inventories and found it challenging to complete four inventories within one year and did not believe it was necessary for his project to complete multiple inventories within the one-year time frame. This amendment provides flexibility that has been requested by water right applicants and will help future applicants in the same circumstances.

Section 4. We propose to add the requirement found in other places of the water law that an applicant requesting an extension of time must demonstrate they are "proceeding in good faith" to place the water to beneficial use. If you look at the language just below this proposed amendment, you will see that it says the State Engineer shall not grant the extension of time unless the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The amendment just says that the applicant requesting the extension of time needs to provide that information up front in his or her application for extension of time. Section 4 also proposes an amendment from the Senate Committee on Natural Resources regarding the maximum amount of time that may be requested under an application for extension of time. The legislator who proposed the amendment was not in favor of individuals being treated differently than municipalities.

Section 5. This section merely eliminates the requirement for an address to be put on a water rights certificate as it is not needed and may, in fact, be erroneous since water right ownership changes frequently. Anyone wanting to know the owner of record should simply check with our office.

Section 6. This section proposes cleanup of some language in the fee section of the water law. It does not change any fees, but merely corrects some minor problems regarding words that were inadvertently omitted during a previous amendment of this section. For example, when the fees were changed last time, we lost the word "second" and only a "foot of water" remained. The actual measurement should be "cubic foot per second." It also includes changing language that is not in common usage. The word "irrigational" is not used anywhere in water law as "irrigation" is the accepted term. It eliminates the cost for blueprints, as we no longer provide blueprints. It also clarifies the language regarding the fees for filing a request for a waiver. The fee is to be paid when the request for waiver is filed as it covers the cost of performing the review of the application; it is not just for issuing waivers that are granted.

Section 7. The purpose of the amendment in section 7 is to clarify that a "subsisting water right" is not a third kind of water right. There are pre-statutory vested water rights that came into existence prior to our current appropriative process, and there are water rights that are issued pursuant to our statutes today. We believe when the language found in *Nevada Revised Statutes* (NRS) 533.492 was amended, it was to provide an easier way to prove a pre-statutory water right for stock watering; it was not to create a third kind of water right.

We are also requesting that better maps be used for identifying the location of a pre-statutory vested water right for stock watering. We found that the scale used under current law is not adequate to properly locate the claimed rights when our staff are in the field.

Section 8. The amendments proposed in section 8 are to clarify the fact we believe that any application where the use of water is in Nevada, even though the point of diversion may be in another state, should require a water right from our office.

Section 9. The amendment proposed in section 9 aims to reduce the significant litigation regarding the current forfeiture law and provides additional considerations for the State Engineer to consider when a certificate holder files an application for extension of time to avoid forfeiture.

Sections 10 through 15 were deleted by amendment.

Sections 16, 17, and 18 are language proposed by the Southern Nevada Water Authority regarding an advisory board. [Written testimony was also provided ([Exhibit C](#)).]

Assemblywoman Cohen:

In section 1, with reference to the shared basins between the states, is there an existing compact for those basins already?

Jason King:

No. We do have a number of shared groundwater basins with other states. We manage our groundwater portion of the basin and the adjacent states manage theirs. There are some cases

in California where they do not manage their portion. There is no compact between the two states. I will tell you that in Utah, when we have looked at water appropriations in some of those common basins like Snake Valley, we have worked with them and tried to come up with a common regulatory scheme. We do not have any agreements with our adjacent states when it comes to groundwater. If you want to discuss surface water, yes, there are decrees on the Walker River, the Truckee River, and the Carson River where a decree oversees the water delivery between the two states.

Assemblywoman Cohen:

How do you work with that, since it is water and does not follow a line on a map.

Jason King:

We try. Regardless of the fact that the state line does not act as a fault and prevent movement of water, we are a prior appropriation state, and as I mentioned, Utah is also. We try to honor their existing water rights. I believe they do their best to honor our prior appropriation rights. California, in most of their groundwater basins, does not have a water law. I will tell you, when we look to appropriate water in a basin in Nevada that is shared with California, we will look to see how much water we believe is being used on the California side, and we take that into consideration when looking at the water availability of the entire basin, whether it is in California or Nevada. We do make the attempt, but I do not think some neighboring states return the favor.

Assemblywoman Cohen:

In section 1.3, I would like to ask you about gray and recycled water. I want to know how treated water is handled under water law.

Jason King:

I think what is being proposed in section 1.3, subsection 1, paragraph (e), the conjunctive management, really supports the fact that Nevada should wholistically manage and use all of its water resources: groundwater, surface water, and I consider effluent a separate kind of water as well. I think it supports that idea. The appropriation and regulation of effluent water is found in NRS 533.440. I think it is hand in glove with that. I consider effluent to be a third type of water that we can conjunctively manage.

Assemblywoman Cohen:

Do we need to add something to clarify that since it is not included?

Jason King:

That is our office's view, that effluent is that third type of water and should be conjunctively managed, but if it is unclear to some, I am sure we can add some clarity.

Chair Swank:

On page 3, line 34, it states "all waters." You include groundwater, surface water, and effluent as something that your office should conjunctively manage, correct?

Jason King:

Absolutely. Just to be clear, many times people interpret that conjunctive management just considers the hydrologic connectivity between surface water and groundwater. That is as far as some people go. I believe the entire conjunctive management is of all water resources, whether they are hydrologically connected or not. Effluent is that third separate water resource that I think we need to throw into that mix.

Assemblywoman Titus:

Along that same line, our standards are already there for reusing the effluent. It actually is connected, especially in Southern Nevada Water Authority, which is a classic example of how to capture effluent. Do they clean and clarify the effluent water and reinject it as part of the system that they use?

Jason King:

You are thinking of the big picture of conjunctive management as I do. My point earlier was, arguably, you could say that the molecule of water in effluent is not connected to a groundwater source; but big picture, it is an important component. It turns 300,000 acre-feet of Colorado River water into 480,000 acre-feet. It is a huge component to that water budget.

Assemblywoman Carlton:

I want to understand adding "watering livestock." I know that has been an issue, and I want to understand how that works.

Jason King:

If you look on page 9 of S.B. 47 (R1), lines 40 through 44, we have "For issuing and recording each permit to appropriate or change the point of diversion or place of use . . . for watering livestock or wildlife purposes." That is existing language, and that is what we have been going by. What happened the last time this statute was amended, on page 9, lines 18 through 22 and also lines 25 through 29, watering livestock were exemptions to that fee. Somehow, that was left out of the last amendment. We had it in there once, and we do not want to be ambiguous. We do not want people to look at lines 18 through 22 and look at that for the permitting cost of watering livestock, nor do we want them to look at lines 25 through 29, because it is already in lines 40 through 44. We are just adding back the language that was there before the last amendment.

Chair Swank:

I have a question about giving notice. This states publishing in a newspaper for four consecutive weeks. It seems this would also be something good to put on your website. I am wondering if we can add that language in. I really like it when we have notice in print, because not everyone has Internet access, but we do know that for a lot of people the Internet is their go to place to find information.

Jason King:

We already do that. When you go to our website on the water rights database, it is almost real time in terms of applications being filed. I know for a fact that a lot of entities that are concerned about what applications are being filed go to our website. We have a monthly report. If you want to add it to statute, I would just say that, when we publish in a newspaper, we get something in return from the newspaper showing the dates it was published. That establishes our 30-day protest period and when an application is ready for action. I would not want that same limitation for what we put on the website because it is not as easy to cull that.

Chair Swank:

I would like to see it in addition to the newspaper. You could use the newspaper to mark your time. I believe there are versions of websites that are cached and the system should know when the notice was put on your website. It is great that you are doing it already, but the next person who sits in your seat may not do that.

Assemblyman Ellison:

In section 3, you stated that you will extend the time limit for applications of groundwater greater than 250 acre-feet. Is that correct?

Jason King:

We are going to allow to waive the one-year time frame for which to complete that inventory. As I mentioned, we had a mine that spanned over four hydrographic basins. They filed an application to appropriate water, and they were limited by the fact that they needed to get that inventory done in one year before we could move forward on the application. They were not in any hurry to be done within a year and it is a lot of work, so we want to offer the ability for the applicant to request a waiver of that one-year time frame.

Chair Swank:

Is there anyone here in support of S.B. 47 (R1)?

Angela Slaughter, Natural Resources Program Manager, Colorado River Commission of Nevada:

The Commission is very supportive of S.B. 47 (R1) and the proposed attached amendments which, when enacted, will allow the state to conjunctively manage the appropriation, use, and administration of all water in this state, regardless of the source. This is an important policy which will lead to effective and efficient use of the waters of the state.

The proposed amendments to NRS 533.024 make clear that the State Engineer's jurisdiction does not include the jurisdiction over the Colorado River. Unfortunately, we believe the language used in the Legislative Counsel's Digest in Senate Amendment No. 602 to S.B. 47 (R1) may not fully capture this distinction. Therefore, we wanted to address the Committee here today to reinforce for the record that the State of Nevada has two agencies that manage the waters available to the state, the State Water Engineer and the Colorado River Commission of Nevada. *Nevada Revised Statutes* Title 48 includes not only

the appropriation, use, and administration of surface and groundwater managed by the State Engineer under NRS Chapters 533 and 534, but also includes the appropriation, use, and administration of the Colorado River, which is managed by the Colorado River Commission of Nevada in NRS Chapter 538. It is important to clarify this cooperative division of the water management within Nevada. There are many laws and agreements that govern the Colorado River and the use thereof, and these would not be subject to S.B. 47 (R1) and the attached amendments.

In conclusion, we agree with the policy that is being expressed by S.B. 47 (R1) along with the proposed amendments, which make clear that the State Engineer's jurisdiction does not include the Colorado River. We also want to applaud the efforts of the State Engineer's Office in their pursuit of legislation to protect and encourage the efficient use of the waters of Nevada. We join with that office in support of S.B. 47 (R1).

Chair Swank:

Are you proposing amendments for this bill?

Angela Slaughter:

We are not proposing amendments; we are in support of the amendments that are subject to this hearing.

Chair Swank:

You are talking about the first reprint of S.B. 47 (R1).

Angela Slaughter:

Yes.

Susan Juetten, representing Great Basin Resource Watch:

Great Basin Resource Watch is a nonprofit, public-interest, science-based organization. I am here to support S.B. 47 (R1). Section 1 addresses an issue that Great Basin is particularly interested in. Current policy in Nevada is that water permits that are considered temporary in nature or are temporary by statute are not considered in the amount of water appropriated in a basin. In our view, this is akin to trying to reconcile your bank account without knowing all of the money that is going out. Such a practice runs a risk of overdrawing your bank account. Many of the water basins in Nevada are effectively overdrawn, or overallocated. Not including the water in the basin budget in these temporary in nature permits only exacerbates the problem and in some cases may be the primary cause for overallocation. To provide the needed certainty in water availability, all water, whether considered temporary in nature or not, needs to be part of the basin budget. In closing, we see these reforms as an important part of getting our water basins into a healthy state as soon as possible.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation:

We are here today to speak in support of passage of S.B. 47 (R1). We were very involved with the Senate Committee on Natural Resources in working through some of the details.

We have spoken to this Committee before on our concern over the notification process for forfeiture. We believe this bill corrects that problem.

Mike L. Baughman, Executive Director, Humboldt River Basin Water Authority:

The Humboldt River Basin Water Authority supports this bill in its reprint form. We also worked on this bill on the Senate side. In particular, I would note the addition of the policy regarding conjunctive use of water in section 1.3 as being a very important issue for the Humboldt River Basin area. We wholeheartedly support that. I would also note under section 9, on page 15, lines 35 through 37, we believe the inclusion of that provision addresses the concern we had about ensuring that waters that are indeed forfeited are available to be put back into beneficial use by the next applicant in line. We want to see as much of our water in beneficial use as possible. That provision along with all the other amendments will help to make sure that happens.

Stacy Shinn, representing Progressive Leadership Alliance of Nevada:

Today I am here in support of S.B. 47 (R1), section 1, specifically. We believe that requiring the preparation of a water budget and inventory that includes the appropriations that are temporary in nature is essential to restore our basins and to ensure the responsible management of our water resources for both this and future generations.

Kyle Davis, representing Nevada Conservation League:

We are in support of this bill, particularly sections 1 and 1.3. I would echo the comments of Ms. Shinn and Ms. Juetten on that. I would also echo the comments of Mr. Baughman. I think that the concept of conjunctive use and treating our water resources and thinking about how they work together is a very important concept and something we have been talking about for a long time. I am glad to see that we have it included in the bill today.

Paul Taggart, representing Taggart & Taggart, Ltd.:

I am here representing my firm, Taggart & Taggart. We are water lawyers and are involved in forfeiture cases. We think that the addition of section 9 is a tremendous improvement on existing law. It provides notice to water right owners prior to the forfeiture occurring to their water rights. We think it is a great step in the right direction to avoid litigation in the future.

Chair Swank:

Is there anyone else who would like to testify in support of S.B. 47 (R1)? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone in neutral?

Andrew M. Belanger, representing Southern Nevada Water Authority; and Las Vegas Valley Water District:

We support the bill as written. We have a couple of concerns with some of the definitions, particularly in section 7, the notion that all subsisting rights to water livestock are pre-statutory vested rights. That is an area that we have a little heartburn on. I would not characterize that as opposition in any way, but I would say that is something we would like to spend more time with. We suggested adding, "Which may be a pre-statutory vested water right." There are cases where it is clear that the vested laws and the provisions of federal law

that create the subsisting rights to water livestock were at different time periods, so I do not think you can say that all subsisting rights to water livestock are pre-statutory vested rights. On the whole, we support every other provision of this bill.

Chair Swank:

I am going to put that into opposition because there are parts of the bill you are unhappy with. Is there anyone else in neutral? [There was no one.] I will close the hearing on Senate Bill 47 (R1). [Also provided but not mentioned was ([Exhibit D](#)).] I will now open the hearing on Senate Bill 51 (1st Reprint).

Senate Bill 51 (1st Reprint): Makes various changes relating to the adjudication of vested water rights. (BDR 48-180)

Jason King, P.E., State Engineer and Administrator, Office of the State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources:

I am here to talk about Senate Bill 51 (1st Reprint), which was introduced by our office, and we are here to provide testimony in support.

Senate Bill 51 (R1) addresses the section of the water law applicable to the process we call "adjudications," which is the process by which pre-statutory vested water right claims and federal implied reserved water right claims are filed, reviewed, investigated, and determined by our office in the administrative phase through an "order of determination" followed by a judicial phase that results in a "decree." This can be a very lengthy, expensive process. A decree determines who has the right to use the specific water source, the priority date of the water right, where the water may be diverted, how much water may be diverted, when it may be used, and where it may be used. The statutes that address this process are found in *Nevada Revised Statutes* (NRS) 533.090 through 533.320, most of which have not been reviewed or updated since the early twentieth century, and some of which are cumbersome and not in sync with how the work is performed today, almost 100 years later. I will summarize this bill section by section.

Section 1. This section eliminates the provision that focuses the initiation of adjudications based on their importance for irrigation. One hundred years ago, that really was the focus for the need to adjudicate the pre-statutory water rights claims on a certain water source. Today, we are faced with other reasons as to why a certain adjudication should take priority. Things such as whether a basin has been designated as a Critical Management Area or is possibly subject to curtailment of water use by priority. In both of those examples, we really need to quantify the pre-statutory, vested-right claims in order to understand how much water is available to junior, statutory-permitted rights before curtailment occurs.

Section 2. This is cleaning up some awkward language that has existed since 1919 and reordering requirements from other sections, specifically, NRS 533.110 to make the statute flow better.

Section 3. These amendments are some of those needed to reflect today's reality. When the Irrigation Act of 1903 was passed, and the Office of the State Engineer was created, it was expected that the State Engineer's Office had to map all the streams and rivers. However, in 1913, provision was made for a cooperative program between the U.S. Geological Survey and the State Engineer for the investigation of water resources in the state. Today, we have maps that cover the entire state, and the amendments are to reflect that the State Engineer may not need to go out and survey the streams. Additionally, the State Engineer does not prepare water right claimant maps, and the amendments make clear that a proof of appropriation must be accompanied by a map indicating where the water was diverted and used.

Section 4. These amendments parallel those in section 3 and are a reflection that, in today's world, the State Engineer does not prepare maps on behalf of water right claimants. It is their responsibility to provide an accurate map accompanying their water right claim filing and that we will not need to recover the cost of preparing those maps.

Section 5. This section adds some additional information we believe is necessary to be included in a claim for pre-statutory vested water rights, outlines requirements for manners of use other than irrigation, and adds the requirement that a map must accompany a proof of appropriation, which is the name of the document filed with the Office of the State Engineer asserting a claim of vested water right.

Section 6. This section is amended to reflect that proofs of appropriations are filed as notarized statements and that the staff in the adjudication section of the Division of Water Resources are not notaries.

Section 7. This provides a process for returning for correction those proofs of appropriation forms and maps that are not adequately filled out or are "found to be defective." This process already exists in the law for returning water right applications, and what we are proposing here is a similar process for returning defective proofs of appropriation. While a fee is charged in the application process for the return of a defective application, we did not add a fee here at this time as we wanted to focus on substantive changes.

Section 8. The amendment replaces the word "vouchsafed" with "provided" as "vouchsafed" is not a word we have ever seen used.

Section 9. The amendments are a reflection, again, that the State Engineer will not be preparing maps or surveys; it is the job of the claimants. It also eliminates pre-statutory vested water right claims for wildlife, as we do not believe such a kind of water right exists. We believe that claims asserting that water was being beneficially used prior to the statutory appropriation process for wildlife is ripe for frivolous claims. How can one say they beneficially used water that wildlife naturally drank?

Section 10. This reflects some wording that the Legislative Counsel Bureau drafters added and provides for a cost-saving measure in that, instead of sending large documents by

certified mail to many people, we can post those documents on the website of the Office of the State Engineer and send to interested parties notice by certified mail that the documents are available. Madam Chair, I think this is also in the spirit of what you were talking about earlier.

Section 11 was deleted by amendment.

Section 12. The changes to this section are being made to reflect issues that we have had to address over the years. The federal agencies refuse to pay their share of the cost of a hearing and, in one particular adjudication, the only issues they had were legal issues raised by the federal agency claims. Legal issues can be addressed by briefing; therefore, the mandatory hearing was a waste of resources and would have cost state citizens additional money since the federal agencies refuse to pay their share of the costs of the hearing. Thus, we are providing that the parties may waive the requirement for a formal hearing, which is what the federal agencies agreed to previously. We are also eliminating some time frames that simply do not serve any valid purpose, specifically that a hearing must be held not less than 30 days nor more than 60 days from the date of the notice of the hearing.

Section 13. This proposes changes to modernize this section of the law. As currently written, we are required to basically pass a coffee can around each day of the adjudication hearing and have the participants make a deposit to cover the cost of reporting, transcribing and per diem expenses of a court reporter. We do not receive a bill from the court reporter for several weeks after a hearing closes, so we do not know what the cost will be. We are proposing language that mirrors the process we have in place for hearings on protested applications and puts people on notice that they will be paying the costs of their portion of the hearing.

Section 14. This is the same cost-savings measure previously mentioned in section 10, but it is for the next phase of an adjudication. Adjudications are very expensive, and the cost of printing and mailing copies of some of the orders alone can run into hundreds or thousands of dollars. So, we are modernizing the law to allow for noticing that the documents are available online from our website. For those who do not have access to the Internet, they will still be able to obtain a copy of the document for the regular copy charge.

Section 15. This section merely provides that our office will not be sending the original evidence and transcript to the court for the judicial phase, but rather we will be sending copies. The reason for this is that in at least one adjudication, somewhere between the office of legal counsel and the court, some of the original evidence was lost. The original evidence will be kept in the Office of the State Engineer.

Section 16. This provides for additional mapping if the final decree issued by the court does not reflect what was originally filed for under the proof of appropriation and map. We have found over the years that many of the older adjudications either do not have maps or the maps are not correct, and we believe that the most accurate product possible should be the result of the final decree.

Section 17. The amendment is a reflection that NRS 533.110 has been eliminated by inclusion into other sections.

Section 18. This section clarifies that the costs budgeted are for "administering" the stream system.

As a final note, another bill before this Committee today, Senate Bill 270 (1st Reprint), is a bill that calls for the filing of all proofs of appropriation on pre-statutory vested right claims by December 31, 2027. Should S.B. 270 (R1) pass, the language between this bill, S.B. 51 (R1) and S.B. 270 (R1) will need to be reconciled. We do have a couple of issues with the current version of S.B. 270 (R1), but I will air those concerns in testimony on that bill. [Written testimony was also provided ([Exhibit E](#)).]

Chair Swank:

I am looking at section 5 and what the form for proof of appropriation must include. Do we collect data on what type of irrigation is used?

Jason King:

First, as it relates to this bill, this is dealing with pre-statutory vested claims, so predominantly, before 1905, for surface water source, it was flood irrigation. That is indicated, in many cases, on those forms. They also outline the ditches that carry the water off of the main stem of a creek or a river.

Moving forward to the twenty-first century, we conduct a number of field inventories, where our staff is looking to see how much water is being used. When it comes to irrigation, we look to see whether they are pivots, wheel lines, or flood irrigation. We can also get that information with the use of land saturation imagery. It is a very important piece of information, and we are trying to incorporate that into water usage for Nevada.

Assemblywoman Titus:

Section 4, subsection 2 was struck, which says, "If the surveys are executed and maps are prepared and filed with the State Engineer" In your testimony, you said that you no longer prepare maps, but the way I read that section, it was for those that had a map prepared, they will bring it to you.

Jason King:

When I read through this that caught my eye also. The way I reviewed that was, our office no longer creates these maps. To me this section gets back to, if we kick back maps that are submitted to us and the applicant had to pay us for the creation of those maps, we have to give them back the money they had paid us. That is where I felt that deletion was coming from.

Assemblywoman Titus:

I am not convinced; maybe we can clarify that afterward? You are collecting maps; you are asking the folks to provide you with these maps. I understand that you do not do blueprints anymore, but this is confusing to me.

Susan Joseph-Taylor, Deputy Administrator, Office of the State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources:

Section 4, subsection 2 related to when, in 1903, the State Engineer was out there drawing these maps that went with the proofs. That no longer happens. At the end of the older adjudications, those costs were recovered through a court process. Since we are no longer doing this, we do not have to recover the costs.

Assemblywoman Titus:

I am the owner of some pre-1900 maps, and I was curious to how that transpired. Thank you.

Chair Swank:

I would like an example on section 3, of the addition of "If necessary, execute" surveys, and "If necessary, prepare" maps. Can you give me an example of when that would not be necessary?

Susan Joseph-Taylor:

We are not positive that every creek and every stream has been drawn by the U.S. Geological Survey; we do have maps that cover the entire state. That enables us, if we find one that has not been mapped, we do not want to preclude that we can go map it.

Assemblywoman Titus:

When we took a tour on some East Walker River property, I crossed a stream that I did not know existed. Apparently, in this wet water year, this stream came back.

Chair Swank:

I will now move to those in support of S.B. 51 (R1).

Omar Saucedo, representing Southern Nevada Water Authority:

First, I want to thank the State Engineer for working with us on this bill. We had a couple of amendment and language changes that were taken care of, and we are happy to say this bill reflects some of those conversations. We are happy with the first reprint as presented here today. We believe it is also important to modernize the adjudication process statutes, and we are happy to support this bill as it moves forward.

Mike L. Baughman, Executive Director, Humboldt River Basin Water Authority:

I want to lend the Authority's support as well. We did participate with this bill. In particular, we agree that this bill will help facilitate the adjudication process. We cannot go forward and manage the water resources in some of these basins where there is very little water left to be appropriated, unless we know exactly who already has a vested claim. Also, in section 18,

we did work extensively with the State Engineer's Office on some proposed revisions that they were looking at. I will tell you we are very pleased with the way the bill ended up, and we fully support it.

Chair Swank:

Is there anyone else in support? Seeing no one, I will move to opposition. Seeing no one, I will move to neutral. [There was no one.] I will close the hearing on S.B. 51 (R1). We will take a brief recess [at 2:17 p.m.].

We will reconvene [at 2:25 p.m.]. We seem to have had a bit of a scheduling snafu, so we are going to roll Senate Bill 270 (1st Reprint) to another day.

Senate Bill 270 (1st Reprint): Revises provisions relating to water. (BDR 48-359)

I will now open up for public comment. Seeing no one, we are adjourned at [2:25 p.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblywoman Heidi Swank, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is prepared testimony introducing Senate Bill 47 (1st Reprint), dated May 4, 2017, presented by Jason King, P.E., State Engineer and Administrator, Office of the State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources.

[Exhibit D](#) is a letter in support of Senate Bill 47, (1st Reprint), dated May 3, 2017, submitted by Laurel Saito, Nevada Water Program Director, The Nature Conservancy.

[Exhibit E](#) is prepared testimony introducing Senate Bill 51 (1st Reprint), dated May 4, 2017, presented by Jason King, P.E., State Engineer and Administrator, Office of the State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources.