

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

**Eightieth Session
April 9, 2019**

The Senate Committee on Natural Resources was called to order by Chair Melanie Scheible at 4:02 p.m. on Tuesday, April 9, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 Melanie Scheible, Chair
Senator Chris Brooks, Vice Chair
Senator Dallas Harris
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Alysa Keller, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Steve Woodbury, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Nevada Wildlife Federation
Karen Boeger, Backcountry Hunters and Anglers, Nevada Chapter
Patrick Donnelly, Center For Biological Diversity
Tyler Turnipseed, Chief Game Warden, Department Of Wildlife
Tim Wilson, Acting State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources
Micheline Fairbank, Deputy Administrator, Division of Water Resources, State Department of Conservation and Natural Resources
Neena Laxalt, Central Nevada Regional Water Authority
Laurel Saito, The Nature Conservancy
Doug Busselman, Nevada Farm Bureau Federation
Tobi Tyler, Sierra Club, Toiyabe Chapter

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Steve Hartman, Vidler Water Company
Norman Harry
Kyle Roerink, Great Basin Water Network
Ed James, Carson Water Subconservancy District
Will Adler, Pyramid Lake Paiute Tribe
Chaunsey Chau-Dong, Southern Nevada Water Authority
Bradley Crowell, Director, State Department of Conservation and Natural Resources

CHAIR SCHEIBLE:

I will open the hearing on Senate Bill (S.B.) 316.

SENATE BILL 316: Revises provisions governing actions relating to state lands.
(BDR 26-53)

SENATOR IRA HANSEN (Senatorial District No. 14):

I represent most of Washoe County as well as Humboldt, Pershing, Lander, Mineral and Esmeralda Counties and a large portion of Nye County. This District comprises approximately 38,000 square miles of the State. There are approximately 225,000 licensed sportsmen every year in Nevada and many other people who like to camp, rock hound and explore the desert. One of the biggest issues that is increasingly a problem in Nevada is compromised public access to public land.

On a macro level, I have been concerned about the U.S. Air Force taking 300,000 acres in southern Nevada and the U.S. Navy taking 500,000 acres in Fallon. I am concerned about the Bureau of Land Management (BLM) and Forest Service shutting down areas. On a micro level, I am concerned about repeated abuses of people who buy small pieces of private land with access roads into the public domain and then fence those roads off, preventing public access to public lands. In many cases, Global Positioning System (GPS) and other technology is showing that fences are blocking access to public land. This bill would help remedy a situation where people are knowingly blocking access to public lands, pretending they have private ownership of access points to public lands or putting up drift fences with no trespassing signs to curtail public access to public lands near their property.

I will read from the conceptual amendment ([Exhibit C](#)). This straightforward bill protects appropriate public access to public lands. I have spent a great deal of

time in Nevada's backcountry. On a recent occasion, I was driving my motorcycle on a ridge and came to a drift fence with a no trespassing sign. By happenstance, I encountered a Department of Wildlife biologist who confirmed that the fence was on public land. There are many similar examples of this throughout the State. Most private citizens would not easily be able to determine if such fences were legitimate.

Another related problem this bill partially addresses is private landowners who control access to public lands with limited alternative access points, such as a canyon. Some individuals lease out access to hunting clubs or others for a fee, using a public resource for private profit and limiting sportsmen who should have equal opportunity and access.

I consider myself a sagebrush rebel, and I am a big believer in the U.S. Constitution. There is a limited amount of land the federal government is supposed to control, but the number one threat to that limitation has been the sportsmen community, which is concerned that if more land was to fall under State control, some of the choicer sections of the State would be sold to private individuals who would control or deny public access to those lands. It is a legitimate concern; I have witnessed it myself. I participated in the shovel brigade in Jarbidge in 1999 and again in 2000 when we opened a public access road that the Forest Service had closed.

This bill criminalizes people who knowingly block public access. In some cases, this is a federal offense, but it is difficult to find federal officers to enforce these laws. This bill does not infringe on private property rights.

SENATOR GOICOECHEA:

With the advent of GPS and similar technologies, how would this bill affect people who have had fences in place for a long period of time, but those fences inadvertently encroach on public lands? Would people have to move their fences?

SENATOR HANSEN:

That is not the problem this bill seeks to remedy. The bigger problem is where people have intentionally fenced off access to public lands, sometimes claiming those lands are private. With fences and no trespassing signs up, most people would not know they are being denied access to public lands. Worse yet are

people who deny access to the public but then lease out access to hunters for a profit. These would have to be reviewed on a case-by-case basis.

If someone had a private road on private property, the owner would have the right to fence it if there is no prescriptive easement. My understanding is that if a road has been open to the public for a long time it would need to remain open to the public. I have attempted to discuss this with the BLM but have been unsuccessful.

An additional question to be answered is if a rancher who has grazing rights on public lands has to provide access for multiple use on those lands? I see Senator Goicoechea is shaking his head "no". That may be something else we should consider. Hundreds of thousands of acres of public lands are utilized for grazing that are supposed to be for multiple use. The livestock and sportsmen communities should be able to share those resources without conflict.

Over the years, I have seen increasing restrictions to public land access. In one case, there was a county road on which a rancher had put a gate with a sign reading "bridge out ahead" to keep the public away.

SENATOR GOICOECHEA:

It is equally challenging to enforce trespassing laws on private property.

SENATOR HANSEN:

The intent of this bill is to find a solution that will work for everybody. It is already against federal law to engage in the activity addressed in the bill; however, no sportsman in the field is going to be able to access a federal law enforcement person, if needed. There are, however, game wardens, sheriffs and others who could assist if access to public lands is being blocked. I want to ensure access exists for the hundreds of thousands of Nevada residents who like to hunt, fish, camp, rock hound and spend time in nature.

SENATOR GOICOECHEA:

Regarding the grazing permits, there is no language allowing other activities or addressing public access.

SENATOR HANSEN:

That may be something we address later on. I think there should not be friction between ranchers and sportsmen who should be allies in the bigger fight.

SENATOR HARRIS:

You mentioned civil disobedience.

SENATOR HANSEN:

I have actively participated in civil disobedience when it comes to constitutional rights. I am a follower of Henry David Thoreau. Civil disobedience is a great American tradition, especially in light of excessive federal intervention.

KYLE DAVIS (Nevada Wildlife Federation):

We support S.B. 316. This is an important issue that deserves the Committee's attention. Nevada is fortunate to have abundant public lands for recreation, and the public should be able to freely access those lands. Unfortunately, the problem of restricted access is growing here in Nevada and in other western states where landowners are effectively creating areas of exclusive control over public lands. This bill mirrors existing provisions in federal law for illegally blocking access to public lands. This will enable State and local law enforcement to get involved. For the most part, landowners in the wide expanses of the State are good to work with, and there are no problems, but there are cases where Nevadans are illegally blocked from access to public land, and they should have recourse defined in both State and federal law.

SENATOR GOICOECHEA:

Some of the problems Senator Hansen identified have occurred in the checkerboard lands along the Interstate 80 corridor. Consideration needs to be given if the land in question has a two-track road running through it, been declared subject to U.S. Revised Statute (R.S.) 2477 or is crossing private property. These issues need to be considered; I do not see this bill addressing those issues.

MR. DAVIS:

That is correct. This bill does not address deciding if a particular road is a public road under R.S. 2477. Some of the two-track roads in the State are not maintained, and it is questionable whether those roads are public. However, there are several examples of maintained county roads that have been illegally closed to the public.

The issue of the checkerboard lands is valid. Most of those lands are not posted as private property as required in law. Most of the examples I am aware of are not in the checkerboard areas but in northeastern Elko County, near Tuscarora,

or the west side of the Santa Rosa Range in Humboldt County. These areas are outside of the checkerboard lands, but the problem does exist in that area as well.

SENATOR GOICOECHEA:

I know in the Pequop Mountains east of Wells more fencing is going up, especially with the elk population there. This will continue to be an issue.

KAREN BOEGER (Backcountry Hunters and Anglers, Nevada Chapter):

I echo the testimony given by Mr. Davis and support S.B. 316, including the amendment that pulls both State lands and public lands together into the intent and restrictions of the law. This brings greater clarity and consistency. When Backcountry Hunters and Anglers was founded nearly two decades ago, one of the founding principles was to conserve and expand sportsmen access on land and water. There are growing conflicts regarding access in Nevada, and this bill will help. It is unclear what the bill is referring to in regards to leasehold interests.

ERIN STURDIVANT (Committee Counsel):

Leasehold interests refer to the interest of a lessor or lessee under a lease contract. I would have to look to see if that would extend to a sublessee. I believe the language in the conceptual amended bill is intended to mirror the federal statute, which has similar language.

PATRICK DONNELLY (Center for Biological Diversity):

The Center for Biological Diversity is generally in support of S.B. 316 and agree with the intent of ensuring public access. Regarding the Jarbidge Shovel Brigade, that was a case where a federal agency decided to close a road on its own land to protect resources. At times, federal agencies need to manage roads on their own land when there is a management concern or endangered species conflict. The conceptual amendment to this bill could be interpreted to prohibit a federal agency from managing its own roads. I would suggest a slight modification in section 1 specifying this applies to individuals and private property and not to federal land managers.

TYLER TURNIPSEED (Chief Game Warden, Department of Wildlife):

The Department is neutral on this bill. We have had the opportunity to discuss the bill with Senator Hansen. The Department occasionally receives complaints on this issue. Sometimes people encounter no trespassing signs but can tell

from their GPS that it is public land. We do not have a good mechanism to deal with this.

SENATOR HANSEN:

I want to ensure the public has reasonable access to public lands, that we minimize conflict and that we give our law enforcement agencies the ability to address abuses. With an enforcement mechanism in place, abuses will decline.

CHAIR SCHEIBLE:

I will close the hearing on S.B. 316 and open the work session on S.B. 209.

SENATE BILL 209: Revises provisions relating to industrial hemp. (BDR 49-584)

ALYSA KELLER (Policy Analyst):

I will read from the work session document for S.B. 209 ([Exhibit D](#)).

CHAIR SCHEIBLE:

I will accept a motion on S.B. 209.

SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS
S.B. 209.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

I will open the work session on S.B. 442.

SENATE BILL 442: Revises provisions relating to the issuance of permits for hazardous waste facilities. (BDR 40-1205)

MS. KELLER:

I will read from the work session document for S.B. 442 ([Exhibit E](#)).

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CHAIR SCHEIBLE:

There is a fiscal note on this bill indicating there will be no cost. I will accept a motion on S.B. 442.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 442.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

I will close the work session on S.B. 442.

SENATOR GOICOECHEA:

Senate Bill 140 passed out of this Committee on March 28, 2019. It was not the intent of this bill to write jurisdiction into the bill addressing domestic wells, but the original bill did that. There is legal action pending in the Nevada Supreme Court. The Committee may want to reconsider its previous action on the bill.

SENATE BILL 140: Revises provisions relating to the appropriation of water in certain basins. (BDR 48-541)

CHAIR SCHEIBLE:

I will accept a motion.

SENATOR GOICOECHEA MOVED TO RECONSIDER S.B. 140.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

I will open the hearing on S.B. 499.

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SENATE BILL 499: Creates the Advisory Board on Water Resources Planning and Drought Resiliency. (BDR 48-1243)

TIM WILSON (Acting State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources):
Senate Bill 499 is requested for the purpose of supporting certain elements of the Division's budget proposal for the next biennium. I am reading from my written testimony ([Exhibit F](#)).

SENATOR HARRIS:

Why are we creating a board rather than adding additional staff to the Division of Water Resources?

MR. WILSON:

We are seeking stakeholder involvement. The Division received additional positions during the 2017 Legislative Session, and additional staff are requested in the Division's budget request for the next biennium. If approved, the budget will create a Water Planning and Drought Resiliency Program section. The proposed Advisory Board on Water Resources Planning and Drought Resiliency will include stakeholders who will advise the Chief of the Section, which is one of the positions being created. The Board will give guidance on some of the tasks the Section will be performing. It is an important role and one that was performed under the previous Water Planning Division, which had a Board that was discontinued. That worked well, and we are trying to duplicate that effort.

SENATOR GOICOECHEA:

This new Board is going to direct the section Chief?

MR. WILSON:

The role of the Board will be to help the section focus their activities. It is advisory in nature and would help develop policies and possible future legislation.

SENATOR GOICOECHEA:

Would that future legislation be brought by the Division or by the Board?

MICHELINE FAIRBANK (Deputy Administrator, Division of Water Resources, State Department of Conservation and Natural Resources):

The Board is advisory not decision-making. It will provide policy suggestions to the Division and the Office of the Governor. Future legislation would likely come through that Office based on policy suggestions from the Board.

SENATOR GOICOECHEA:

What would the cost of the Board be?

MS. FAIRBANK:

The cost to support this Board is \$51,466 for each year of the next biennium. That cost covers per diem and ancillary expenses.

CHAIR SCHEIBLE:

Will there be a fiscal note?

MR. WILSON:

There is no fiscal note, as the costs are built into our budget request.

SENATOR HANSEN:

Under the bill, the State Engineer makes Board appointment recommendations to the Governor, but the Governor does not have to follow those recommendations. The Board composition seems to lean heavily toward the urban areas. One of the biggest groups with water resource concerns is Indians, but they have only one non-voting position of the eight positions on the Board. There is nobody on the Board who would represent Pyramid Lake, Walker or Schurz. Is there a way they can be included? They have been major players in the water debate in Nevada.

MS. FAIRBANK:

Tribal interests will be represented on the Board through the Nevada Indian Commission. The proposed amendment ([Exhibit G](#)) makes the ex officio members voting members.

SENATOR HANSEN:

The Indian tribes will be part of the decision-making process, including the right to vote on the Board?

MS. FAIRBANK:

That is correct. The constraint on the Board composition is budgetary. The amended version modifies the composition to remove two positions

representative of the largest and second largest counties in the State and add representatives from agriculture, mining and conservation.

SENATOR GOICOECHEA:

It appears there is representation from the Nevada Indian Commission and not a tribe.

MS. FAIRBANK:

That is correct. We wanted to make sure tribal interests were represented but that we stayed within the number of positions we have allocated for the Board. If there was additional funding for the Board, we could look at adding members.

SENATOR GOICOECHEA:

Would you entertain allowing a designee of the Executive Director of the Nevada Indian Commission? There may be others with more experience in the water field.

MS. FAIRBANK:

Yes.

NEENA LAXALT (Central Nevada Regional Water Authority):

The Central Nevada Regional Water Authority supports S.B. 499 as amended. The Authority has met with the State Engineer to help work on language that better represents stakeholders and water users.

MR. DAVIS:

Concerns we had with the original bill regarding Board composition have been addressed in the proposed amendment, including engagement with conservation and a broader spectrum of stakeholders. Water resources is an important issue, especially in regards to drought resiliency and climate change. We support this bill.

LAUREL SAITO (The Nature Conservancy):

I will read from my written testimony in support of S.B. 499 ([Exhibit H](#)).

DOUG BUSSELMAN (Nevada Farm Bureau Federation):

The Nevada Farm Bureau Federation is opposed to S.B. 499. The Bureau was not aware of the proposed amendment to this bill and still has concerns. I have been involved in the State's previous water planning process. It was

challenging. Statute requires that existing water rights be taken into consideration in the planning process. In the past, the water planning process jeopardized existing water rights and undermined the prior appropriation doctrine. That is where the Bureau's concerns lie in this bill. The new Board and water planning process might bring about changes adversely affecting those the Bureau represents. Nevada water law is as strong as it is because of the prior appropriation doctrine and the protection of existing water rights.

TOBI TYLER (Sierra Club, Toiyabe Chapter):

I am reading from my written testimony in opposition to S.B. 499 ([Exhibit I](#)).

STEVE HARTMAN (Vidler Water Company):

I am reading from my written testimony in opposition to S.B. 499 ([Exhibit J](#)). We rely on rural Nevada to do much of the management of the range and water sources throughout the State. The Legislative Committee on Public Lands has been a good, collaborative effort over many years, utilizing feedback and input from all over the State. That Committee has been very successful and has brought legislation forward when needed.

A major issue related to water management in Nevada is that we have not measured what is being appropriated, whether with respect to wells, small systems or agriculture. The Division of Water Resources has done well with limited resources, but data is needed to make good decisions regarding the allocation of resources. The State is using data from reports produced 30 years ago. Advisory bodies within the Division are not the answer.

NORMAN HARRY:

As former Tribal Chairman of the Pyramid Lake Paiute Tribe, I have been involved in water rights issues since the mid-1980s, including negotiations and agreements for storage. I am opposed to S.B. 499 and have concerns about the way that it is structured. I am skeptical because of things that have happened in the past in Nevada related to water, tribes, government and promises. I have seen our fish die and go extinct because of the diversion of water that has been seen as being in the best interest for growth in the west.

This bill seems to have come about quickly and late in the Session. It gives the decision-making advantage to the urban areas, which is scary. It makes me wonder if we are going to go backward and undo some of the federal legislation that has been enacted. I wonder about growth, expanding into areas

without water, pipelines and unsustainable growth. People say we need to change the operations of the reservoirs, but that has already been addressed. After nearly 30 years of discussion, the Truckee River Operating Agreement is in place and already went to Congress. The key is educating as many people as we can, whether legislators or local governments.

This bill identifies the Nevada Indian Commission as tribal representation. This Commission is not federally appointed; it is appointed by the Governor. The Commission cannot speak on behalf of any of the 27 federally recognized tribes in Nevada. With the exclusion of tribal representation, and according to the definition of stakeholders used by Mr. Wilson in his testimony, what does this Board really accomplish?

Going through negotiations, we had many stakeholders from Nevada and California. These included local, state, federal representatives, various other agencies and the cities of Reno and Sparks. These were the ones most impacted, and they were the ones at the table. They assisted and offered advice and got us through those difficult negotiations. However, the proposed Board seems to be stacked as a State entity.

Not many legislative sessions back, the Western Regional Water Commission and the Northern Nevada Water Planning Commission were created, and I sat on the Planning Commission representing Pyramid Lake. The importance of science and data was mentioned in earlier testimony. The Northern Nevada Water Planning Commission included experts, city managers, waterworks and utilities personnel and others who had knowledge of the various water systems and how they operated. There was good dialog and a connection among the various entities, and they achieved success.

I do not see how we are going to achieve anything with S.B. 499 because all the stakeholders will not be present, especially the tribes. We have several water negotiated agreements in place, and most of the tribes on these systems have the oldest water rights in Nevada. To leave the tribes out would be unfair.

KYLE ROERINK (Great Basin Water Network):

We are in the neutral position on S.B. 499. We support planning, because it can help avoid problems, but we would like to see more public, nongovernmental, non-bureaucratic stakeholder seats in this process. Previous testimony mentioned funding concerns with a larger Board. Going forward, we need to

consider how we can have more voices from the public on this proposed Board. When the 1999 Nevada State Water Plan was released, the issue of inter-basin transfers came up repeatedly. If conversations are going to continue on this topic, there should be people representing all sides of the issue. The Great Basin Water Network is here in a good faith effort advocating for the concept of planning. The Network supports finding additional resources to be able to broaden representation on the Board and ensure all voices are heard.

MR. DONNELLY:

The Center for Biological Diversity is in the neutral position on this bill. We are generally supportive of the concept of the bill and have spoken in favor of the Division of Water Resources' proposed budget. The amendment adding additional Board members is a step in the right direction. However, there are entities that are not represented, including ratepayers. The Southern Nevada Water Authority and the Truckee Meadows Water Authority are represented, but those who pay for and use the water are not. They should have a seat at the table.

The impacts of climate change, drought and all environmental harms tend to be felt disproportionately by low income and disadvantaged communities. This is the principle of environmental justice. A representative who is familiar with environmental justice and who can advocate for environmental justice should be a part of this discussion so that low income and disadvantaged communities are not disproportionately impacted by whatever actions the proposed Board may be recommending. I know that adding slots would exceed the current budget allotment, but at \$50,000, adding two positions for \$5,000 would be worth it if the Board is going to make decisions impacting the future of our State.

ED JAMES (Carson Water Subconservancy District):

The Carson Water Subconservancy District was established by the Legislature in 1989 to protect the water resources and enhancement on the Carson River Watershed. As part of the District's planning process, we ensure that anything we look at does not adversely affect major water users, agriculture, the environment and the municipalities. We try to balance resources for the future.

Recently, we received a grant from the U.S. Bureau of Reclamation to conduct a complete water analysis for water sustainability on the Watershed, evaluating water marketing, water storage and climate change impacts. Part of that process will be bringing together all stakeholders in the Watershed, including the

State Engineer, Federal Water Master, tribal members and the public. Inclusivity is important to ensure we have good planning and a good program. We support the State's effort to pursue a Planning Section. Our only concern is if the formal process will exclude people. There are some water issues in our Watershed that need to be addressed at the State level, but it will require representation from many different parties to be successful. We want to ensure that our voice and the voices of other stakeholders are heard in the process.

SENATOR GOICOECHEA:

You have been doing this a long time. We are talking about creating a planning agency within the Division of Water Resources, and I am uncertain how all these outside components are going to fit. Do you think we would be better served with each of these groups individually approaching the Planning section within the Division? Trying to form a large body representing all stakeholders and interests may not be practical. We might be better served by allowing all interested parties to interact one-on-one with the Planning section so it can compile all the data and information it needs. It is hard to see a committee with 15 or 20 members getting together in a room and coming up with anything worthwhile.

MR. JAMES:

We have some struggles in our Watershed. Nevada has some of the best water laws in the Country, but there are some issues and past sins we have to deal with. I do not have all the answers, and I think bringing all the entities together will help. If the State Engineer can bring people together on an informal basis to discuss and frame the important questions, we might be able to start addressing the concerns. I think working directly with the State Engineer is good, but we do need to bring people together, perhaps in a forum the State Engineer convenes and work with the entities in the State to address the issues. Whenever a water bill comes before the Legislature, it has 120 days to vet it. If we could have discussions earlier on, we could address the issues in greater depth.

SENATOR GOICOECHEA:

I agree with you. There is no way the proposed Board is going to be able to incorporate enough of the bodies that need to come together to deal with Nevada's water law, supply issues and drought.

WILL ADLER (Pyramid Lake Paiute Tribe):

The Pyramid Lake Paiute Tribe is neutral on this bill but is in favor of resource and drought management planning in all capacities when it comes to State-level water planning. If we do not plan for the future, we will not have it in the future. When we have wet years like this one, we need to remember that is not the case historically in Nevada.

Originally, the Tribe was opposed to the bill. With the proposed amendment we have come to neutral, as there are additional voting members. Senators Hansen and Goicoechea and others have made the point that the Executive Director of the Nevada Indian Commission is not a tribal member or representative but a State employee who runs a State agency. This does narrow the scope of people with a seat at the table. We hope this measure will help with needed planning going forward but do think the Board may need to be expanded.

CHAUNSEY CHAU-DONG (Southern Nevada Water Authority):

As the organization that serves more than 30 percent of the State's population using less than 5 percent of the State's water, we are neutral on this bill. We have spoken to the State Engineer who has expressed a willingness to work with us on the bill. The Authority supports water planning and drought resiliency and the addition of more staff for the Division of Water Resources to be effective.

I agree with previous testimony that the Division has done an excellent job with the limited resources it has, but we do have some concerns and questions on the bill. The composition of the proposed Board may lack adequate representation from all of the stakeholders. It is also unclear what the purpose of the Board would be if the proposed water planning position submitted in the Division's budget is not filled. What would the Board do in that case?

Another fundamental concern is water planning at the State level. We support S.B. 150 that addresses water resource plans. Water planning should be done at the regional level. Nevada consists primarily of the parts: Las Vegas, Reno and rural Nevada. What works in Clark County may not work for Washoe County or rural Nevada. For this reason, we are concerned about a State water planning Board planning for the entire State.

SENATE BILL 150: Revises provisions relating to land use planning. (BDR 22-775)

SENATOR GOICOECHEA:

You have echoed some of my concerns. I do not know what this Board is going to accomplish.

SENATOR HANSEN:

I received a statement today ([Exhibit K](#)) from Reno City Councilmember Naomi Duerr, speaking as a private citizen. Councilmember Duerr was the State Water Planner responsible for developing the 959-page 1999 *Nevada State Water Plan*.

We have studied water issues in this State forever, and we seem to be repeating the process. Mr. Harry mentioned in his testimony being involved in water discussions and negotiations in the 1980s. In the current discussions, do the experts go back and review what was already worked on 20 plus years ago?

MR. CHAU-DONG:

I am not an expert on water issues; there are others with greater expertise. I agree that much has been done before. We may be reinventing the wheel with this bill.

SENATOR HANSEN:

It seems like we keep repeating the same discussions. The reality is that the amount of water in Nevada has not changed much at all, or maybe declined slightly, but we keep trying to stretch it further by having endless discussions. Everyone points his or her finger at others, but there is never a final determination.

The great fear now is that the Nevada law doctrines and the prior appropriation doctrine we have relied on as long as Nevada has existed are going to be pushed aside. The people that are counting on those doctrines and have been protected by those doctrines for many years are concerned the new Board will push them aside and eliminate the legal footing that has been the basis for water law for at least a century.

BRADLEY CROWELL (Director, State Department of Conservation and Natural Resources):

I am not a proponent of creating bureaucracy for the sake of bureaucracy, but a water planning program and advisory board are missing from our Department

and the State as a whole. Nevada is the driest State in the Nation, and we are one of the few states in the west that does not have an entity looking at water planning. The State with the least amount of water has the most interest in carefully planning for its use today and in the future. This is not a platform to upset any of the fundamental tenets of Nevada's water law with regard to prior appropriation or otherwise. It is intended to facilitate the strategic and intelligent use of our water within the constraints of current policy and statute.

Earlier testimony referenced the mixed successes of previous water boards. I cannot take ownership for the sins of the past, but they do exist. We are not looking to re-create the wheel, but we are also not looking to re-create mistakes made in the past. This will be a serious endeavor at making smart water planning on a Statewide basis. I do not think it is a matter of urban versus rural. Once you look beyond the Colorado River, we are all in this together as a State, whether you live in Las Vegas, Reno, Elko or in between. A water planning program with a properly constructed, representative, advisory board is the right way to go.

MR. WILSON:

The Division of Water Resources is very familiar with the 1999 Water Plan that has been mentioned. I have been with the Division since 1995. The Division of Water Planning was dissolved in September of 2000. We retained one position at the Division of Water Resources, a Staff 3 Professional Engineer. I was in that position for approximately one year and read the Water Plan in its entirety and reviewed the data behind the plan and how it was created. I have reviewed many other water planning documents that have been prepared in addition to the Water Plan.

That Water Plan was published in 2000 using 1995 data. It is now 23 years old. It does not take into consideration statutory changes over that period of time, nor does it take into consideration all of the other changes that have occurred in the State during that period of time. It is time to take a fresh look at water planning. We may not need to do another full-blown report like the Water Plan, but we need to update many aspects, based on current water availability, committed resources and the current climate. Some of the data we use are from an even earlier water plan developed 20 years before the 1999 Water Plan, so in some cases we are using numbers that are nearly 50 years old.

Regarding the composition of the Board, we are budgetarily constrained to eight members. We have attempted to be as inclusive as possible.

SENATOR GOICOECHEA:

If this bill does not pass, will you still pursue the Water Planning Division included in the Division's budget proposal?

MR. WILSON:

Yes, we will continue with our water planning and drought resiliency efforts as proposed in our budget.

SENATOR GOICOECHEA:

I think it is imperative that we move forward with the Water Planning Division, but I question how effective the Board will be in its interaction with the Division and if the resources would be better used by the Division to facilitate the kinds of interactions that have been mentioned in testimony; \$50,000 could be used to organize water forums.

MR. CROWELL:

I understand and agree with your points at some level. The Board will provide a formal opportunity for input, which is valuable in this context. I do not want to do anything in the water realm that people would consider outside the public process or in a black box. The concept of the Board does create challenges as well, so there are reasonable arguments on both sides. Either way, we will function as a water planning body, but I would like that public input to have a vector through an advisory board. If necessary, we can find vectors that do not rest on the necessity of an advisory board.

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CHAIR SCHEIBLE:

I will close the hearing on S.B. 499. Seeing no further testimony I will adjourn the meeting at 5:32 p.m.

RESPECTFULLY SUBMITTED:

Steve Woodbury,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	4		Attendance Roster
S.B. 316	C	1	Senator Ira Hansen	Conceptual Amendment
S.B. 209	D	2	Alysa Keller	Work Session Document
S.B. 442	E	1	Alysa Keller	Work Session Document
S.B. 499	F	4	Tim Wilson / Division of Water Resources	Written Testimony
S.B. 499	G	3	Tim Wilson / Division of Water Resources	Proposed Amendment
S.B. 499	H	1	Laurel Saito / The Nature Conservancy	Written Testimony
S.B. 499	I	1	Tobi Tyler / Sierra Club	Written Testimony
S.B. 499	J	1	Steve Hartman / Vidler Water Company	Written Testimony
S.B. 499	K	2	Naomi Duerr	Written Testimony