

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

**Eighty-first Session
February 25, 2021**

The Senate Committee on Natural Resources was called to order by Chair Fabian Donate at 3:37 p.m. on Thursday, February 25, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Fabian Donate, Chair
Senator Melanie Scheible, Vice Chair
Senator Chris Brooks
Senator Pete Goicoechea
Senator Ira Hansen

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Christine Miner, Committee Secretary

OTHERS PRESENT:

Edwin James, General Manager, Carson Water Subconservancy District
Austin Osborne, County Manager, Storey County
Steve Walker, Carson, Lyon, Storey and Douglas Counties
Ashley Jeppson, Administrator, Division of Plant Industry, State Department of
Agriculture
Chris Rusby, Battle Born Biologics; Western States Hemp Co.

CHAIR DONATE:

We will hear a presentation by the Carson Water Subconservancy District.

EDWIN JAMES (General Manager, Carson Water Subconservancy District):
I will give you an overview of the Carson Water Subconservancy District (CWSD) with a slide presentation ([Exhibit B](#)).

The Carson River Watershed starts in Alpine County, California with the East and West Forks of the Carson River. These Forks flow through Douglas County and join at Genoa. The Carson River then flows through Carson City into Lyon County. There is a portion of Storey County in the Watershed, but it does not touch the River. The County participates in the Watershed. The water flows into the Lahontan Reservoir. This is one of the first projects by the U.S. Department of the Interior's Bureau of Reclamation providing irrigation to Churchill County.

The Carson River Watershed encompasses an area of just under 4,000 square miles. The Carson River flows about 184 miles, and the elevation fluctuates from a low of 3,000 feet in Churchill County to over 11,000 feet in the Sierras. The precipitation in Churchill County is around four inches per year and precipitation numbers increase when moving west up the Watershed. There could be up to 40 inches of precipitation in the Sierras.

There is limited upstream storage on the Carson River Watershed. The Watershed depends on Mother Nature for its supply. If there is a good year, like the one Nevada experienced in 2017, there is a healthy supply of water. Drought years produce short flows. The Carson River is fully appropriated, meaning all of the water is fully allocated whether in dry, average or wet years. Excess water is only available in years of extreme weather. All groundwater basins are fully appropriated.

The Truckee Canal is part of the federal government's Newlands Project and brings water through the Canal from the Truckee River to the Lahontan Reservoir. The Canal is a critical element of the Newlands Project because the Carson River cannot provide the irrigation water needed in average or dry years; only in wet years is there enough water flowing in the Carson River. Since October 1, 2020, over 70 percent of the water stored in Lahontan Reservoir comes from the Truckee River.

In the 1950s, U.S. Congress established the Washoe Project. The intention was to build upstream storage on the Carson and Truckee River Watersheds. These projects were for agricultural purposes. In 1958, the Carson-Truckee Water Conservancy District was created to work directly with farmers. Representatives

from counties in the Carson and Truckee Watersheds were members of the District. In 1959, it became clear Carson needed its own board and the CWSD was created. It was established to negotiate payback of debt on the Watasheamu Dam between the ranchers and the federal government. Members were Lyon and Douglas Counties.

In 1980, the federal government abandoned the Watasheamu Dam Project on the Carson River. In 1989, the Nevada Legislature changed the purpose of CWSD to focus on water resources to handle the growth potential in the region. Carson City became a member of CWSD.

In 1997, a major flood impacted most of the counties in northern Nevada. In 1998, many people gathered to discuss how to deal with water issues. An integrated water process was overwhelmingly supported. More than one entity was needed to deal with the issues. The Carson River Coalition was formed and CWSD was elected to administer the process. The Carson River Coalition consists of a large group of stakeholders including federal, state, county and tribal agencies, non-governmental entities and private landowners. Brenda Hunt and Shane Fryer of CWSD coordinated this effort.

In 1999, Churchill County joined CWSD, and in 2001 Alpine County, California, became a member through a joint powers agreement. In 2018, Storey County became an advisory member. There are 13 Board members of CWSD and 1 advisory member, representing 6 counties in 2 states. The CWSD has no regulatory authority; the counties implement procedures. There are two full-time and three part-time staff members on the CWSD.

The funding for the CWSD comes from property taxes and grants. All counties, except Storey County, participate financially. Alpine County pays from its general fund. The average budget of CWSD is \$2 million through \$2.5 million per year. This is dependent on grant funding.

The mission of CWSD is to promote cooperative action across agency and political boundaries in the Carson River Watershed using an integrated watershed management plan. The focus is not just water supply but also water resource demand.

There are multiple categories attached to the Carson River Watershed Project. The integrated planning process begins with water quality. The CWSD works

with the Division of Environmental Protection and local communities for water quality sampling. Groundwater sampling and monitoring is done in cooperation with the U.S. Geological Survey which falls under the U.S. Department of the Interior.

Invasive species is another category making a huge impact on the agricultural communities. The spread of noxious weeds must be mitigated.

Recreation plays a role in the Project. The District promotes protection of natural resources while providing recreational experiences. Recreation includes hiking, mountain biking and whitewater rafting on the Carson River.

River restoration projects are included in the partnerships with the CWSD. In the 1800s, trees cut down in Alpine County were put on the East Fork of the Carson River and when water levels were high, the logs could travel down the River to Carson City to be milled. Because of past actions on the River channels, flooding issues prompted the U.S. Army Corps of Engineers to straighten several of the reaches in the 1960s to eliminate flooding issues. Fast-moving water creates bank erosions. The CWSD provides funding to the conservation districts to repair river channels.

Involving children is part of the outreach portion of the Project. Children can teach their parents what must be done to help the Watershed. Education of the Watershed to the children is done by bringing them to the River and through school visits. One of the flood models at an outreach event is shown in the photo on Slide 9.

Flood management focuses on using the natural resources of the Watershed. It allows floodwaters to access the floodplain. Allowing the area to flood is a less expensive way of dealing with flooding than structural analyses or processes. This is an environmentally more sensitive means to floodplain management and it aids habitat while recharging the aquifer.

The Regional Floodplain Management Plan works with the communities of the Watershed and can be adopted by the counties. In 2005, CWSD joined the FEMA Cooperating Technical Partners Program. This allowed for federal funding from FEMA to be provided for flood risk analysis to minimize flood hazards and initiate flood studies. Since 2011, the CWSD has received over \$4.5 million from FEMA for the projects.

The CWSD works with communities through cooperative actions to balance water supplies assuring sustainable water supplies are available for the 11 major water purveyors in the Carson River Watershed. Cost-effective infrastructure connections are considered to help move water.

In 2020, the CWSD was awarded the 2020 Golden Pinecone Sustainability Award from GREENevada. In 2020, the CWSD was awarded the Floodplain Manager of the Year from the Floodplain Management Association for the California, Nevada and Hawaii regions. The District was recently nominated by FEMA Region 9 to be the national Cooperating Technical Partners Program for 2021. Any study produced by the CWSD in balancing water supplies involves critical elements to ensure agricultural or environmental factors are not adversely affected.

Over 70 percent of the population in the Carson Watershed do not know about the Watershed or that they live in the Watershed. I will show a video created by CWSD to create awareness of the Watershed. It is available on <http://www.iamcarsonriver.org>.

CHAIR DONATE:

I will open the hearing on S.B. 98.

SENATE BILL 98: Makes various changes to provisions relating to the Carson Water Subconservancy District. (BDR S-579)

SENATOR JAMES A. SETTELMAYER (Senatorial District No. 17):

I will present S.B. 98. Water does not consider county or state lines. County members of the Carson River Watershed appreciate the importance of the Watershed and its boundaries. The CWSD management of the Watershed includes floodplain management, invasive species, outreach education, recreation, regional water supplies and river projects. The District worked on the Marlette Lake Water System; a fascinating project. This historic project dates back to the Comstock era. It helped convey water from Marlette Lake to Storey County by gravity with an inverted siphon piping system.

Senate Bill 98 seeks to allow Storey County, an advisory member, to become an official member of the CWSD. Storey County is aware of its responsibilities to financially participate by taxing its residents or pay the appropriate amount in 2021. The bill allows two members from Storey County to be appointed by the

Storey County Board of County Commissioners. Page 3, line 10 of S.B. 98 references the taxing authority. Additional information on the Watershed and functions of the CWSD can be accessed at its website.

MR. JAMES:

For clarification, Storey County has requested it not be required to put the financial responsibility on its tax roll. Funding will be provided from its general fund. The tax calculations will be \$.03 per \$100 of assessed valuation, the same as the other counties.

SENATOR GOICOECHEA:

Why is Storey County paying from its general fund? Is it true Storey County has no water rights to the Carson River Watershed?

MR. JAMES:

The issue is not water rights for Storey County. The total funds for its service area is approximately \$16,000. The County is confident there are enough funds in its general fund to cover the costs. It chooses not to assess another tax on its customers.

SENATOR GOICOECHEA:

I thought the County did not want to impose a 3-cent tax on its customers because there was no beneficial use without water rights.

SENATOR SETTELMAYER:

Part of the land mass of the Carson River Watershed is in Storey County. The water draining into the CWSD, served by the Marlette Lake Water System, goes into Storey County and benefits other areas of the CWSD. Storey County determined the amount of funds necessary to become a member of the District was easier to pay out of its general fund than an assessment.

SENATOR HANSEN:

Does Storey County get most of its water from Marlette Lake? Will the County begin drawing from the Carson River? Does the County use Carson River water from the Dayton area where the County line exists? Why does Storey County now want to be an official member of the Carson River Watershed?

SENATOR SETTELMAYER:

The CWSD website illustrates how the District assisted in the Marlette Lake Water System redevelopment, and its benefits to Storey County. The County realizes the benefit; water drains through portions of the County into the CWSD. The County is not going to draw water out of the Carson River. The County knows its water drains into the Carson River, which is part of the Carson River Watershed. The County draws its water from Marlette Lake.

SENATOR BROOKS:

What is the interaction and relationship between CWSD and the Marlette Lake Water System?

SENATOR SETTELMAYER:

The best source of information is on the CWSD website which illustrates where funds are needed to help with the upkeep of the system. The system is old and requires funding for upgrades and technical issues.

MR. JAMES:

The involvement of CWSD with the Marlette System happened years ago. Historically, when the State pumped water out of Marlette Lake, it used a huge diesel pump. This did not fit with the environmental view wanted on Marlette Lake and there were concerns of diesel spillage. The CWSD was able to secure a grant to remove the diesel pump and use a natural gas-fired generator to bring water over the mountains from Marlette Lake into the Hobart Reservoir. Historically, water ran into wooden flumes from Marlette Lake through a tunnel which was dug in the late 1800s. Gravity induced its water flow. The tunnel collapsed in the 1950s and 1960s and there was no way to economically reactivate the tunnel. A pump was installed and a pipe overlain on the ground transported the water. The system was upgraded for environmental and reliability factors.

The work the CWSD does with Storey County has more to do with flooding than with water supply. The County has drainage issues. This can be helped with FEMA grants and has influenced the County requesting membership to CWSD. Any water coming out of Virginia City flows to Lyon County and this impacts flooding in Lyon County.

The CWSD spends significant funds on noxious weed abatement. Weeds from Storey County affect Lyon County. Cooperation with multiple county jurisdictions help deal with a variety of issues other than water supply.

SENATOR BROOKS:

Is the Marlette Lake Water System outside of the CWSD?

MR. JAMES:

That is correct. The Marlette Lake Water System is part of the Lake Tahoe Watershed. Carson City gets a portion of its water from the Marlette Water System. The State had a separate water system and water would be brought to the State facilities from Marlette Lake. It provided water to Carson City. That is how CWSD got involved to upgrade the system. Although not in its Watershed, water was delivered to its Watershed. The community had concerns about how the water was delivered and wanted a more reliable and environmentally-friendly manner of delivery.

SENATOR BROOKS:

Is there an interlocal agreement, or does the Board decide what actions would help the Marlette Water System? Or is there a contractual agreement?

MR. JAMES:

In the early 2000s, it was an opportunity for CWSD to illustrate to the staff of a U.S. Senator the existence of Marlette Lake, its fisheries and the interests of various State agencies. The funds from the U.S. Environmental Protection Agency (EPA) allowed CWSD, as lead agency, to get repairs done. The focus was to enhance the overall water system and improve its reliability. The CWSD provides assistance and funding where needed, but most of the funding for the Marlette Lake project came from Carson City water purchases and the EPA grant.

SENATOR GOICOECHEA:

To clarify for Senator Brooks, it is appropriated water and is brought over the hill by an inter-basin transfer.

AUSTIN OSBORNE (County Manager, Storey County):

Storey County supports S.B. 98. Storey County and the CWSD have been cooperating for ten years on various projects including flood management and conservation for the Carson River Watershed portions of Storey County. The

projects have benefited the entire region. Storey County contributes to some of the flooding and seed load on the Carson River Watershed. The County worked on annual noxious weed and revegetation programs and two remodeling and flood planning meetings in coordination with Lyon County and other participating counties of the District. The CWSD assisted Storey County with mapping and other flood planning for Virginia City, Gold Hill, Mark Twain and American Flat. The District assisted with the National Flood Insurance Program compliance and the community rating system. It contributed to the education and outreach of the Watershed to schools and citizens. The assistance of CWSD to Storey County is of regional importance. It enables long-term planning for the County in coordination with the communities in its natural environment.

STEVE WALKER (Carson, Lyon, Storey and Douglas Counties):
Carson, Lyon, Storey and Douglas Counties support S.B. 98. It is important for Storey County acreage to be included in the Watershed. The Marlette Lake Water System has three basins. Marlette Lake is in Lake Tahoe, and Hobart Reservoir is part of the Franktown Creek drainage into the Truckee River. Piping goes over the hill into Storey County which drains into the Truckee River. Potable water goes down the road into Silver City through three watersheds.

CHAIR DONATE:

We will close the hearing on S.B. 98 and open the hearing on S.B. 63.

SENATE BILL 63: Revises provisions relating to hemp. (BDR 49-264)

ASHLEY JEPPSON (Administrator, Division of Plant Industry, State Department of Agriculture):

I will present S.B. 63. Hemp facilities must be registered with the State, and the distinction between it being hemp or marijuana must be determined by chemical analysis. The State Department of Agriculture (NDA) reviews registrations and performs crop samplings in cooperation with the U.S. Department of Agriculture (USDA) to assure hemp facilities are actually producing hemp as federally defined.

Annually, the NDA reviews applications to ensure they meet federal expectations, performs inspections and identifies where hemp plants are located in Nevada. Every crop and variety of hemp must be sampled and tested to verify it is not marijuana.

The goal of S.B. 63 is to update statutes to be in par with federal regulations in order to maintain a State program. Additional changes in the bill increase the ease of implementation of the program specific to a deadline. Providing transparency and modernization of language of the program allows a better understanding of expectations for growers.

Section 1 of S.B. 63 updates the deadline for submission of applications for registration as a grower, handler or producer as July 1. This date allows ease for program staff to handle the application reviews prior to peak harvest season. Applications are based on a calendar year and expire December 31. Applications typically begin at the beginning of the year. Applications submitted from August through December are the time when the NDA needs to be available in the fields for sampling. This deadline allows staff to prioritize availability for sampling in the fields. The timing for crop sampling is critical. Tetrahydrocannabinol (THC) can continue to spike depending on environmental factors as crops mature. The intent is for NDA staff to be available to growers when crop harvesting approaches and sampling is needed.

Section 2 updates sampling per federal regulations. Sampling must be performed by the NDA, and language is included to assure compliance with federal regulations. This section also specifies the NDA will provide a report of analysis to hemp producers following testing. The report contains THC levels and producers need the report to sell their crops. It is a requirement of the USDA for state departments of agriculture to have primary regulatory oversight.

Section 3 of S.B. 63 clarifies falsification of information on applications. If the NDA determines there is false information on an application, the Code of Federal Regulations (CFR) requires applications be denied. Section 3 contains language pertaining to compliance with local government requirements. It is focused on zoning regulations and water rights appropriate for the production and handling of hemp. The NDA has been inundated with complaints from county commissioners and State water authorities for misuse of land and water by hemp growers. The NDA proposes to manage the issue in the bill to allow producers full awareness of the expectations needed to be licensed, rather than repercussions after the fact.

SENATOR GOICOECHEA:

Section 2, subsection 2, states "... the Department shall collect a sample of the crop." The law also allows the grower to have the sample tested at an independent cannabis testing lab. Who collects that sample?

MS. JEPPSON:

All samples, regardless of where analyzed, are required to be performed by the NDA. Section 3 specifies that private labs must be approved by the NDA in order to provide the service. The NDA has not authorized any third-party testing labs. This alleviates conflicts and retains consistency. Growers are encouraged to utilize private labs for an analysis indicating the THC levels of their crops. The certificate of analysis issued by the NDA is what is needed for the producers to sell their products.

SENATOR GOICOECHEA:

Section 2, subsection 3 of S.B 63 states, "The Department may adopt regulations relating to such testing" Does the Department have all of the regulations in place?

MS. JEPPSON:

Yes, the NDA has adopted temporary regulations which will go before the Legislative Commission when it reconvenes after this Legislative Session. Regulations necessary for approval by the USDA of the NDA State plan for primary and regulatory oversight are in place. Full adoption of the plan will be pursued when the Legislative Commission reconvenes.

SENATOR GOICOECHEA:

Last year, there were problems on the testing. Do you feel you have the necessary staff and personnel to perform timely testing? Hemp production is down compared to what it was a year or two ago. The issue was the NDA waiting a week before showing up to collect samples for testing and another week turnaround time for the results. Previously, there was a 15-day window; a 30-day window will help. My concern is for producers who have a million-dollar crop, and the NDA fails to get it tested in a timely manner. If the guidelines are not met, the producers can lose their investments.

SENATOR HANSEN:

What is the bulk of the hemp used for, and can a person get high from it?

MS. JEPPSON:

Most of the producers are using hemp to produce cannabidiol oil. The new federal regulations clarify the definitions. Cannabidiol oil means extracts and derivatives of hemp. If a manufacturer is attempting to concentrate some of the crop into an oil, it is necessary to be under 0.3 percent THC as established by federal law. The low level is assurance the product will not be psychoactive. The oil can be included in other products. A few producers use hemp for industrial purposes.

SENATOR HANSEN:

What was the peak of crop production in recent years?

MS. JEPPSON:

In 2018, there were 115 registered producers. In 2019, there were 216, and in 2020, it dropped to 116 registered producers. Production acreage today is higher than in 2018, but roughly one-third of last year's acreage.

CHAIR DONATE:

Can you walk through the process once the Department determines falsification on the application? Do you pursue suspending or revoking a registration? Is there an appeal process?

MS. JEPPSON:

There is an appeal process. If the Department determines someone falsified information on an application, the applicant will receive a denial letter as to why and a notice of hearing will be issued. This is especially true if falsification was found after a certificate was issued. Notices of hearing allow applicants the opportunity to plead their cases.

CHAIR DONATE:

Who reviews the appeal?

MS. JEPPSON:

The Deputy Attorney General will serve the notice of hearing. The hearing officer is the Deputy Director of the NDA, as established in statute. If it is concluded there is a violation; it can proceed to the district court level.

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SENATOR GOICOECHEA:

There is a bill coming forward to hopefully expand the uses of hemp in Nevada to establish a broader marketplace.

CHRIS RUSBY (Battle Born Biologics; Western States Hemp Co.):

Battle Born Biologics and Western States Hemp Co. are licensed hemp growers. *Nevada Revised Statutes* 557.240 allows for crops that have failed to be disposed of. Recently, the USDA revised its final regulations; a major step to allow for crops that have failed to be remediated or repurposed to prevent total losses. Senate Bill 63 should include language allowing for that same procedure to apply to crops in Nevada. It is a costly issue, and to be consistent and not stricter than federal law, it would allow Nevada to compete in this industry against other agricultural powerhouse states. Nevada needs to have a flexible approach allowing remediation of failed crops, not a strict disposal requirement.

I understand the concerns of the Department and the need for the July 1 deadline. This is a different approach from what other states are doing. It could put Nevada at a competitive disadvantage. The deadline could be problematic for producers establishing new sites. The NDA might reconsider eliminating the deadline. Many states do not have a deadline.

MS. JEPPSON:

The NDA intends to allow new provisions for remediation of crops. It is a new addition that the final federal rules will allow us to apply. The NDA adopted CFRs by reference in its latest regulations and it will allow remediation. I agree this is a good opportunity to clarify that language. I am willing to work to resolve any issues and develop an amendment.

CHAIR DONATE:

I will close the hearing on S.B. 63. I will accept a motion to introduce Bill Draft Request (BDR) 48-471.

BILL DRAFT REQUEST 48-471: Revises provisions relating to the Division of Water Resources of the State Department of Conservation and Natural Resources. (Later introduced as [Senate Bill 155](#).)

SENATOR SCHEIBLE MOVED TO INTRODUCE BDR 48-471.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR DONATE:

There being no further business, this meeting is adjourned at 4:48 p.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Fabian Donate, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
	B	1	Edwin James / Carson Water Subconservancy District	Slide Presentation