

ASSEMBLY BILL NO. 34—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF WATER RESOURCES
OF THE STATE DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to water. (BDR 48-235)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to water; revising various public notice requirements relating to water; revising certain requirements for maps relating to water rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Engineer is required to publish certain notices and court orders in a newspaper of general circulation consecutively for certain periods of time. (NRS 533.087, 533.095, 533.165, 533.360, 534.037, 534.270) **Sections 1, 2, 5, 6, 12 and 13** of this bill revise these requirements to: (1) provide that if a newspaper of general circulation fails to publish the notice or order submitted by the State Engineer the required number of times or consecutively, the State Engineer is not required to republish the notice or order if the notice or order is published at least once by the newspaper; and (2) require the State Engineer to mail the notice or order to not less than one public library in an affected county or counties or, if there is no public library, another public place, for public posting.

Existing law requires the State Engineer to: (1) publish notice that an application has been filed in compliance with chapter 533 of NRS once a week for 4 consecutive weeks in a newspaper of general circulation where the point of diversion is located; and (2) file proof of publication within 30 days after the final day of publication. (NRS 533.360) **Section 6** eliminates the requirement that the State Engineer file proof of publication.

Existing law authorizes any interested person to file a written protest against the granting of an application for a permit within 30 days of the last publication of the notice of application. (NRS 533.365) **Section 6** requires the State Engineer to add to the notice of an application the date on which the period of notice will end. **Section 8** of this bill provides that a person may file a protest against the granting



of an application for a permit within 30 days after the end of the required period of notice for certain applications.

Existing law provides that if water for which a permit is requested will be used or diverted from a county other than the county in which the water is or is currently used or diverted, the State Engineer must notify the board of county commissioners of the county in which the water will be appropriated and the board of county commissioners of the county in which the water will be diverted or used. Each board of county commissioners must consider the request at a public meeting and provide public notice of the meeting in a newspaper of general circulation in the county for a period of 3 consecutive weeks before the meeting. (NRS 533.363) **Section 7** of this bill provides that if the newspaper fails to publish the notice 3 times or consecutively for 3 weeks, the board of county commissioners is not required to republish the notice if the notice is published at least once by the newspaper.

Existing law provides that if the State Engineer has not acted on an application within 7 years after the final date for filing a protest, the State Engineer must republish notice of the application and the applicant must pay the cost of the republication. (NRS 533.370) **Section 9** of this bill provides that the State Engineer will pay the cost of remailing the notice to a public library or other public place in the county where the point of diversion is located.

Sections 3, 10 and 11 of this bill remove requirements that certain maps relating to water rights be on mylar and tracing linen.

Section 4 of this bill clarifies that certain blank forms for a proof of appropriation must be included in the notice sent by the State Engineer to certain persons claiming rights in or to the waters of certain stream systems.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 533.087 is hereby amended to read as follows:

533.087 1. A claimant of any vested water right must submit, on a form prescribed by the State Engineer, proof of the claim to the State Engineer on or before December 31, 2027. If a claimant fails to file such proof on or before December 31, 2027, the claim shall be deemed to be abandoned.

2. Until December 31, 2027, the State Engineer shall cause notice of the provisions of subsection 1 to be:

(a) ~~Published~~ *Submitted for publication* annually for 4 consecutive weeks ~~in~~ *to* at least one newspaper of general circulation within the boundaries of each groundwater basin throughout the State. *If a newspaper to which the notice was submitted fails to publish the notice 4 times or consecutively for 4 weeks, the State Engineer is not required to republish the notice so long as the State Engineer ensures that the newspaper published the notice at least once.*

(b) Posted on the Internet website maintained by the State Engineer.

(c) *Mailed to not less than one public library in each county of the State to be posted publicly. If there is no public library in a*



county, the notice must be mailed to another public place in the county.

Sec. 2. NRS 533.095 is hereby amended to read as follows:

533.095 1. As soon as practicable after the State Engineer enters an order granting the petition or selecting the streams upon which the determination of rights is to begin, the State Engineer shall prepare a notice setting forth the fact of the entry of the order and of the pendency of the proceedings.

2. The notice ~~[shall]~~ *must* set forth:

(a) That all claimants to rights in the waters of the stream system are required, as provided in this chapter, to make proof of their claims, except claimants who submitted proof of their claims pursuant to NRS 533.087;

(b) The date on which the State Engineer will commence taking proofs of appropriation regarding the rights in and to the waters of the stream system;

(c) The date by which all proofs of appropriation must be filed; and

(d) That all proofs of appropriation must be accompanied by maps prepared in accordance with and depicting any information required pursuant to NRS 533.100 and 533.115.

3. The ~~[notice]~~ *State Engineer* shall ~~[be published]~~ :

(a) Submit the notice for publication for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system. *If a newspaper to which the notice was submitted fails to publish the notice 4 times or consecutively for 4 weeks, the State Engineer is not required to republish the notice so long as the State Engineer ensures that the newspaper published the notice at least once.*

(b) Mail the notice to not less than one public library in each county within the boundaries of the stream system to be posted publicly. If there is no public library in a county within the boundaries of the stream system, the notice must be mailed to another public place in the county to be posted publicly.

4. At ~~[or near]~~ the time ~~[of]~~ the ~~[first]~~ *State Engineer submits the notice for publication [of the notice,] to a newspaper of general circulation,* the State Engineer shall send by mail to each person, or deliver to each person, in person, hereinafter designated as claimant, claiming rights in or to the waters of the stream system, insofar as such claimants can be reasonably ascertained, a notice equivalent in terms to the published notice setting forth the date when the State Engineer will commence the taking of proofs, and the date prior to which proofs must be filed with the State Engineer. The notice must be mailed at least 30 days prior to the date fixed for the commencement of the taking of proofs. The date set prior to which



1 the proofs must be filed shall not be less than 60 days from the date
2 set for the commencement of taking proofs. The notice shall be
3 deemed to be an order of the State Engineer as to its contents.

4 **Sec. 3.** NRS 533.100 is hereby amended to read as follows:

5 533.100 1. The State Engineer shall begin an investigation of
6 the flow of the stream and of the ditches diverting water, and of the
7 lands irrigated therefrom, and shall gather such other data and
8 information as may be essential to the proper determination of the
9 water rights in the stream.

10 2. The State Engineer shall:

11 (a) Reduce his or her observations and measurements to writing.

12 (b) If necessary, execute surveys or cause them to be executed.

13 (c) If necessary, prepare, or cause to be prepared, maps from the
14 observations of such surveys in accordance with such uniform rules
15 and regulations as the State Engineer may adopt.

16 3. The surveys and maps shall show with substantial accuracy:

17 (a) The course of the stream.

18 (b) The location of each ditch or canal diverting water
19 therefrom, together with the point of diversion thereof.

20 (c) The area and outline of each parcel of land upon which the
21 water of the stream has been employed for the irrigation of crops or
22 pasture.

23 (d) The kind of culture upon each of the parcels of land.

24 4. The map shall be prepared as the surveys and observations
25 progress, and, when completed, shall be filed and made of record in
26 the Office of the State Engineer. Such map for original filing in the
27 Office of the State Engineer shall, in addition to complying with any
28 other applicable rule or regulation of the State Engineer, be on
29 ~~[mylar, on]~~ a scale of not less than 1,000 feet to the inch.

30 **Sec. 4.** NRS 533.115 is hereby amended to read as follows:

31 533.115 1. The State Engineer shall, in addition, enclose with
32 the notice to be mailed as provided in *subsection 4 of* NRS 533.095,
33 blank forms upon which a claimant who has not submitted proof
34 pursuant to NRS 533.087 shall present in writing all particulars
35 necessary for the determination of the claimant's right in or to the
36 waters of the stream system. The form for a proof of appropriation
37 must include the following:

38 (a) The name and mailing address of the claimant.

39 (b) The nature of the right or use on which the claim for
40 appropriation is based.

41 (c) The time of the initiation of such right, the priority date
42 claimed and a description of the place of diversion and works of
43 diversion and distribution.

44 (d) The date of beginning of construction.

45 (e) The date when completed.



1 (f) The dates of beginning and completion of enlargements.
2 (g) The dimensions of the ditch as originally constructed and as
3 enlarged.

4 (h) The date when water was first used for irrigation or other
5 beneficial purposes.

6 (i) If the water was used for irrigation, the number of acres
7 irrigated the first year, the number of acres irrigated in subsequent
8 years, the dates of irrigation, the area and location of the lands
9 which were irrigated, the character of the soil and the kind of crops
10 cultivated, the rate of diversion and the number of acre-feet of water
11 per annum required to irrigate the land.

12 (j) If the water was used for a beneficial purpose other than
13 irrigation, the rate of diversion and the number of acre-feet of water
14 used annually.

15 (k) If the water was used for watering livestock, the number and
16 type of livestock.

17 (l) Any other facts as will show the extent and nature of the right
18 and compliance with the law in acquiring the same, as may be
19 required by the State Engineer.

20 2. A claimant must submit a separate proof of appropriation for
21 each source of water of the stream system in which or to which the
22 claimant claims a right.

23 3. The proof of appropriation submitted by the claimant must
24 be accompanied by a map prepared, except as otherwise provided in
25 subsection 4, in accordance with and depicting any information
26 required pursuant to the requirements of subsections 3 and 4 of
27 NRS 533.100.

28 4. If the map submitted with a proof of appropriation is
29 prepared for water used for watering livestock, the map must be on a
30 scale of not less than 1:24,000 or a map prepared by the United
31 States Geological Survey covering a quadrangle of 7 1/2 minutes of
32 latitude and longitude, and further identifying the location or extent
33 of the livestock use by one-sixteenth sections within a numbered
34 section, township and range.

35 **Sec. 5.** NRS 533.165 is hereby amended to read as follows:

36 533.165 1. As soon as practicable thereafter, a certified copy
37 of the order of determination, together with the copies of the
38 original evidence and transcript of testimony filed with, or taken
39 before, the State Engineer, duly certified by the State Engineer, shall
40 be filed with the clerk of the county, as ex officio clerk of the
41 district court, in which the stream system is situated, or, if in more
42 than one county but all within one judicial district, then with the
43 clerk of the county wherein reside the largest number of parties in
44 interest.



2. If such stream system shall be in two or more judicial districts, then the State Engineer shall notify the district judge of each of such judicial districts of his or her intent to file such order of determination, whereupon, within 10 days after receipt of such notice, such judges shall confer and agree where the court proceedings under this chapter shall be held and upon the judge who shall preside, and on notification thereof the State Engineer shall file the order of determination, evidence and transcripts with the clerk of the court so designated.

3. If such district judges fail to notify the State Engineer of their agreement, as provided in subsection 2, within 5 days after the expiration of such 10 days, then the State Engineer may file such order of determination, evidence and transcript with the clerk of any county the State Engineer may elect, and the district judge of such county shall have jurisdiction over the proceedings in relation thereto.

4. If the judge so selected and acting shall retire from office, or be removed from office or be disqualified, for any cause, then the judge of the district court having jurisdiction of the proceedings shall act as the judge on the matter or shall select the judge to preside in such matter.

5. In all instances a certified copy of the order of determination shall be filed with the county clerk of each county in which such stream system, or any part thereof, is situated.

6. Upon the filing of the certified copy of the order, evidence and transcript with the clerk of the court in which the proceedings are to be had, the State Engineer shall procure an order from the court setting the time for hearing. The clerk of such court shall immediately furnish the State Engineer with a certified copy thereof. The State Engineer immediately thereupon shall ~~mail~~:

(a) Mail a copy of ~~such~~ the certified order of the court, by registered or certified mail, addressed to each party in interest at the party's last known place of residence. ~~[-, and shall cause the same]~~

(b) *Submit a copy of the certified order of the court* to be published at least once a week for 4 consecutive weeks in some newspaper of general circulation that is available in general circulation in each county in which such stream system or any part thereof is located. *If a newspaper fails to publish the order 4 times or consecutively for 4 weeks, the State Engineer is not required to republish the order so long as the State Engineer ensures that the newspaper published the order at least once.*

(c) *Mail a copy of the certified order to not less than one public library in each county in which such stream system or any part thereof is located to be posted publicly. If there is no public library in a county in which such stream system or any part*



1 *thereof is located, the order must be mailed to another public place*
2 *in the county to be posted publicly.*

3 *↪ Such service, publication and mailing shall be deemed to be full*
4 *and sufficient notice to all parties in interest of the date and*
5 *purpose of such hearing.*

6 7. The State Engineer shall file with the clerk of the court
7 ~~{proof}~~ :

8 (a) *Proof of {such} service by registered or certified mail {and*
9 *by} in accordance with the requirements of paragraph (a) of*
10 *subsection 6;*

11 (b) *Proof that the certified order was submitted for publication*
12 ~~*{Such service by registered or certified mail and by publication*~~
13 ~~*shall be deemed full and sufficient notice to all parties in interest of*~~
14 ~~*the date and purpose of such hearing.}*~~ *and published at least once*
15 *in accordance with the requirements of paragraph (b) of*
16 *subsection 6; and*

17 (c) *Proof of mailing in accordance with the requirements of*
18 *paragraph (c) of subsection 6.*

19 **Sec. 6.** NRS 533.360 is hereby amended to read as follows:

20 533.360 1. Except as otherwise provided in subsection 4,
21 NRS 533.345 and subsection 2 of NRS 533.370, when an
22 application is filed in compliance with this chapter, the State
23 Engineer shall, within 30 days ~~*{, publish or cause to be published*~~
24 ~~*once a week for 4 consecutive weeks in a newspaper of general*~~
25 ~~*circulation in the county where the point of diversion is located.}*~~ :

26 (a) *Prepare* a notice of the application which sets forth:

27 ~~*{(a)}*~~ (1) That the application has been filed.

28 ~~*{(b)}*~~ (2) The date of the filing.

29 ~~*{(c)}*~~ (3) The name and address of the applicant.

30 ~~*{(d)}*~~ (4) The name of the source from which the appropriation
31 is to be made.

32 ~~*{(e)}*~~ (5) The location of the place of diversion, described by
33 legal subdivision or metes and bounds and by a physical description
34 of that place of diversion.

35 ~~*{(f)}*~~ (6) The purpose for which the water is to be appropriated.

36 ~~*{↪ The publisher shall add thereto}*~~

37 (b) *For the notice prepared pursuant to paragraph (a):*

38 (1) *Submit the notice for publication once a week for 4*
39 *consecutive weeks to a newspaper of general circulation in the*
40 *county where the point of diversion is located. If the newspaper*
41 *fails to publish the notice 4 times or consecutively for 4 weeks, the*
42 *State Engineer is not required to republish the notice so long as*
43 *the State Engineer ensures that the newspaper published the*
44 *notice at least once.*



(2) Mail a copy of the notice to be posted publicly to not less than one public library in the county where the point of diversion is located. If there is no public library in the county in which the point of diversion is located, the order must be mailed to another public place in the county to be posted publicly.

(c) Set forth in the notice the date ~~of the first publication and the date of~~ on which:

(1) The notice was mailed to the ~~last publication.~~ public library or other public place in the county, as applicable; and

(2) The period of notice ends, which must not be less than 45 days after the date the notice was mailed to a public library or other public place.

2. ~~Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication.~~ The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to the owner's address as shown in the latest records of the county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before the State Engineer may consider the application.

4. The provisions of this section do not apply to an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

Sec. 7. NRS 533.363 is hereby amended to read as follows:

533.363 1. Except as otherwise provided in subsection 2, if water for which a permit is requested is to be used in a county other than that county in which it is to be appropriated, or is to be diverted from or used in a different county than that in which it is currently being diverted or used, then the State Engineer shall give notice of the receipt of the request for the permit to:

(a) The board of county commissioners of the county in which the water for which the permit is requested will be appropriated or is currently being diverted or used; and



(b) The board of county commissioners of the county in which the water will be diverted or used.

2. The provisions of subsection 1 do not apply:

(a) To an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

(b) If:

(1) The water is to be appropriated and used; or

(2) Both the current and requested place of diversion or use of the water are,

↳ within a single, contiguous parcel of real property.

3. A person who requests a permit to which the provisions of subsection 1 apply shall submit to each appropriate board of county commissioners a copy of the application and any information relevant to the request.

4. Each board of county commissioners which is notified of a request for a permit pursuant to this section shall consider the request at the next regular or special meeting of the board held not earlier than 3 weeks after the notice is received. The board shall ~~provide~~ *submit to a newspaper of general circulation in the county a public notice of the meeting for publication* for 3 consecutive weeks. ~~[in a newspaper of general circulation in its county.]~~ The notice must state the time, place and purpose of the meeting. At the conclusion of the meeting the board may recommend a course of action to the State Engineer, but the recommendation is not binding on the State Engineer.

5. If a newspaper fails to publish the notice required pursuant to subsection 4 consecutively for 3 weeks or 3 times, the board of county commissioners is not required to republish the notice so long as the board of county commissioners ensures that the newspaper published the notice at least once.

Sec. 8. NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days after the ~~[date of last publication]~~ *end of the period* of ~~[the]~~ notice ~~[of]~~ *for the* application ~~[.]~~ *that is set forth in the notice pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 533.360,* file with the State Engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which, except as otherwise provided in subsection 2, must be verified by the affidavit of the protestant, or an agent or attorney thereof.

2. If the application is for a permit to change the place of diversion, manner of use or place of use of water already appropriated within the same basin, a protest filed against the granting of such an application by a government, governmental



1 agency or political subdivision of a government must be verified by
2 the affidavit of:

3 (a) Except as otherwise provided in paragraph (b), the director,
4 administrator, chief, head or other person in charge of the
5 government, governmental agency or political subdivision; or

6 (b) If the governmental agency or political subdivision is a
7 division or other part of a department, the director or other person in
8 charge of that department in this State, including, without limitation:

9 (1) The Regional Forester for the Intermountain Region, if
10 the protest is filed by the United States Forest Service;

11 (2) The State Director of the Nevada State Office of the
12 Bureau of Land Management, if the protest is filed by the Bureau of
13 Land Management;

14 (3) The Regional Director of the Pacific Southwest Region,
15 if the protest is filed by the United States Fish and Wildlife Service;

16 (4) The Regional Director of the Pacific West Region, if the
17 protest is filed by the National Park Service;

18 (5) The Director of the State Department of Conservation
19 and Natural Resources, if the protest is filed by any division of that
20 Department; or

21 (6) The chair of the board of county commissioners, if the
22 protest is filed by a county.

23 3. On receipt of a protest that complies with the requirements
24 of subsection 1 or 2, the State Engineer shall advise the applicant
25 whose application has been protested of the fact that the protest has
26 been filed with the State Engineer, which advice must be sent by
27 certified mail.

28 4. The State Engineer shall consider the protest, and may, in
29 his or her discretion, hold hearings and require the filing of such
30 evidence as the State Engineer may deem necessary to a full
31 understanding of the rights involved. The State Engineer shall give
32 notice of the hearing by certified mail to both the applicant and the
33 protestant. The notice must state the time and place at which the
34 hearing is to be held and must be mailed at least 15 days before
35 the date set for the hearing.

36 5. Each applicant and each protestant shall, in accordance with
37 a schedule established by the State Engineer, provide to the State
38 Engineer and to each protestant and each applicant information
39 required by the State Engineer relating to the application or protest.

40 6. If the State Engineer holds a hearing pursuant to subsection
41 4, the State Engineer shall render a decision on each application not
42 later than 240 days after the later of:

43 (a) The date all transcripts of the hearing become available to
44 the State Engineer; or



(b) The date specified by the State Engineer for the filing of any additional information, evidence, studies or compilations requested by the State Engineer. The State Engineer may, for good cause shown, extend any applicable period.

7. The State Engineer shall adopt rules of practice regarding the conduct of a hearing held pursuant to subsection 4. The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

Sec. 9. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.0241, 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of the applicant's:

(1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection 10, where there is no unappropriated water in the proposed source of supply, where the groundwater that has not been committed for use has been reserved pursuant to NRS 533.0241 or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

3. In addition to the criteria set forth in subsections 1 and 2, in determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;



(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

4. Except as otherwise provided in this subsection and subsections 6 and 10 and NRS 533.365, the State Engineer shall approve or reject each application within 2 years after the final date for filing a protest. The State Engineer may postpone action:

(a) Upon written authorization to do so by the applicant.

(b) If an application is protested.

(c) If the purpose for which the application was made is municipal use.

(d) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368.

(e) Where court actions or adjudications are pending, which may affect the outcome of the application.

(f) In areas in which adjudication of vested water rights is deemed necessary by the State Engineer.

(g) On an application for a permit to change a vested water right in a basin where vested water rights have not been adjudicated.

(h) Where authorized entry to any land needed to use the water for which the application is submitted is required from a governmental agency.

(i) On an application for which the State Engineer has required additional information pursuant to NRS 533.375.

5. If the State Engineer does not act upon an application in accordance with subsections 4 and 6, the application remains active until approved or rejected by the State Engineer.

6. Except as otherwise provided in this subsection and subsection 10, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State



1 Engineer may postpone action on the application pursuant to
2 subsection 4.

3 7. If the State Engineer has not approved, rejected or held a
4 hearing on an application within 7 years after the final date for filing
5 a protest, the State Engineer shall ~~{cause}~~ *submit* notice of the
6 application to be republished *and remail the notice of the*
7 *application to be publicly posted* pursuant to NRS 533.360
8 immediately preceding the time at which the State Engineer is ready
9 to approve or reject the application. The cost of the republication
10 must be paid by the applicant. *The cost of the remailing must be*
11 *paid by the State Engineer.* After such ~~{republishing,}~~
12 *renotification,* a protest may be filed in accordance with
13 NRS 533.365.

14 8. If a hearing is held regarding an application, the decision of
15 the State Engineer must be in writing and include findings of fact,
16 conclusions of law and a statement of the underlying facts
17 supporting the findings of fact. The written decision may take the
18 form of a transcription of an oral ruling. The rejection or approval of
19 an application must be endorsed on a copy of the original
20 application, and a record must be made of the endorsement in the
21 records of the State Engineer. The copy of the application so
22 endorsed must be returned to the applicant. Except as otherwise
23 provided in subsection 11, if the application is approved, the
24 applicant may, on receipt thereof, proceed with the construction of
25 the necessary works and take all steps required to apply the water to
26 beneficial use and to perfect the proposed appropriation. If the
27 application is rejected, the applicant may take no steps toward the
28 prosecution of the proposed work or the diversion and use of
29 the public water while the rejection continues in force.

30 9. If a person is the successor in interest of an owner of a water
31 right or an owner of real property upon which a domestic well is
32 located and if the former owner of the water right or real property on
33 which a domestic well is located had previously filed a written
34 protest against the granting of an application, the successor in
35 interest must be allowed to pursue that protest in the same manner
36 as if the successor in interest were the former owner whose interest
37 he or she succeeded. If the successor in interest wishes to pursue the
38 protest, the successor in interest must notify the State Engineer in a
39 timely manner on a form provided by the State Engineer.

40 10. The provisions of subsections 1 to 9, inclusive, do not
41 apply to an application for an environmental permit or a temporary
42 permit issued pursuant to NRS 533.436 or 533.504.

43 11. The provisions of subsection 8 do not authorize the
44 recipient of an approved application to use any state land
45 administered by the Division of State Lands of the State Department



1 of Conservation and Natural Resources without the appropriate
2 authorization for that use from the State Land Registrar.

3 12. As used in this section, "domestic well" has the meaning
4 ascribed to it in NRS 534.350.

5 **Sec. 10.** NRS 533.405 is hereby amended to read as follows:

6 533.405 1. The State Engineer may, in his or her discretion,
7 request that the statement required by NRS 533.400 be accompanied
8 by a map on ~~tracing linen on~~ a scale of not less than 1,000 feet to
9 the inch, which shall show with substantial accuracy the following:

10 (a) The point of diversion by legal subdivisions or by metes and
11 bounds from some corner, when possible, from the source of supply.

12 (b) The traverse of the ditch or other conduit, together with cross
13 sections of the same.

14 (c) The legal subdivisions of the land embraced in the
15 application for the permit and the outline by metes and bounds of
16 the irrigated area, with the amount thereof.

17 (d) The average grade and the difference in elevation of the
18 termini of the conduit, and the carrying capacity of the same.

19 (e) The actual quantity of water flowing in the canal or conduit
20 during the time the survey was being made.

21 2. The map must bear the affidavit of the surveyor or engineer
22 making such survey and map. If the survey and map are made by
23 different persons the affidavit of each must be on the map, showing
24 that the map as compiled agrees with the survey.

25 3. The map shall conform with such rules and regulations as
26 the State Engineer shall make, which rules shall not be in conflict
27 herewith.

28 **Sec. 11.** NRS 533.435 is hereby amended to read as follows:

29 533.435 1. The State Engineer shall collect the following
30 fees:

31
32 For examining and filing an application for a
33 permit to appropriate water \$360.00

34 This fee includes the cost of publication,
35 which is \$50.

36 For reviewing a corrected application or map,
37 or both, in connection with an application
38 for a water right permit..... 100.00

39 For examining and acting upon plans and
40 specifications for construction of a dam..... 1,200.00

41 For examining and filing an application for
42 each permit to change the point of
43 diversion, manner of use or place of use of
44 an existing right..... 240.00



1	This fee includes the cost of publication,	
2	which is \$50.	
3	For examining and filing an application for a	
4	temporary permit to change the point of	
5	diversion, manner of use or place of use of	
6	an existing right.....	\$180.00
7	For issuing and recording each permit to	
8	appropriate water for any purpose, except	
9	for generating hydroelectric power which	
10	results in nonconsumptive use of the water,	
11	watering livestock or wildlife purposes	360.00
12	plus \$3 per acre-foot approved or	
13	fraction thereof.	
14	Except for generating hydroelectric power,	
15	watering livestock or wildlife purposes, for	
16	issuing and recording each permit to change	
17	an existing water right whether temporary	
18	or permanent for any purpose.....	300.00
19	plus \$3 per acre-foot approved or	
20	fraction thereof.	
21	For issuing and recording each permit for	
22	additional rate of diversion from a well	
23	where no additional volume of water is	
24	granted.....	1,000.00
25	For issuing and recording each permit to	
26	change the point of diversion or place of	
27	use of an existing right whether temporary	
28	or permanent for irrigation purposes, a	
29	maximum fee of	750.00
30	For issuing and recording each permit to	
31	appropriate or change the point of diversion	
32	or place of use of an existing right whether	
33	temporary or permanent for watering	
34	livestock or wildlife purposes	240.00
35	plus \$50 for each cubic foot of water per	
36	second approved or fraction thereof.	
37	For issuing and recording each permit to	
38	appropriate or change an existing right	
39	whether temporary or permanent for water	
40	for generating hydroelectric power which	
41	results in nonconsumptive use of the water.....	480.00
42	plus \$50 for each cubic foot per second	
43	of water approved or fraction thereof.	



For filing and examining a request for a waiver in connection with an application to drill a well.....	\$120.00
For filing and examining a notice of intent to drill a well	25.00
For filing and examining an affidavit to relinquish water rights in favor of use of water for domestic wells	300.00
For filing a secondary application under a reservoir permit	300.00
For approving and recording a secondary permit under a reservoir permit	540.00
For reviewing each tentative subdivision map	180.00
plus \$1 per lot.	
For reviewing and approving each final subdivision map	120.00
For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet	480.00
plus \$1.25 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For flood control detention basins.....	480.00
plus \$1.25 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For filing proof of completion of work	60.00
For filing proof of beneficial use.....	60.00
For issuing and recording a certificate upon approval of the proof of beneficial use.....	350.00
For filing proof of resumption of a water right	360.00
For filing any protest	30.00
For filing any application for extension of time within which to file proofs, of completion or beneficial use, for each year for which the extension of time is sought.....	120.00
For filing any application for extension of time to prevent a forfeiture, for each year for which the extension of time is sought	120.00
For reviewing a cancellation of a water right pursuant to a petition for review	360.00



For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384.....	\$120.00
plus \$20 per conveyance document.	
For filing any other instrument.....	10.00
For making a copy of any document recorded or filed in the Office of the State Engineer, for the first page	1.00
For each additional page.....	.20
For certifying to copies of documents, records or maps, for each certificate	6.00
For each copy of any full size drawing or map	6.00
For each color copy of any full size drawing or map (2' x 3')	12.00
For colored mylar plots.....	10.00

2. When fees are not specified in subsection 1 for work required of the Office of the State Engineer, the State Engineer shall collect the actual cost of the work.

3. Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the State General Fund. All fees received for copies of any drawing or map must be kept by the State Engineer and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by the State Engineer for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, the State Engineer shall deposit the fees in the State Treasury for credit to the State General Fund.

Sec. 12. NRS 534.037 is hereby amended to read as follows:

534.037 1. In a basin that has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, a petition for the approval of a groundwater management plan for the basin may be submitted to the State Engineer. The petition must be signed by a majority of the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer and must be accompanied by a groundwater management plan which must set forth the necessary steps for removal of the basin's designation as a critical management area.

2. In determining whether to approve a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall consider, without limitation:



- (a) The hydrology of the basin;
- (b) The physical characteristics of the basin;
- (c) The geographic spacing and location of the withdrawals of groundwater in the basin;
- (d) The quality of the water in the basin;
- (e) The wells located in the basin, including, without limitation, domestic wells;
- (f) Whether a groundwater management plan already exists for the basin; and
- (g) Any other factor deemed relevant by the State Engineer.

3. Before approving or disapproving a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. The State Engineer shall cause notice of the hearing to be:

(a) ~~[Given]~~ *Submitted for publication* once each week for 2 consecutive weeks before the hearing ~~[in]~~ *to* a newspaper of general circulation in the county or counties in which the basin lies. *If the newspaper fails to publish the notice 2 times or consecutively for 2 weeks, the State Engineer is not required to republish the notice so long as the State Engineer ensures that the newspaper published the notice at least once.*

(b) Posted on the Internet website of the State Engineer for at least 2 consecutive weeks immediately preceding the date of the hearing.

(c) *Mailed to not less than one public library in the county or counties in which the basin lies to be publicly posted. If there is no public library in the county or counties in which the basin lies, the notice must be mailed to another public place in the county or counties to be publicly posted.*

4. The decision of the State Engineer on a groundwater management plan may be reviewed by the district court of the county pursuant to NRS 533.450.

5. An amendment to a groundwater management plan must be proposed and approved in the same manner as an original groundwater management plan is proposed and approved pursuant to this section.

Sec. 13. NRS 534.270 is hereby amended to read as follows:

534.270 1. Upon receipt of an application for a permit to operate a project, the State Engineer shall endorse on the application the date it was received and keep a record of the application. The State Engineer shall conduct an initial review of the application within 45 days after receipt of the application. If the State Engineer determines in the initial review that the application is incomplete,



the State Engineer shall notify the applicant. The application is incomplete until the applicant files all the information requested in the application. The State Engineer shall determine whether the application is correct within 180 days after receipt of a complete application. The State Engineer may request additional information from the applicant. The State Engineer may conduct such independent investigations as are necessary to determine whether the application should be approved or rejected.

2. If the application is determined to be complete and correct, the State Engineer, within 30 days after such a determination or a longer period if requested by the applicant, shall ~~cause~~ :

(a) *Submit* notice of the application ~~to be given~~ once each week for 2 consecutive weeks ~~in~~ to a newspaper of general circulation in the county or counties in which persons reside who could reasonably be expected to be affected by the project. *If the newspaper fails to publish the notice 2 times or consecutively for 2 weeks, the State Engineer is not required to republish the notice so long as the State Engineer ensures that the newspaper published the notice at least once.*

(b) *Mail notice of the application to not less than one public library in the county or counties in which persons reside who could reasonably be expected to be affected by the project to be publicly posted. If there is no public library in the county or counties in which such persons reside, the notice must be mailed to another public place in the county or counties to be publicly posted.*

3. The notice *required pursuant to subsection 2* must state:

(a) The legal description of the location of the proposed project;

(b) A brief description of the proposed project including its capacity;

(c) That any person who may be adversely affected by the project may file a written protest with the State Engineer within 30 days after the last publication of the notice;

(d) The date of the last publication;

(e) That the grounds for protesting the project are limited to whether the project would be in compliance with subsection 2 of NRS 534.250;

(f) The name of the applicant; and

(g) That a protest must:

(1) State the name and mailing address of the protester;

(2) Clearly set forth the reason why the permit should not be issued; and

(3) Be signed by the protester or the protester's agent or attorney or, if the protester is a government, governmental agency or



political subdivision of a government, be approved and signed in the manner specified in paragraph (g) of subsection ~~3-1~~ 4.

~~3-1~~ 4. A protest to a proposed project:

(a) May be made by any person who may be adversely affected by the project;

(b) Must be in writing;

(c) Must be filed with the State Engineer within 30 days after the last publication of the notice;

(d) Must be upon a ground listed in subsection 2 of NRS 534.250;

(e) Must state the name and mailing address of the protester;

(f) Must clearly set forth the reason why the permit should not be issued; and

(g) Except as otherwise provided in this paragraph, must be signed by the protester or the protester's agent or attorney. If the protester is a government, governmental agency or political subdivision of a government, the protest must be:

(1) Except as otherwise provided in subparagraph (2), approved and signed by the director, administrator, chief, head or other person in charge of the government, governmental agency or political subdivision; or

(2) If the governmental agency or political subdivision is a division or other part of a department, approved and signed by the director or other person in charge of that department in this State, including, without limitation:

(I) The Regional Forester for the Intermountain Region, if the protest is filed by the United States Forest Service;

(II) The State Director of the Nevada State Office of the Bureau of Land Management, if the protest is filed by the Bureau of Land Management;

(III) The Regional Director of the Pacific Southwest Region, if the protest is filed by the United States Fish and Wildlife Service;

(IV) The Regional Director of the Pacific West Region, if the protest is filed by the National Park Service;

(V) The Director of the State Department of Conservation and Natural Resources, if the protest is filed by any division of that Department; or

(VI) The chair of the board of county commissioners, if the protest is filed by a county.

~~4-1~~ 5. Upon receipt of a protest, the State Engineer shall advise the applicant by certified mail that a protest has been filed.

~~5-1~~ 6. Upon receipt of a protest, or upon the motion of the State Engineer, the State Engineer may hold a hearing. Not less than 30 days before the hearing, the State Engineer shall send by certified



1 mail notice of the hearing to the applicant and any person who filed
2 a protest.

3 ~~{6}~~ 7. The State Engineer shall either approve or deny each
4 application within 1 year after the final date for filing a protest,
5 unless the State Engineer has received a written request from the
6 applicant to postpone making a decision or, in the case of a
7 protested application, from both the protester and the applicant. The
8 State Engineer may delay action on the application pursuant to
9 paragraph (d) of subsection 4 of NRS 533.370.

10 ~~{7}~~ 8. Any person aggrieved by any decision of the State
11 Engineer made pursuant to subsection ~~{6}~~ 7 may appeal that
12 decision to the district court pursuant to NRS 533.450.

