

Amendment No. 281

Assembly Amendment to Assembly Bill No. 34	(BDR 48-235)
<b>Proposed by:</b> Assembly Committee on Natural Resources	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

SLD/ERS



Date: 4/20/2023

A.B. No. 34—Revises provisions relating to water. (BDR 48-235)





## 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 ~~1, 534.037, 534.270~~) **Sections 1, 2, 5 and 6** ~~and 6, 12 and 13~~ of this bill ~~revise these requirements~~ **eliminate the requirement 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.~~ **Sections 2, 5 and 6 further require the Division of Water Resources of the State Department of Conservation and Natural Resources to post the notice or court order on the Internet website of the Division.**

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 **60 days after the first date of publication or if the notice is not posted consecutively, within 30 days after the** ~~end of the required period~~ **last date of publication of the** notice for certain applications ~~1,~~

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 remaining the notice to a public library or other public place in the county where the point of diversion is located. whichever is later. Section 8 further provides that if the State Engineer does not receive any protests to an application within 60 days after the first date of publication, the State Engineer: (1) may presume that the notice was published consecutively and process the application conditionally; and (2) may not grant the application or issue a permit until the State Engineer files proof that the notice was published and posted.

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.

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## 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 the~~ 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:

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

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

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

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

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

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

17 ~~(b) [Mail the notice to not less than one public library in each county within~~  
18 ~~the boundaries of the stream system to be posted publicly. If there is no public~~  
19 ~~library in a county within the boundaries of the stream system, the notice must be~~  
20 ~~mailed to another public place in the county to be posted publicly.]~~ Posted on the  
21 Internet website of the Division of Water Resources of the State Department of  
22 Conservation and Natural Resources.

23 4. At or near the time of the first ~~[State Engineer submits the notice for]~~  
24 publication of the notice. ~~[to a newspaper of general circulation,]~~ the State  
25 Engineer shall send by mail to each person, or deliver to each person, in person,  
26 hereinafter designated as claimant, claiming rights in or to the waters of the stream  
27 system, insofar as such claimants can be reasonably ascertained, a notice equivalent  
28 in terms to the published notice setting forth the date when the State Engineer will  
29 commence the taking of proofs, and the date prior to which proofs must be filed  
30 with the State Engineer. The notice must be mailed at least 30 days prior to the date  
31 fixed for the commencement of the taking of proofs. The date set prior to which the  
32 proofs must be filed shall not be less than 60 days from the date set for the  
33 commencement of taking proofs. The notice shall be deemed to be an order of the  
34 State Engineer as to its contents.

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

36 533.100 1. The State Engineer shall begin an investigation of the flow of the  
37 stream and of the ditches diverting water, and of the lands irrigated therefrom, and  
38 shall gather such other data and information as may be essential to the proper  
39 determination of the water rights in the stream.

40 2. The State Engineer shall:

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

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

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

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

47 (a) The course of the stream.

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

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

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

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

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

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

- (a) The name and mailing address of the claimant.
- (b) The nature of the right or use on which the claim for appropriation is based.
- (c) The time of the initiation of such right, the priority date claimed and a description of the place of diversion and works of diversion and distribution.
- (d) The date of beginning of construction.
- (e) The date when completed.
- (f) The dates of beginning and completion of enlargements.
- (g) The dimensions of the ditch as originally constructed and as enlarged.
- (h) The date when water was first used for irrigation or other beneficial purposes.
- (i) If the water was used for irrigation, the number of acres irrigated the first year, the number of acres irrigated in subsequent years, the dates of irrigation, the area and location of the lands which were irrigated, the character of the soil and the kind of crops cultivated, the rate of diversion and the number of acre-feet of water per annum required to irrigate the land.
- (j) If the water was used for a beneficial purpose other than irrigation, the rate of diversion and the number of acre-feet of water used annually.
- (k) If the water was used for watering livestock, the number and type of livestock.
- (l) Any other facts as will show the extent and nature of the right and compliance with the law in acquiring the same, as may be required by the State Engineer.

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

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

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

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

533.165 1. As soon as practicable thereafter, a certified copy of the order of determination, together with the copies of the original evidence and transcript of testimony filed with, or taken before, the State Engineer, duly certified by the State Engineer, shall be filed with the clerk of the county, as ex officio clerk of the district court, in which the stream system is situated, or, if in more than one county

but all within one judicial district, then with the clerk of the county wherein reside the largest number of parties in 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~~ Post 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 thereof is located, the order must be mailed to another public place in the county to be posted publicly.]~~

~~Such service, publication and mailing shall be deemed to be full and sufficient notice to all parties in interest of the date and purpose of such hearing.] of the court on the Internet website of the Division of Water Resources of the State Department of Conservation and Natural Resources.~~

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

(a) Proof of ~~such~~ service by registered or certified mail ~~and by~~ in accordance with the requirements of paragraph (a) of subsection 6;

(b) Proof that the certified order was submitted for publication ~~[; and~~

(c) Proof that the certified order was posted on the Internet website of the Division of Water Resources of the State Department of Conservation and Natural Resources,

1 ↪ Such service by registered or certified mail and by publication and posting shall  
2 be deemed full and sufficient notice to all parties in interest of the date and purpose  
3 of such hearing, and published at least once in accordance with the requirements  
4 of paragraph (b) of subsection 6; and

5 ~~— (c) Proof of mailing in accordance with the requirements of paragraph (c) of~~  
6 ~~subsection 6. —~~

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

8 533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and  
9 subsection 2 of NRS 533.370, when an application is filed in compliance with this  
10 chapter, the State Engineer shall, within 30 days , publish or cause to be published  
11 once a week for 4 ~~consecutive~~ weeks in a newspaper of general circulation in the  
12 county where the point of diversion is located, ~~or~~

13 — (a) Prepare, and post on the Internet website of the Division of Water  
14 Resources of the State Department of Conservation and Natural Resources, a  
15 notice of the application which sets forth:

16 (a) ~~[(1)]~~ That the application has been filed.

17 (b) ~~[(2)]~~ The date of the filing.

18 (c) ~~[(3)]~~ The name and address of the applicant.

19 (d) ~~[(4)]~~ The name of the source from which the appropriation is to be made.

20 (e) ~~[(5)]~~ The location of the place of diversion, described by legal subdivision  
21 or metes and bounds and by a physical description of that place of diversion.

22 (f) ~~[(6)]~~ The purpose for which the water is to be appropriated.

23 ↪ The publisher shall add thereto

24 ~~[(b) For the notice prepared pursuant to paragraph (a):~~

25 ~~— (1) Submit the notice for publication once a week for 4 consecutive weeks~~  
26 ~~to a newspaper of general circulation in the county where the point of diversion is~~  
27 ~~located. If the newspaper fails to publish the notice 4 times or consecutively for 4~~  
28 ~~weeks, the State Engineer is not required to republish the notice so long as the~~  
29 ~~State Engineer ensures that the newspaper published the notice at least once.~~

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

34 ~~— (c) Set forth in: the ~~notice the~~ date of the first publication and the date of ~~for~~~~  
35 ~~which:~~

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

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

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

45 3. If the application is for a proposed well:

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

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

49 ↪ the applicant shall mail a copy of the notice of application to each owner of real  
50 property containing a domestic well that is within 2,500 feet of the proposed well,  
51 to the owner's address as shown in the latest records of the county assessor. If there  
52 are not more than six such wells, notices must be sent to each owner by certified  
53 mail, return receipt requested. If there are more than six such wells, at least six



1 notices must be sent to owners by certified mail, return receipt requested. The  
2 return receipts from these notices must be filed with the State Engineer before the  
3 State Engineer may consider the application.

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

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

7 ~~533.363 1. Except as otherwise provided in subsection 2, if water for which~~  
8 ~~a permit is requested is to be used in a county other than that county in which it is~~  
9 ~~to be appropriated, or is to be diverted from or used in a different county than that~~  
10 ~~in which it is currently being diverted or used, then the State Engineer shall give~~  
11 ~~notice of the receipt of the request for the permit to:~~

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

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

17 ~~2. The provisions of subsection 1 do not apply:~~

18 ~~(a) To an environmental permit or a temporary permit issued pursuant to NRS~~  
19 ~~533.436 or 533.504;~~

20 ~~(b) If:~~

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

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

24 ~~— within a single, contiguous parcel of real property.~~

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

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

37 ~~5. If a newspaper fails to publish the notice required pursuant to subsection~~  
38 ~~4 consecutively for 3 weeks or 3 times, the board of county commissioners is not~~  
39 ~~required to republish the notice so long as the board of county commissioners~~  
40 ~~ensures that the newspaper published the notice at least once.] (Deleted by~~  
41 ~~amendment.)~~

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

43 533.365 1. Any person interested may, within 60 days after the first date of  
44 publication or, if the notice is not published consecutively, 30 days after the date  
45 of last publication [end of the period] of the notice or [for the] application [;] that  
46 is set forth in the notice pursuant to [subparagraph (2) of paragraph (c) of]  
47 subsection 1 of NRS 533.360, whichever is later, file with the State Engineer a  
48 written protest against the granting of the application, setting forth with reasonable  
49 certainty the grounds of such protest, which, except as otherwise provided in  
50 subsection 2, must be verified by the affidavit of the protestant, or an agent or  
51 attorney thereof.

52 2. If the application is for a permit to change the place of diversion, manner of  
53 use or place of use of water already appropriated within the same basin, a protest

1 filed against the granting of such an application by a government, governmental  
2 agency or political subdivision of a government must be verified by the affidavit of:

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

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

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

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

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

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

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

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

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

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

32 5. Each applicant and each protestant shall, in accordance with a schedule  
33 established by the State Engineer, provide to the State Engineer and to each  
34 protestant and each applicant information required by the State Engineer relating to  
35 the application or protest.

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

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

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

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

49 8. If the State Engineer does not receive any written protest against the  
50 granting of an application within 60 days after the first date of publication  
51 pursuant to subsection 1 of NRS 533.360, the State Engineer may presume that  
52 the notice was published consecutively and process the application conditionally.  
53 The State Engineer may not grant the application or issue a permit until the State

*Engineer files proof that the notice was published and posted pursuant to the requirements of NRS 533.360.*

**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.

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

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

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

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

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

12 6. Except as otherwise provided in this subsection and subsection 10, the  
13 State Engineer shall approve or reject, within 6 months after the final date for filing  
14 a protest, an application filed to change the point of diversion of water already  
15 appropriated when the existing and proposed points of diversion are on the same  
16 property for which the water has already been appropriated under the existing water  
17 right or the proposed point of diversion is on real property that is proven to be  
18 owned by the applicant and is contiguous to the place of use of the existing water  
19 right. The State Engineer may postpone action on the application pursuant to  
20 subsection 4.

21 7. If the State Engineer has not approved, rejected or held a hearing on an  
22 application within 7 years after the final date for filing a protest, the State Engineer  
23 shall cause ~~submit~~ notice of the application to be republished and ~~reemail the~~  
24 ~~notice of the application to be publicly posted~~ reposted pursuant to NRS 533.360  
25 immediately preceding the time at which the State Engineer is ready to approve or  
26 reject the application. The cost of the republication must be paid by the applicant.  
27 ~~[The cost of the remaining must be paid by the State Engineer.]~~ After such  
28 republishing, ~~renotification~~, and reposting, a protest may be filed in accordance  
29 with NRS 533.365.

30 8. If a hearing is held regarding an application, the decision of the State  
31 Engineer must be in writing and include findings of fact, conclusions of law and a  
32 statement of the underlying facts supporting the findings of fact. The written  
33 decision may take the form of a transcription of an oral ruling. The rejection or  
34 approval of an application must be endorsed on a copy of the original application,  
35 and a record must be made of the endorsement in the records of the State Engineer.  
36 The copy of the application so endorsed must be returned to the applicant. Except  
37 as otherwise provided in subsection 11, if the application is approved, the applicant  
38 may, on receipt thereof, proceed with the construction of the necessary works and  
39 take all steps required to apply the water to beneficial use and to perfect the  
40 proposed appropriation. If the application is rejected, the applicant may take no  
41 steps toward the prosecution of the proposed work or the diversion and use of the  
42 public water while the rejection continues in force.

43 9. If a person is the successor in interest of an owner of a water right or an  
44 owner of real property upon which a domestic well is located and if the former  
45 owner of the water right or real property on which a domestic well is located had  
46 previously filed a written protest against the granting of an application, the  
47 successor in interest must be allowed to pursue that protest in the same manner as if  
48 the successor in interest were the former owner whose interest he or she succeeded.  
49 If the successor in interest wishes to pursue the protest, the successor in interest  
50 must notify the State Engineer in a timely manner on a form provided by the State  
51 Engineer.

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

11. The provisions of subsection 8 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

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

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

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

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

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

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

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

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

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

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

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

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

For examining and filing an application for a permit to appropriate water .....	\$360.00
This fee includes the cost of publication, which is \$50.	
For reviewing a corrected application or map, or both, in connection with an application for a water right permit .....	100.00
For examining and acting upon plans and specifications for construction of a dam .....	1,200.00
For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right .....	240.00
This fee includes the cost of publication, which is \$50.	
For examining and filing an application for a temporary permit to change the point of diversion, manner of use or place of use of an existing right .....	180.00
For issuing and recording each permit to appropriate water for any purpose, except for generating	

hydroelectric power which results in nonconsumptive use of the water, watering livestock or wildlife purposes.....	360.00
plus \$3 per acre-foot approved or fraction thereof.	
Except for generating hydroelectric power, watering livestock or wildlife purposes, for issuing and recording each permit to change an existing water right whether temporary or permanent for any purpose .....	300.00
plus \$3 per acre-foot approved or fraction thereof.	
For issuing and recording each permit for additional rate of diversion from a well where no additional volume of water is granted .....	1,000.00
For issuing and recording each permit to change the point of diversion or place of use of an existing right whether temporary or permanent for irrigation purposes, a maximum fee of .....	750.00
For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right whether temporary or permanent for watering livestock or wildlife purposes .....	240.00
plus \$50 for each cubic foot of water per second approved or fraction thereof.	
For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water .....	480.00
plus \$50 for each cubic foot per second 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

1	For filing proof of beneficial use .....	60.00
2	For issuing and recording a certificate upon approval of	
3	the proof of beneficial use .....	350.00
4	For filing proof of resumption of a water right .....	360.00
5	For filing any protest.....	30.00
6	For filing any application for extension of time within	
7	which to file proofs, of completion or beneficial use,	
8	for each year for which the extension of time is	
9	sought.....	120.00
10	For filing any application for extension of time to prevent	
11	a forfeiture, for each year for which the extension of	
12	time is sought.....	120.00
13	For reviewing a cancellation of a water right pursuant to a	
14	petition for review .....	360.00
15	For examining and filing a report of conveyance filed	
16	pursuant to paragraph (a) of subsection 1 of NRS	
17	533.384.....	120.00
18	plus \$20 per conveyance document.	
19	For filing any other instrument .....	10.00
20	For making a copy of any document recorded or filed in	
21	the Office of the State Engineer, for the first page .....	1.00
22	For each additional page .....	.20
23	For certifying to copies of documents, records or maps,	
24	for each certificate .....	6.00
25	For each copy of any full size drawing or map .....	6.00
26	For each color copy of any full size drawing or map (2' x	
27	3').....	12.00
28	For colored <del>mylar</del> 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.~~  
~~2. 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.] (Deleted by amendment.)~~  
**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 (e) of subsection [3.] 4.~~

~~[3.] 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.] 5. Upon receipt of a protest, the State Engineer shall advise the applicant by certified mail that a protest has been filed.~~

~~[5.] 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~~

1 ~~State Engineer shall send by certified mail notice of the hearing to the applicant and~~  
2 ~~any person who filed a protest.~~

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

9 ~~— [7.] 8. Any person aggrieved by any decision of the State Engineer made~~  
10 ~~pursuant to subsection [6.] 7 may appeal that decision to the district court pursuant~~  
11 ~~to NRS 533.450.] (Deleted by amendment.)~~