

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

**Eighty-Second Session  
April 10, 2023**

The Committee on Natural Resources was called to order by Chair Lesley E. Cohen at 4:07 p.m. on Monday, April 10, 2023, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and to Room 130, Greenhaw Technical Arts Building, Great Basin College, 1500 College Parkway, Elko, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Lesley E. Cohen, Chair  
Assemblywoman Natha C. Anderson, Vice Chair  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblywoman Tracy Brown-May  
Assemblywoman Venicia Considine  
Assemblyman Rich DeLong  
Assemblywoman Bea Duran  
Assemblyman Bert Gurr  
Assemblywoman Alexis Hansen  
Assemblyman Howard Watts  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Selena La Rue Hatch (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Sabra Newby, Assembly District No. 10  
Assemblywoman Sarah Peters, Assembly District No. 24



**STAFF MEMBERS PRESENT:**

Becky Peratt, Committee Policy Analyst  
Erin Sturdivant, Committee Legal Counsel  
Connie Barlow, Committee Manager  
Nancy Davis, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Andrew Belanger, Director, Public Services, Southern Nevada Water Authority  
John Hadder, Director, Great Basin Resource Watch  
Sarah Wochele, Mining Justice Organizer, Progressive Leadership Alliance of Nevada  
Laken Kelly, Private Citizen, Las Vegas, Nevada  
Shaun Navarro, Private Citizen, Las Vegas, Nevada  
Nathaniel Phillipps, Private Citizen, Las Vegas, Nevada  
Justin van Wijk, Private Citizen, Las Vegas, Nevada  
Zach Brill, Private Citizen, Las Vegas, Nevada  
John Solomon, Private Citizen, Reno, Nevada  
Patrick Donnelly, Nevada State Director, Center for Biological Diversity  
Annette Magnus, Executive Director, Battle Born Progress  
Olivia Tanager, Member, Nevada Environmental Justice Coalition  
Matthew Tanager, Private Citizen, Reno, Nevada  
Jennifer R. Lanahan, representing Las Vegas Paiute Tribe  
Jonathon McNeill, Private Citizen, Reno, Nevada  
Kassandra Lisenbee, Outreach and Program Coordinator, Great Basin Resource Watch  
Mary Gibson, Private Citizen, Elko, Nevada  
Fermina Stevens, Private Citizen, Elko, Nevada  
Yesenia Moya, Private Citizen, Las Vegas, Nevada  
Christi Cabrera-Georgeson, Deputy Director, Nevada Conservation League  
Dwight George, Private Citizen, Fallon, Nevada  
Teresa Crawford, Volunteer Member, Legislative Committee, Toiyabe Chapter, Sierra Club  
Catherine Moses, Private Citizen  
Maeve Moynihan, Private Citizen, Yerington, Nevada  
Greg Gibson, Vice President of Operations, Americas, SSR Mining; and Chair, Nevada Mining Association  
Allen Biaggi, representing Nevada Mining Association  
Joel C. Donalson, Head of Permitting, Environmental, and Land, Nevada Gold Mines  
Debra Struhsacker, Cofounder and Board Member, Women's Mining Coalition  
Ralph R. Sacrison, Private Citizen, Elko, Nevada  
Katrin Ivanoff, Private Citizen, Las Vegas, Nevada  
Chantae Lessard, Head, Mason Project, Hudbay Minerals

Tim Dimock, General Manager, Coeur Rochester, Inc.

Steve K. Walker, representing Eureka County

Frederick K. Partey, Chairman, Environmental Committee, Nevada Mining Association

Allison Anderson, Manager, Community and Government Relations, i-80 Gold Corp.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber

Jay Dixon, representing Singatse Peak Services, LLC

Mackenzie Campbell, Business Development Specialist, Hunt & Sons, Inc.

Kyle Davis, representing Nevada Mining Association

Michael Visser, Administrator, Division of Minerals

Jennifer Carr, P.E., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources

Robert Kuczynski, Chief, Bureau of Mining Regulation and Reclamation, Division of Environmental Protection, State Department of Conservation and Natural Resources

Teresa Melendez, Private Citizen, Sparks, Nevada

**Chair Cohen:**

[Roll was called. Rules and protocol of the Committee were reviewed.] I am pulling Assembly Bill 162 from the work session. We received another amendment about an hour ago and, although it is a very short amendment, I want to make sure that Committee members have an opportunity to review and consider it.

**Assembly Bill 162: Revises provisions governing restricted-use pesticides containing certain chemicals. (BDR 51-97)**

[Assembly Bill 162 was not considered.]

**Chair Cohen:**

With that, we will begin the work session.

**Assembly Bill 20: Revises provisions relating to water. (BDR 40-227)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 20 revises provisions relating to the Account to Finance the Construction of Treatment Works and the Implementation of Pollution Control Projects [Exhibit C]. Specifically, the bill expands entities eligible to receive money from this account and replaces the list of authorized uses for money distributed from this account and instead requires that money be used in accordance with federal law. Additionally, A.B. 20 revises provisions related to the Account to Finance the Construction of Projects and the Account for Set-Aside Programs. Specifically, the bill expands how funding from both accounts can be used by requiring that money in both accounts be used in accordance with federal law. Finally, A.B. 20 removes the requirement that not more than three members of the Board for Financing Water Projects may be of the same political party and expands the list of eligible recipients receiving certain grants from the board.

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO DO PASS  
ASSEMBLY BILL 20.

ASSEMBLYMAN WATTS SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN LA RUE HATCH WAS  
ABSENT FOR THE VOTE.)

I will ask Assemblywoman Anderson to take the floor statement.

**Assembly Bill 70: Revises provisions relating to the uses of certain fees for a game tag.  
(BDR 45-342)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 70 revises provisions relating to the use of proceeds collected from the \$3 game tag application processing fee [[Exhibit D](#)]. Specifically, the bill requires Nevada's Department of Wildlife to use these proceeds for wildlife management activities that protect nonpredatory big game animals and their habitats.

Also, the bill removes the requirement that any program developed for the management and control of predatory wildlife uses at least 80 percent of the amount collected from the \$3 application fee on lethal removal. Finally, the bill requires that when expending money collected from the fee, the Department prioritizes certain programs, activities, and funding considerations.

Assemblyman Watts proposed an amendment that removes the language requiring the Department to use the game tag application fee proceeds for wildlife management activities that protect nonpredatory big game mammals; and instead requires the Department use these proceeds as directed by the applicant for either: developing and implementing a program for the lethal removal of predatory wildlife; or wildlife management activities for the protection of nonpredatory game species and their habitats.

The amendment also removes the option to use game tag fees for conducting certain research and removes provisions requiring the Department to prioritize certain programs and funding considerations in expending money collected from game tag fees.

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 70.

ASSEMBLYMAN YUREK SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN LA RUE HATCH WAS  
ABSENT FOR THE VOTE.)

I will ask Assemblyman Watts to take the floor statement.

**Assembly Bill 184: Establishes an incentive program for the purchase of certain  
zero-emission medium-duty and heavy-duty vehicles. (BDR 40-588)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 184 creates the Clean Trucks and Buses Incentive Program and the Account for Clean Trucks and Buses to be administered by the Division of Environmental Protection [[Exhibit E](#)].

The bill establishes: the amount of the base incentive, eligibility criteria to receive the base incentive, and an increase to the base incentive; vehicle eligibility and application requirements; various processes for the approval of contractors and submission and processing of voucher applications; and performance requirements for eligible entities receiving the incentive. Finally, A.B. 184 allocates 35 percent of funds received from the federal Carbon Reduction Program to fund the account.

Assemblyman Watts proposed an amendment that, amongst other things: adds certain state agencies to the list of eligible entities; makes a one-time \$4 million allocation from the State General Fund to start up the program; provides for Nevada's Department of Transportation oversight of the program; adds certain businesses to the categories eligible to receive an increase to the base incentive; increases the number of incentives that eligible entities may receive per year; and removes criteria related to vehicle eligibility and application requirements, various processes, and performance requirements and instead provides that they shall be determined by the Division through rulemaking.

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND  
DO PASS ASSEMBLY BILL 184.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYMAN YUREK VOTED NO.  
ASSEMBLYWOMAN LA RUE HATCH WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Considine.

**Assembly Bill 220: Revises provisions relating to water conservation. (BDR 40-337)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 220 revises various provisions related to water conservation [[Exhibit F](#)]. There are three amendments proposed: one from Southern Nevada Water Authority (SNWA), one from Assemblywomen Newby and Brown-May, and one from the Division of Water Resources.

**Chair Cohen:**

Would the representative from Southern Nevada Water Authority like to come forward and speak about the amendment? Also, Assemblywoman Newby and Assemblywoman Brown-May, if you would like to discuss your amendment when they are finished.

**Andrew Belanger, Director, Public Services, Southern Nevada Water Authority:**

I am here to walk through the conceptual amendment on A.B. 220 [pages 3 to 53, [Exhibit F](#)]. I am not going to make a comment about section 1 of the bill, since section 1 is covered by the amendment that Assemblywomen Newby and Brown-May have suggested. We are supportive of the language that they are providing. I would just note that there is a reference in there to 85 percent funding for septic conversions. We support that. The Southern Nevada Health District would like that to be modified to say, "to the extent funding is available." We support that as well.

The remainder of section 1 is identical in both amendments. It further specifies that the health district can impose administrative penalties for noncompliance; it can accept funding from federal, state, and local sources; and it can enter into interlocal agreements to fund septic conversion programs. Sections 3 to 5 [pages 6 to 11] of the bill have to do with the municipal backstop language that is in *Nevada Revised Statutes* (NRS) Chapter 445A. Our amendment provides further protections to local governing bodies regarding public water systems. Specifically, it limits the obligation of the local government. You can see that in section 4, subsection 4 [page 7]:

The local governing body agrees: (a) That as its sole and exclusive obligation in the event of a default by the builder, developer or owner of the water system, shall be to use the surety provided in subsection 5 or 6 to contract with and pay an operator responsible for the continued operation and maintenance of the water system.

The amendments to sections 3 through 5 limit the responsibilities of what the local governing body is related to public water system. We have worked with the Division of Environmental Protection to make sure the language they had some concerns about was addressed. It puts

the obligation on the builder to make sure that the builder has established the proper funding source for the water system as it exists. Section 6 [page 11] of the bill has to do with the WaterSense Program. I do not believe we made any changes in section 6.

In section 7 [page 13] we changed the number to 1,250 feet, and we did that throughout on the water sections.

The next major change was in section 13 of the bill [page 20]. We clarified that those provisions are only applicable in counties with a population of 700,000 or more. We removed the exemption for landscape irrigation fixtures that are 50 years or older from all applicable sections. We heard testimony and concern about section 25 of the bill that had to do with changing "may" to "shall" in NRS 534.110; that has been removed from the bill [page 39].

In section 26 [pages 39 to 42] we have provided 730 days to any holders of temporary permits who may be required to connect to a municipal water system and restores the language related to domestic wells so that the existing protections for domestic wells that were previously in NRS 534.120 are restored.

We have added a new section 27.5 [page 44] that requires the Colorado River Commission to review and consider any changes to entitlement holders of the Colorado River. As we testified in the hearing, we amended section 29 [pages 45 to 47] to clarify that the language does not apply to water diverted from the Virgin or Muddy Rivers as it relates to this septic conversion program and the prohibition for new septic systems in areas served by the Colorado River.

We added an additional year to the deadline for the irrigation system review in section 30 [page 48]. In section 34 [pages 52 and 53] we added a requirement that the Southern Nevada Water Authority Board authorized by resolution any emergency powers delegated to the general manager and require that any such use of those emergency powers be ratified by the Board within 15 calendar days.

In general, that is what the proposed amendment does. I am happy to answer any questions that the Committee might have related to that proposed amendment.

**Chair Cohen:**

I do not want to rehear the bill, but as far as that part of the amendment, do we have any questions? Seeing none, Assemblywoman Newby, you may present your amendment [pages 54 to 56].

**Assemblywoman Sabra Newby, Assembly District No. 10:**

There are a number of septic owners within Assembly District 10. I had been very concerned about the financial burden and operational burden that this bill would place upon them. In working with Assemblywoman Brown-May and with SNWA, I appreciate your reviewing and considering this amendment [pages 54 to 56, [Exhibit F](#)].

Section 1, subsection 1 strikes the language about the property being within 400 feet of a community sewage disposal system [page 54]. Instead, it specifies that the property must be served by a municipal water system. Section 1, subsection 1 also maintains the date of January 1, 2054. This will essentially take out those properties that have their own well and requires that only for municipal water systems.

Section 1, subsection 2 adds in language that the district board of health will enter into an agreement with the water authority to create a program to pay no less than 85 percent of the cost to abandon a septic system and connect to community sewage disposal system for no fewer than 200 property owners each calendar year. This increases greatly the amount that will be covered by the water authority and/or the district board of health. I still want to get it to 100 percent; I am not even going to lie. However, we can get it to 85 percent right now in this amendment. I am still working with the involved folks to try to get it fully covered. It also specifies no fewer than 200 property owners each year. The amendment then strikes section 1, subsection 2(a), (b), and (c) [page 55]. There are no changes to section 1, subsection 3.

Section 1, subsection 4 [pages 55 and 56] has new language that requires the district board of health to adopt regulations for administrative penalties for noncompliance. These penalties and regulations have to be adopted by a vote of two-thirds of all of the members on that district board of health. Also, section 1, subsection 4(b) states that the board of health should prioritize properties where the sewer disposal system is adjacent to the property with the septic system. Essentially, they start with the priority properties closest and then move out.

Section 1, subsection 4(c) [page 56] has a one-time grant of extension of five years if there is insufficient funding. Section 1, subsection 4(d) allows for the special improvement districts and the landscape improvement districts in case there are additional funds that need to be covered. The property owners could actually finance those through the municipality over an extended period of time. Again, I am still trying to get to 100 percent coverage. Section 1, subsection 4(e) states the district board of health may revoke a septic permit if the fees are not paid, and they may require immediate connection. Section 1, subsection 4(f) states they may enter into agreements to secure funding for this program to fund all of those conversions.

Section 1, subsection 5 strikes some language regarding a commercial individual system for the disposal of sewage. I would be happy to answer any questions.

**Chair Cohen:**

Assemblywoman Brown-May, before we take questions, do you want to . . .

**Assemblywoman Brown-May:**

I want to thank my colleague for all of her great work on this effort. There are a number of constituents who live in Assembly District 42. They have reached out with significant concerns relative to this. Some of the information that was shared was not accurate where we are, because as we know, we move so quickly with regard to some of the amendments.



The largest concern that was identified was the availability of funding. We are really trying to get to 100 percent of the funding for homeowners who could potentially be impacted by this while we are also working hard on water conservation. How do we reclaim all the water that we work? I know that there has been a significant effort there.

I want to assure all our constituents in our districts that we have heard all the concerns that have come to us and take that very seriously as we work to craft this amendment. I think it is important to get that on the record, and that we continue to work towards 100 percent funding. Also, that those property owners are given an ample opportunity to be able to elect into this process over an extended period of time and seek reimbursement. It is very similar to what we did with turf conversion over many, many years and creating that funding source. We will continue to work on identifying what that funding source is so that no homeowner who is on a fixed income will be adversely affected by this policy to conserve water. I think that is the most important thing—no adverse effects for homeowners who are on fixed incomes and cannot afford to do this conversion. We will continue to work to solve those issues.

**Assemblyman Watts:**

I want to thank Assemblywoman Newby and Assemblywoman Brown-May for their work on this amendment. I want to second some of the remarks that we definitely heard the concerns that were brought forth by members of the community and are continuing to work to strengthen and improve this measure. I want to put a couple of additional facts out there. First of all, I want to put a really fine point on it that anybody who is getting their water service from a well will not be impacted under the proposed amendment. I heard a lot of concern about that, and I think my colleagues did as well. If you are getting your water service from a municipal water provider, that will now be connected and that loop will be closed. If you are using both a well and a septic system, you would not be impacted at all under the proposed amendment.

I appreciate the move up to 85 percent. From the first conversations I had with SNWA about working on this, making sure that we did not create negative financial impacts on people was a top priority. I think this is a very positive step in that direction. I think the opportunity to create improvement districts is another opportunity that can help address some of those things. I also think by homing in on this, we can really deliver the resources to make sure in as many cases as possible that the full costs are covered. I would also note that there are programs for connecting to municipal water service and moving off of domestic wells in southern Nevada; that has an 85 percent requirement. This is also helping align some of the existing policies that we have in place.

I also want to comment on the thought behind moving folks to getting water service. First of all, it is a lot easier for folks to understand if they are impacted or not. We have some existing distance requirements put in place. I think that is where we initially looked at going, but this is a really smart approach. I want to thank everyone who made their voices heard, but also for those who worked on the amendment for this measure, I think it has certainly improved it.

**Chair Cohen:**

The program will also be looking at neighborhoods together; it is not going to be houses in a bunch of different neighborhoods. It is going to be looking at houses that are clustered together and close to the system, so that will help keep costs down as well. Is that correct?

**Assemblywoman Newby:**

That is correct. I think that is covered where we say that we are going to prioritize those neighborhoods first that are closest to the sewer system.

**Chair Cohen:**

We did receive an amendment from the district board of health, so it will say up to 200 if they can afford 200 under the program. Is that being accepted?

**Assemblywoman Newby:**

Yes. Their concern was that the current language says no fewer than 200. I know, and I am sure Assemblywoman Brown-May knows as well from hearing from our constituents, that different properties are going to cost different amounts to replace a septic system, and some properties have more than one septic system that will need to be replaced. The district board of health's concern was if they can only do 195 per year, they did not want to be running afoul of the law. I think their suggestion is a wise one to add in that language to the extent that the money is available to get to the 200 mark every year.

**Chair Cohen:**

We will include that as a friendly amendment. With that, do we have any other questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND  
DO PASS ASSEMBLY BILL 220.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion?

**Assemblyman Yurek:**

I want to take a brief moment to acknowledge that I can fully appreciate the intent of this bill and the challenges that we are having with water in Nevada, particularly off of the Colorado River system. It is a very real issue that is trying to be addressed here, and I want to publicly acknowledge and commend Assemblywomen Newby and Brown-May and the Southern Nevada Water Authority for their continued efforts to try to address the abundant amount of concern that I was given by my constituents. I represent Assembly District 19, which has a large number of people who would be impacted by this bill. I want to acknowledge and publicly express my appreciation for those who were doing the work. I think it did come a long way. Unfortunately, for my district and me, I do not think it came far enough for me to give it my full endorsement and support at this point. I will be voting no, but I want to say that I will continue to do everything I can to assist in the efforts and the policy that is

attempted to be addressed. Right now, it just places too much of a financial burden on people in my district who are on a fixed income. If there is anything I can do moving forward, I avail myself to that.

**Chair Cohen:**

Seeing no other comments, we will vote.

THE MOTION PASSED. (ASSEMBLYMEN DELONG, HANSEN, AND YUREK VOTED NO. ASSEMBLYWOMAN LA RUE HATCH WAS ABSENT FOR THE VOTE.)

I will ask Assemblywoman Brown-May to take the floor statement. We will move on to the next bill.

**Assembly Bill 249: Enacts provisions relating to the use of hemp in certain commercial feed. (BDR 51-719)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 249 allows pet food, specialty pet food, and commercial feed intended for consumption by horses to contain hemp if it is manufactured, distributed, and sold exclusively in Nevada for use in the state [[Exhibit G](#)]. This allowance excludes contract feeders and customer formula feed. The bill also excludes pet food, specialty pet food, and commercial feed for horses that contains hemp from the provisions defining adulterated commercial feed if it is manufactured, distributed, and sold exclusively in Nevada for use in the state. Additionally, A.B. 249 authorizes the State Department of Agriculture to take certain actions for violations of the provisions of this bill allowing hemp in certain commercial feed and enacts civil penalties upon individuals for violating the provisions of the bill. Assemblywoman Anderson submitted an amendment that allows research facilities to submit to the Department an application for approval to conduct feeding studies that includes research on the use and impact of hemp products on non-equine livestock animals. Any research conducted must be in accordance with the requirements of federal law.

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 249.

ASSEMBLYMAN WATTS SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN LA RUE HATCH WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Anderson.

**Assembly Bill 349: Establishes the Nevada Wildlife Conservation Program.  
(BDR 45-912)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 349 establishes the Nevada Wildlife Conservation Program to support the preservation, protection, management, and restoration of wildlife and wildlife habitats, and requires Nevada's Department of Wildlife to administer the program [[Exhibit H](#)]. The bill also creates the Nevada Wildlife Conservation Program Account in the State General Fund and directs how such funds are to be used. Lastly, A.B. 349 establishes the Board of Nevada Wildlife Conservation Program to consist of five members to advise the Department on the expenditure of money in the account. Assemblyman O'Neill proposed an amendment that decreases the number of members on the Board from five members to three members. In a second friendly amendment, Tina Nappe proposed an amendment that expands the authority of the Board of Wildlife Commissioners to direct the use of money in the Wildlife Account.

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND  
DO PASS ASSEMBLY BILL 349.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN LA RUE HATCH WAS  
ABSENT FOR THE VOTE.)

I will give the floor statement to the Assemblyman O'Neill and Assemblyman DeLong as backup.

**Assembly Bill 424: Revises provisions relating to the issuance of bonds for  
environmental improvement projects in the Lake Tahoe Basin. (BDR S-388)**

**Becky Peratt, Committee Policy Analyst:**

Assembly Bill 424 requires the State Board of Finance to issue not more than \$13 million in general obligation bonds to fund certain environmental improvement and conservation projects included in the second phase of the Environmental Improvement Program for the Lake Tahoe Basin [[Exhibit I](#)].

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to do pass.

ASSEMBLYWOMAN BILBRAY-AXELROD MADE A MOTION TO DO  
PASS ASSEMBLY BILL 424.

ASSEMBLYMAN DELONG SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN LA RUE HATCH WAS  
ABSENT FOR THE VOTE.)

I will give the floor statement to Assemblyman DeLong.

**Assembly Concurrent Resolution 5:** Expresses support for the Lake Tahoe  
Transportation Action Plan. (BDR R-387)

**Becky Peratt, Committee Policy Analyst:**

Assembly Concurrent Resolution 5 expresses support for the Lake Tahoe Transportation  
Action Plan and for the funding of high-priority transportation projects in the Lake Tahoe  
Basin [[Exhibit J](#)].

**Chair Cohen:**

Are there any questions? Seeing none, I will take a motion to adopt A.C.R. 5.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO ADOPT  
ASSEMBLY CONCURRENT RESOLUTION 5.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Are there any comments on the motion?

**Assemblyman DeLong:**

I have heard a lot of comments from my constituents with regards to the scope of the  
transportation plan as outlined. Based on those comments, I cannot support the resolution.  
I will be voting no.

**Chair Cohen:**

Are there any other comments? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYMAN DELONG VOTED NO.  
ASSEMBLYWOMAN LA RUE HATCH WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Peters, and Assemblywoman  
Bilbray-Axelrod as backup. That concludes our work session. I will open the hearing on  
Assembly Bill 313.

**Assembly Bill 313: Revises provisions relating to mining reclamation. (BDR 46-590)**

**Assemblywoman Sarah Peters, Assembly District No. 24:**

I am glad to be here today to present to you Assembly Bill 313, which is related to reclamation of pit lakes. The first time I walked into this building, I offered expertise in environmental regulatory permitting and compliance. That was the day I realized that we needed more scientists in this building. I sat in a meeting with colleagues who were interested in bringing a piece of legislation to address natural resources and environmental issues. The reception I received was, Wow, it sounds like we need to do something about that. We have to rely on people like you to bring this to this body to discuss the issues and the environment that we are not experts on. Shortly after that, maybe three years, I decided to run for office.

Today we bring to you a policy decision to direct the interests of the state. We are not a body of scientists, we are a body of citizens, but it is imperative that we take care of our natural resources regardless, and that we set the intention of state policy to what it is we want to see happen to those natural resources. Where do we want to go as a state? Whom do we want to use these resources? How do we want to see them used? What is the imperative of how they are used? What is the responsibility of those who are using them and those who are regulating them? Today, we are looking at pit lakes. I have an expert here, Mr. Hadder, who also was a mentor of mine back before I decided to become an environmental engineer, to discuss some of the issues we have seen with pit lakes and their interaction with groundwater and as they remain in amorphous surface water as defined by state statute.

Today, we want to talk about defining impacts through policy and the relationship between water resources: surface, ground, and amorphous surface water, or surface expressions of groundwater—however we choose to say those in the state. I am going to pass off the remainder of the presentation to Mr. Hadder to talk a little bit about what this bill is intended to do and why it is important to have this conversation today.

**John Hadder, Director, Great Basin Resource Watch:**

Let me start with our presentation [[Exhibit K](#); and reading from [Exhibit L](#)]. Our organization is a nonprofit in Nevada; we deal with mining. As you can see on page 3 [[Exhibit K](#)], this bill is requiring mining companies to assume responsibility for reclamation of surface water and groundwater. There are two major pieces of the bill conceptually, which are to have reclamation of water and water systems specifically mentioned in statute, and a reporting transparency to the public on what is happening at mine sites regarding water systems and our ability to reclaim them. Specifically, there is the issue of what we consider unreclaimed artifacts, or legacy of mining, which is mining pit lakes. This bill addresses that. It puts an emphasis on avoidance of the formation of pit lakes.

In the *Nevada Administrative Code*, there is an exemption process for open pits in general, but this is specific to mining pit lakes and it only allows for two criteria to exempt backfilling a pit lake to above the previous groundwater level. The exemption is either through what we call "clear and convincing evidence"—which is a legal term, sort of like an 80 percent to

90 percent of, yes, we agree—or, that it is "technically not feasible" to do this without long-term management, or indefinite management required to avoid groundwater contamination degradation. As you know, it is against state law to integrate groundwater. If it is not possible or technically feasible, then that is one exemption. The other exemption allows for an economic argument—in some ways, it would become unprofitable for the mine plan to be able to do this. Those are the only two exemptions. This is different than what we do now, which is much more open-ended. This is a very specific directive that says we want to avoid mining pit lakes. That is why we are at the Legislature, to physically and philosophically step back a second.

The primary objective of reclamation is to restore the environment as close as possible to a premining condition that will allow a postmining use of land, and this bill also says water and water systems. In order to reclaim and restore, it is necessary to understand the state of the environment prior to mining and evaluate how the mining operation has changed the environment. This means a determination how land, surface water, and groundwater systems have been altered by mining operations and what actions are needed to restore and reclaim the land and water to a postmining use.

According to the Bureau of Land Management, the ultimate objective of reclamation is ecosystem restoration, including restoration of any natural vegetation, hydrology, and wildlife habitats affected by surface disturbances from construction and operating. In most cases, this means a condition equal to or closely approximating that which existed before the land was disturbed.

This is the standard for oil and gas operations, and we think it needs to be applied to hard rock mining as well because the damages are similar in some ways. Colorado recognizes the need to address water systems by requiring that:

Disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quantity or quality of water in the surface and groundwater systems both during and after the mining operation and during reclamation shall be minimized [Code of Colorado Regulations, 3-1-6].

What is your responsibility? We are asking you as legislators to look into this. Surface and groundwater belong to the public as waters of the state. Water bodies such as human-made reservoirs and certainly mining pit lakes fall outside the Clean Water Act. It is our responsibility to protect these waters. In *Nevada Revised Statutes* (NRS) 445A.305, subsection 2(a), the Legislature declares, "To maintain the quality of the waters of the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, the pursuit of agriculture, and the economic development of the State." Our Legislature has declared the importance in this area, also to encourage methods of water collection and pollution control for all significant sources of water pollution. *Nevada Revised Statutes* 534.020, subsection 2 also states, "It is

the intention of the Legislature, by this chapter, to prevent the waste of underground waters and pollution and contamination thereof" and so forth. That is why we are here to address this. We think that A.B. 313 is in alignment with NRS to restore water systems and to avoid degradation of large volumes of groundwater in pit lakes.

Another example: In 2019 the Great Basin Resource Watch appealed the water pollution control permit for the Mount Hope Mine. In that appeal, we addressed a number of issues concerning pit lake quality, but we also asked the State Environmental Commission to provide a beneficial use of the pit lake, which would be one of the largest in Nevada. From the testimony on record, the Commission generally indicated concerns regarding mining pit lakes. This is coming from the State Environmental Commission [State Environmental Commission, Transcript of Proceedings, September 4, 2019]. From that hearing, Commissioner Jim Gans said, "These gigantic pit lakes scare me . . . if the public out there isn't asking questions, you're just wondering what does this mean? They should, in my opinion." He later stated, "My opinion is that these pit lakes or at least a lot of them have been disasters." Commissioner Tom Porta stated, "I'm certainly concerned about pit lakes and water quality standards in this state." Clearly the State Environmental Commission recognized there is an issue here.

Furthermore, the view of the commissioners was that the matter of addressing pit lakes should be before you all as legislators. I think it is summarized well in Commissioner Porta's statement:

And some of which the Appellant—and I agree with their—you know, about these issues of water quality in pit lakes. But again, that is way above our permitting process, and way above our pay grade; that needs to be discussed later. And I would certainly encourage those discussions to take place at the legislative level and whatever comes of that, regulate . . .

Here we are at the Legislature to try to address some of these issues. My point being is that we looked at regulatory aspects of this and so we are here at the Legislature.

I would like to give you a little bit of background on mining pit lakes. As Assemblywoman Peters mentioned, there is stuff, and sometimes a little background is needed. I will try to provide a little bit here. "Dewatering" is a word that is used a lot [page 5, [Exhibit K](#)]. When the ore body is at least in part or totally below the water table, it is necessary to lower the water table artificially in that area so that the excavation operations can be dry. If you go to the beach and dig in the sand, water fills in. Dewatering is the process of pumping from within the pit and around the perimeter to artificially lower the water table as represented by the schematic on page 5. This is a common process that is called dewatering. Once the mining is completed, the dewatering pumps are turned off and the groundwater is then drawn into the area that was dewatered, including the mining pit itself. By far, most of the water in the pit lake is from groundwater infiltrating back in. There is a very small amount from precipitation. Thus, at the end of mining and continuing for many years afterwards, there is a significant regional lowering of the water table, which is illustrated on the map on page 6,



which is the Carlin Trend. The green area is a zone lowering the water table by about 10 feet. The blue area shows the larger affected area. There is a wide area that is affected by the dewatering itself.

Mining pit lakes are effectively impoundments which will exist indefinitely. Pit lakes create groundwater deficit in two ways. First is the filling; that is the first step. The cavity has to be refilled in the process and it takes water from what they call "recharge." Recharge is the water that we can allocate. It is available water in the basin. If you go above the recharge, you start decreasing the water table in the basin in general. It will draw from that recharge and sometimes it can take a long time to restore—decades, sometimes centuries—a long time frame. The filling rate initially can be much more rapid. It all depends on the geology and the fracturing. It is not the same every time and every site; it can vary quite a bit. For example, the Anaconda Mine has a pit lake which has been filling for 55 years and it is almost full. A lot of them will take longer.

Page 7 [\[Exhibit K\]](#) is a graph by contractors paid for by the mining company of the filling of the Round Mountain Mine pit lake. What they are showing here is when the pumps turn off, that is time zero. They are showing the water that is going to be coming into the pit lake area. Notice that there are three different graphs that depend on what geology the water is coming from. If you add them all up, you will notice that in the first 30 years or so, the infiltration rate is much faster; at least three times faster than long term. Gradually the water coming in goes down and then it levels off at a certain point. Schematically what is going on is shown on page 8, there is the pit lake, with water coming in from all directions. There is evaporation coming off the top, and it will draw from other things, such as springs in the area, could be other surface waters, could be other users. It draws from this continuously at varying time rates. This is true for most of the pit lakes. Looking back at page 7, in the case of some basins, the long-term tail, that flat area represents the water lost to evaporation forever as far as we know. Notice that this process does not quite reach equilibrium for 200 years. It is a long process. This is going to be a big pit lake; not all of them are going to take this long. This is one of the biggest pit lakes, which is Round Mountain. In this particular case, you have got a lot of evaporation. Long term, the evaporation is going to continue, so will drawing water into it. Nevada is an arid place and the evaporation rate is really high. These pit lakes act like a large diameter well, pumping indefinitely as far we know.

That consumptive loss from evaporation is loss from the basin forever. The mining companies are required to get a water right for that evaporative loss. Collectively in northern Nevada, generally all of the evaporation from all of the mining pit lakes existing and anticipated, Great Basin Resource Watch has estimated to be 10,000 to 11,000 acre-feet of water. This can be significant for some basins. The Maggie Creek example shows a perennial yield of recharge available water on an annual basis of about 4,000 acre-feet. The two largest pit lakes will remove 2,860 acre-feet every year. In that case, it is removing a big piece of the available water. That is not the same for all basins; in some basins it is going to be much smaller, it is going to vary. My point is it can be significant, and it is important that we address it.

The other issue is what happens to the water? Once the pit lake is full, then you have got all these mining pit lakes around. We use the same data set as the Bureau of Mining Regulation and Reclamation (BMRR), Division of Environmental Protection (NDEP). They provided the data to calculate how much water would eventually end up in all these mining pit lakes. Our estimate came out to about 1.5 million to 1.7 million acre-feet of water, or 489 billion gallons to 554 billion gallons. The balloons on page 9 give you a sense of the scale. That is a lot of water. It is roughly three times the annual use in Las Vegas. We are talking about a lot of water that will end up in these mining pit lakes. The pit lake on page 9 is the Lone Tree pit lake. That photo was taken around 2009 or 2010. There is a lot of water. There is a permanent loss evaporation and there is a lot of water in the pit lakes themselves.

One step in addressing the evaporative loss is certainly to backfill the pits. Once you backfill them above the water table, you are no longer going to have the large evaporative loss. It decreases that permanent loss over time. That is an important takeaway on this.

I am going to say a little bit about water quality at pit lakes [page 10, [Exhibit K](#)]. These can vary significantly, but they can be very problematic. Typically, what we observe is that based on the actual pit lakes that are out there, the water quality in the pit lake is of lower quality than the surrounding groundwater. Remember that water in the pit lake came largely from the groundwater. As we see, the mining pit lakes are actually decreasing water quality. It is not considered degradation because pit lakes are defined as a surface water. Once the groundwater crosses that barrier into the surface, it is no longer groundwater, and it is no longer groundwater degradation. The big point there is we are losing water quality, and it can vary. The Lone Tree pit lake had very bad water quality very early on and has been treated continuously since then. Some are not so bad. Page 10 is an example of the pit lake at McCoy Cove. I picked this one because I feel like it is maybe in the middle a little bit. It is not as bad as Lone Tree, but it is not one of the better ones. If you look at this analysis of the McCoy Cove pit lake, the saltiness, which is total dissolved solids (TDS) is about 1,700 parts per million (PPM). The manganese is about one part per million. The surrounding groundwater you can see is of much better water quality. This is our point. We are taking water that may be usable for a lot of things and we are making it less usable.

The NDEP Profile I standard, this is our groundwater drinking water standard, is 1,000 PPM for TDS. That is not the standard for a pit lake. That is the standard that we apply to the supply to the aquifer. Pit lakes have a separate kind of water standard quality process, which is based on the potential to harm terrestrial wildlife, human safety, that sort of thing. It is a different kind of process. I just want to point out that this is the water quality issue. Again, it varies a lot. The Bald Mountain mine, for example, does not have what we call reactive ore. If the area has reactive ore, sometimes you get really bad water. That was the case in the pit lake in Lone Tree. There was reactive ore, which is a combination of the air, water, and oxygen together, and it starts generating acid. It is really hard to stop once it gets started and that got really bad. Bald Mountain, on the other hand, does not have that problem. It is

probably one of the better mining pit lakes. It can vary a lot. However, even at the Bald Mountain mine, even their pit lake is of lower water quality than the surrounding groundwater as far as we can tell from the monitoring reports supplied by the BMRR. We thank them for the data. That is another thing to keep in mind in terms of water quality.

We have talked about evaporative losses; now we have this issue of access. We have a lot of water in these mining pit lakes. How do we get to it? If you wanted to use that water directly, could you use it? The problem is that the pit lakes are not reclaimed in general. There is a statute in NRS regarding pit lakes over 200 acres. There is a possibility that those could have public access if everyone agrees. Although that statute has not really changed the reclamation practice that we see from mining pit lakes.

In general, the practice is that pit lakes are fenced off or berms are constructed around the perimeter to keep people and terrestrial life out. For example, the reclamation requirement for the Cortez Hills mining pit as stated in the environmental impact statement was:

Post-mining safety barriers (e.g., berms, fencing, or other appropriate barriers) would be installed peripherally to the crest of each pit (based on the predicted wall stability at the time of closure) to control access by people, livestock, and most wildlife. Pit ramps would be barricaded to prevent entrance.

Therefore, the water in the pit lake impoundments is effectively consumed; it is not accessible. If you look at reclamation permits issued by the State of Nevada, you see similar language. The idea is that these things are not safe, and we want to keep people out of them. If you want to directly access that water—let us say you wanted to get a water right and pump some water from it and use it—you could not easily access, it is not part of the reclamation plan. One issue we raise is that even though the water is still in the basin, how do you get to it? This is not about water rights; this is about access of public waters.

Another way someone might be able to try to access the water in the pit lake is to say, Okay, we are not allowed in or are prevented from getting in; what if we sink a well outside of the perimeter of the pit lake and pump on that? Can we draw some of the water in the pit lake and use it? Yes, that is certainly a possibility; you can get a water right for that. The problem is, what if the pit lake is of lower quality than the groundwater, then you are going to be drawing poorer water quality into the groundwater. In some cases that could be a violation of state law if it is bad enough. So that practice is weak. It is not really a method which is often available. There are problematic aspects of trying to access the water that way as well. The two ways you can directly access the water are almost closed down. We feel this is part of the problem.

In summary, we feel A.B. 313 is needed to turn attention generally toward restoring water systems, including groundwater and flow patterns, as best as possible to premining condition; to better address the water loss of mining pit lakes; to avoid the access to public water due to pit lakes; to avoid the lowering groundwater quality from pit lakes; and to increase transparency to the public. As I mentioned before, if we backfill these, then we do not have

this problem with access, because the water is now part of the ground water system. When you backfill a pit lake, sometimes the side walls collapse. This is the danger issue I mentioned before. The schematic on page 12 [\[Exhibit K\]](#) illustrates some conditions. In the upper corner, scenario A, there is no backfilling and you have water flowing through. That does not happen most of the time in Nevada. Mostly in Nevada, what you see is on the right side, scenario B, where water is coming in, but you get increased salinity and maybe worse, if it is reactive ore. We are saying we want to backfill. With backfill, the water will come into the backfill and will exit the backfill. It will be a continuous part of the water system. Can that cause groundwater degradation? Yes, we have got to be careful about that. We cannot do this willy-nilly. It is possible that the water flowing out could be a problem. That is why there is an exemption allowed in the bill to say, If this is a long-term problem and it cannot be actively managed in the short term and requires indefinite management, then there is an exemption.

I want to point out that backfilling is being done in some places. We do applaud those companies that are looking at this. The Bald Mountain mine, for example, is doing this in one of their pits. They call it the top pit, and they are backfilling that pit because it would form a small pit lake. The objective for backfilling this pit is to avoid groundwater depletion. That is their objective; it is in their application to the State of Nevada. They are trying to address this issue and in the process of backfilling it, also in that same permit it indicates that they have a plan for how to select the best material for backfill to avoid the groundwater degradation.

Our point is that this is about new mine projects that look at the situation ahead. If a company knows they have to have a plan for backfilling a pit that would have a pit lake, to develop an approach to the mine plan to minimize the moving of materials, to reduce that, to make it more economical, and to avoid this problem of down gradient degradation which could occur. But if it cannot be avoided, then there is the opportunity for an exemption. [Provided but not mentioned is [Exhibit M.](#)]

**Assemblywoman Peters:**

I will now walk through the conceptual amendment [\[Exhibit N\]](#). I believe you have all had ample time to read [Assembly Bill 313](#) in its first introduction. We have recommended a couple of changes in this conceptual amendment. As much as we would love to see the backfill of historic pits that are potentially degrading and using unnecessarily high amounts of water, we will remove those requirements. Instead, you will see number 3 of the conceptual amendment [\[Exhibit N\]](#) requires the Division of Minerals and the Division of Environmental Protection to prepare a report submitted to the Joint Interim Standing Committee on Natural Resources to include but not be limited to: impacts of pit lakes on water including evaporative losses; impacts to surface and groundwater including hydrologic impacts; impacts to pit lakes on current and future land and water use; and in consultation with the Department of Wildlife, the analysis of impact on wildlife.

Number 4 of the amendment talks about terrestrial and aquatic wildlife. My intention is that would also be included in number 3c of the conceptual amendment. We would remove the retroactive language and include this report to the Joint Interim Standing Committee on Natural Resources to keep this conversation going, to talk about what the historic impact of mining has done to affect our landscape, and help drive solutions to that problem if problems are identified.

Changes to section 4 of the bill would include: remove the requirement for a review of reclaiming the pit lake in a major modification to an existing permit of a mine operation; remove the obligation to review a pit lake and the renewal of a water pollution control permit; and remove some language related to clear and convincing evidence and leave in the preponderance of evidence that backfilling the open pit would result in undue hardship on the operator by requiring a reasonable mine plan to be unprofitable, also allowing for that economic justification to be considered in the arguments for reclamation or not reclamation of a pit lake.

Number 4 [\[Exhibit N\]](#) would require the Department of Wildlife to submit recommendations regarding analysis of mine impacts to terrestrial and aquatic wildlife and habitats. Currently, there is an opportunity for the Department of Wildlife to weigh in on mining projects, but there is no authority for them on those projects. We would like for them to weigh in on what authority could look like for them to review projects. With that, we stand for questions.

**Assemblywoman Anderson:**

Thank you for the presentation and also for the PowerPoint; it helps me visualize much more and understand at a much deeper level. One of my questions is from one of those slides [\[Exhibit K\]](#). You spoke of the varying sizes of pit lakes that are created. Is there any language in the bill and/or the proposed amendment that mentions how the different sizes could be considered? Is there anything that clarifies the varying degrees that could occur because of the very different ways that mines are done?

**Assemblywoman Peters:**

I know this is a lot of information to digest. It took me years of university to get through a lot of what you were just presented in the last 20 minutes or so. Those are considerations that are reasonable to be considered in the regulatory process through the permitting process. Right now in statute, and we are not suggesting changing that, there is a 200-acre requirement on pit lakes. We are not suggesting that be eliminated in this revision. That is the starting point right now for consideration of reclamation.

**Assemblywoman Anderson:**

I was thinking there is no way we could make a decision as to the different sizes. Thank you for clarifying that would be through the regulatory process. Looking at the bill, I just want to make sure I am reading this correctly. The language that is deleted from section 12, subsection 8, where it basically defines the pit lake, has been moved up to section 2; that way

we know it right away. As a teacher, it is kind of nice to be aware of the definition early in the bill. I just want to verify that I see you shaking your head, and I am going to take that as a yes.

**John Hadder:**

Yes, that is putting it in what I thought was a better place.

**Assemblywoman Anderson:**

Perfect. My last question actually has to do with language that is in the bill, although it is also mentioned on the amendment. In section 4, subsection 1, it has to do with getting rid of the permanent wetlands. Do we not want permanent wetlands? I am confused by that because sometimes there is an idea that permanent wetlands are a good thing and sometimes they are a bad thing. Why would the permanent wetlands be a negative idea?

**John Hadder:**

We do not want to have a wetland created. What can happen is, you can get a situation where the water rises and falls. It happens a lot in Nevada; water tables change a lot, especially in this case. We want to have the backfill so that water does not wet the surface. What can happen with that process of rising and wetting the surface is, it can allow oxygen to come in contact with water and potentially become reactive. Also, there is an increase of transpiration and more evaporation water coming off. We can create more of a toxic wetland than you would have otherwise. We generally recommend not to have that occur.

**Assemblywoman Brown-May:**

I am going to ditto the slideshow; it was very helpful. Can you talk a little bit about backfilling the pit to the water table? We are talking about backfilling pits, where possible, to the water table so that we do not have wetlands, and not completely to the top. Can you talk to that a little bit?

**John Hadder:**

That is kind of a fine point. We do not want to have wetlands. If you look at the picture on page 12 [[Exhibit K](#)], you will see that illustrates that the backfill is kind of on the same level as the water table. We want it to be above, significantly above, so as the water table rises and falls seasonally, it does not create a wetting of the surface.

**Assemblywoman Peters:**

The regulatory permitting process, including the federal process, requires a significant amount of investment in engineering for what closure looks like—what operations look like and then what closure looks like. To set the standard of no wetlands and backfill to at least the water table, that gives some container for how to engineer that closure. The hydraulic modeling and other modeling for the geochemistry would then occur. That would drive the final engineering process to what those expectations and standards are for closure. In the state of Nevada, we permit on closure. The Division of Environmental Protection holds a permit that says, Here is how you have committed to operate and thus close this operation. That closure is what we would hold them to, the standards that were provided in that closure

document. Sometimes things go differently than you expect. You run into geochemistry that you did not expect, or you have water quality that was less than the standard that you expected it to be when you get there. In those cases, there are functionalities to address those issues, but those already exist and are part of the regulatory process. This just sets the parameters. The expectation of the State of Nevada as given by the Legislature would be that no wetlands occur and there is no surface water expression.

**Assemblywoman Brown-May:**

That was excellent. I appreciate that good, clear explanation of what the expectation is. There are exceptions now. If I am the mining operator and I am going to put the plan in place, I can apply for an exception currently, correct? This would then add into those exceptions environmentally and economically reasonable standards for what the expectation is. Who does the exceptions now? How does that look differently in this bill?

**Assemblywoman Peters:**

The *Nevada Administrative Code* (NAC) has been promulgated; it is NAC 519A.250. This is related to the exemptions of open pits and rock faces from requirements. "An operator may request in writing that the Division grant an exception to the requirements for reclamation for open pits and rock faces which may not be feasible to reclaim." It then sets a couple of standards for which the Division shall base its determination on. Those include:

- (a) Topography of the site;
- (b) Geology and stability of the site;
- (c) Time required to complete reclamation;
- (d) Consumption of resources required to complete reclamation;
- (e) Potential adverse environmental impacts to the quality of the air and water associated with the activities for reclamation; and
- (f) Future access to mineral resources.

These are set in the regulations. What we are suggesting here is that we emphasize it at the Legislature—that we care about what happens to our water and where our water goes; and that it needs to be expressly restricted in the regulatory process, to be defined and with proof of evidence, that you cannot meet those quality standards under the current conditions of either the mine or the economy. We would not remove that economic argument. We would just require that the burden of proof be a little bit more significant so that we have transparency on why it is not meeting those standards and what the effect is to the state's water quality of not meeting those standards.



**Assemblyman Yurek:**

Thank you, Mr. Hadder, for the many trips to my office to help me understand as I learn about all of what is going on here. I am going to ask two questions. One is stemming from conversations that we had in my office, and I have heard you highlight these issues today. One of the concerns about these pit lakes is the danger that is posed to the public. It seems that is one of the reasons in section 4, that we are requiring to backfill as part of the consideration. But then I look in section 12, and you are reducing the predicted field surface area. Before you had to provide public access at greater than 200 acres, you are narrowing that down now to 85 acres. That seems to be contradictory. It might be my own misunderstanding of this, but if we are trying to backfill these and there is this danger to the public, why would we require public access to what used to be surface areas that would encompass 200 acres and narrow that down to 85 acres? If you can help me understand that, I would be grateful. My second question is in section 4. In the amendment [\[Exhibit N\]](#), number 2 changes section 4, subsection 2(b) to say for the exceptions to do this: "By a preponderance of the evidence, that backfilling the open pit would result in undue hardship on the operator by requiring a reasonable mine plan to be unprofitable." My question is, what is a "reasonable mine plan"? Who makes that determination? At what point in the process does that occur?

**John Hadder:**

I do not know if Assemblywoman Peters mentioned this, but we are not changing the 200 acres to 85 acres. We originally proposed that and we stepped back from it. I will also point out that provision does not require public access. It requires there be a consultation amongst landowners around the pit lake as to whether they would be open to it. It does not require public access. If any of the landowners said they did not want to have public access, then it is off the table. It is a very soft requirement in the legislation. In my opinion, as a result, there is no reclamation because that is not acted on. We do not have public access in general, and as you said, the reclamation is usually to prevent the public's access. We dropped changing from 200 acres to 85 acres. Originally, I had thought, if we are going to leave this provision in, if in fact the company wanted to reclaim a pit lake to provide public access, let us include smaller ones too, because 200 acres is pretty big, but we were willing to drop that.

The second question was regarding the reasonable mine plan. My understanding is you look at a site and say, Okay, what makes sense to us? What is a mine plan that is going to be profitable? Is the State of Nevada requiring us to do things that are ridiculous? Reasonable is a mine plan that a company would propose in general, and not necessarily outside of the realm of engineering. I will point out, though, that these are new mine plans. So if you know going into it that there is a higher bar on reclamation, then the engineering mine plan should address that. For example, if you want to backfill a pit, there are processes where you can do sequential backfilling so that you will not take all of the waste rock out of the pit. You can leave some of it in there to use for the backfilling process. Those things are reasonable to do, as opposed to a mine plan the company considered unreasonable and therefore unprofitable.



**Assemblywoman Peters:**

I want to go back to the NAC 519A.250 that exists today. In subsection 3, "The Division shall base its determination of the feasibility of reclaiming open pits and rock faces on the technological and economic practicability of achieving a safe and stable condition suitable for a productive postmining land use." I think the same question could be asked there. Who determines economic practicability? That is at the determination of the regulators. They are the ones who are reviewing the proposed mine plans and making these decisions. This bill suggests that they have the authority to do that, determining the reasonable mine plan and the potential for unprofitability. It is asking, Is it technologically and economically unfeasible to reclaim this property while remaining profitable? I think that is the interest of the mining operator or investors; they make that determination, what is reasonably profitable and what is reasonably not profitable, and what drives that. They have enormous costs related to the operation, related to the social licensing of being in a community, and that drives the economics of the mining industry. I do not think this suggests that there is too much of an additional step to what they already do under the existing NAC.

**Assemblyman Yurek:**

I appreciate the attempt to answer that. My concern is that this could impose a significant burden on one of our state's major economic drivers. I am just going to share that concern. I would encourage that to be defined a little bit better to help everybody make sure they understand what is reasonable. What are the factors to consider, probably a little bit more than what we are seeing in the regulations. Who makes that decision and when, to ensure that our mining operators and the people who are making these investments have the opportunity to understand what will be required to make that determination as to whether or not it is economical to be here and conduct business. I would encourage continued work with the industry on that.

**Assemblywoman Peters:**

Are you suggesting including that in the statute?

**Assemblyman Yurek:**

I do not know exactly where it needs to go, but definitely some clearer direction. It might be me; I am an attorney and my legal mind is thinking there is a lot of room for slipperiness in here. My concern is that this is going to impose a potentially significant burden on our mining operations in Nevada. I think some clarity on that would help.

**John Hadder:**

Thank you very much for the suggestion. The language could be adjusted. I was thinking also that in the rulemaking process, in NAC, it may be addressed there as well. The standard of preponderance of evidence is more likely than not. This is not an enormously high bar. This bill is not intended to strangle the industry by any means. If a company can reasonably afford to do it, that is where we are at. I was mostly concerned about smaller operators and that this might be more of a burden. I think larger operators have more disposable ability to take the extra step, if that is what it takes.

**Assemblyman DeLong:**

I would first like to acknowledge Assemblywoman Peters' opening remarks. I think it would be great to have a scientist and a permitting expert for the mining industry in the Legislature. I also appreciate your pointing out NAC 519A.250. That is an important regulation and NDEP passed that with the understanding that they have statutory authority to require those activities. Most of what I see in this bill is already covered in this regulation, which means they have statutory authority already to do it. My first question is, Why you did not go to NDEP and ask them about implementing a regulatory process rather than the statutory process? The second part of my question has to do with the amendment, which I think definitely muddles the bill by adding in a bunch of terms that are highly technical as it relates to the criteria on how to comply. It has to do with clear and convincing evidence, preponderance of evidence, and undue hardship on the operator. My colleague has already brought up a reasonable mine plan. Are you planning on having those defined in statute, which is where the legislative body really should be weighing in on that?

**John Hadder:**

This is a legislative direction to the agency. In my view, pit lakes need to be dealt with in a more overt way than we are now. We do not want to see as many of them. We want to see reclamation. The agency does consider a lot of things in the NAC. This bill says there are only two ways that you can get an exemption: a groundwater degradation problem or the economic analysis. It is actually more restrictive that way and it provides a direction emphasis as Assemblywoman Peters said. This is important. In my experience doing this, we do not see these bodies dealt with. I am not saying that the agency is not doing their job; they are doing a fine job. We have talked to the agency about trying to address this regulatorily. The State Environmental Commission said to go to the Legislature. That is why we are here. We were thinking maybe we do not have to go to the Legislature, but that was the direction from the Commission which would oversee any kind of regulatory changes at that point.

Maybe the question we asked was not the right one, I do not know. That was the guidance that we got from the State Environmental Commission at that time. Some of the specific language is to set a bar on where the evidence has to be, how much depth there has to be. My understanding is that clear and convincing evidence, which was recommended to us, is an 80 percent to 90 percent bar. It is not the highest bar in law, but it is one of the higher bars in terms of administration. The idea is that we want to see some real data. The preponderance of evidence is a lower bar, but it still suggests that more likely than not the idea is there. There is some analysis that is available to the public as well as the agency. The agency clearly makes the decision at the end of the day, but we think it is important for the public to see what the analysis is. We are talking about water here. This is our water, this is not just anything. That is why we think the bar needs to be a little bit higher; this is water that we need, water that we use to drink, water we live on. My feeling was that there needs to be a little higher bar for the protection of our water resources. Also, there needs to be a justification that the public can see. Again, I am not saying that the

agency has not been doing their job. I think they are doing fine that way. We think this needed legislative direction to push this along further. That was the recommendation that we got.

**Assemblyman DeLong:**

You said there are two criteria that would have to be cleared in order not to backfill a pit lake. One is geochemistry, which is a very technical and very site-specific issue. For this hearing, I am not going to go into that. The second is the economic issue. Is the state going to determine what an acceptable profit is?

**John Hadder:**

I presume so; that is up to the people. This is a hard question. How do we deal with this economic thing? How much profit is reasonable? How much is not reasonable? We tried to keep it simple: profitable or not profitable. I think that language is open to some discussion and maybe how we can adjust this. I think that is up to the people. If you as legislators feel like there are some specifics that need to be inserted, then maybe that is true too, that is your job. In my view, it is up to the people.

**Assemblyman DeLong:**

I hate to put you on the spot, but if it is going to be up to the state to set the profit level, why is it not in the legislation?

**Assemblywoman Peters:**

We do not have the expertise to define a reasonable mine plan for every circumstance.

**Assemblywoman Hansen:**

Thank you for visiting with me to explain a little bit more about what you are trying to accomplish. I have a question for NDEP.

**Chair Cohen:**

Will you hold your questions for NDEP for when they testify in neutral?

**Assemblywoman Hansen:**

Sure. Mr. Hadder, you made mention that the Commission said to come here to the Legislature. Did you work with the regulators in regard to the language of this bill? I am wondering what kind of engagement you have with the regulators in trying to craft language. What they are doing, what they are not doing, maybe where there are some gaps?

**John Hadder:**

We talked to NDEP quite a while ago about wanting to address mining pit lakes. The main emphasis they indicated to us is that it is going to be hard to address existing mine plans. We have got to look at people starting out fresh. We wanted to address existing mine plans initially, but how do you do that? It is a tough one. That is why we said that maybe this study is a way to see what we can do about those existing ones. I think we had a number of

meetings about the Lone Tree pit lake. I think my sense was at the time that the agency recognizes that pit lakes can be a problem, but that probably any kind of regulation would have to address new operations.

**Assemblywoman Peters:**

We drafted language that I sent to NDEP for an initial look. We asked, Is this feasible? Can you do this? I received a response back from them directing some of what you see in front of you. We initially were talking about what water that is beneficial use should look like. That draws this parallel between what the Division of Water Resources does and what the Bureau of Mining Regulation and Reclamation does. Right now with the way it is set up, that was not a reasonable thing to do. We did take some direction from NDEP on what was reasonable and how to ensure that this could be promulgated into regulations and enforced.

**Assemblywoman Hansen:**

To launch from there, was there any kind of collaboration with mine operators to come up with ideas or solutions about your concerns? Maybe have a collaborative effort doing a bill together in this respect rather than a bill that comes at the industry. Did you work with mine operators on this?

**John Hadder:**

We set up site visits to mines all the time. We usually have one or two of them a year, and we talk to them about mining pit lakes all the time. They know this is out there. We have talked about what you could do, what you could not do. We have had some of those more casual conversations. I did meet at one point with the Nevada Mining Association folks. It seems like there were fundamental things that made it difficult to agree on. Nevertheless, I am certainly open to that. As a process, can we get success in dealing with mining pit lakes? I would like to see that. Most of our conversations have been more on those site visits and a sense of understanding of, if you are backfilling, why are you backfilling it? What is your perspective on mining pit lakes? What do you think about beneficial uses? Could there be a recreational source at some point? Could there be a use for them, and so forth. We have had some of those discussions, but in terms of crafting specific language, it was more general from my point of view.

**Assemblywoman Hansen:**

In that, were there conversations about what would this economically look like? Their being the industry experts in what they do and then you having the concerns that you do? Was there collaboration about if we propose this, how would that affect you? Or their having conversations with you to say, This would be something that we could do or we cannot do. Were there any conversations to that effect about how this would affect their operations in general? Not just the concerns about pit lakes, but if you are going to remediate or rehabilitate it, what does that look like for them?

**John Hadder:**

The only response I can recall specifically is just that it is going to cost more in general, and they would prefer not to do it. We can hear what the industry has to say about that. We did

not sit down and dice out language in particular. Obviously, I think that one of the issues is, particularly with this bill, we are talking about new mine plans and how would you design the mine differently to address backfill. We have had some conversations about how that could be done, but in terms of the actual economics of it, no specific numbers. It is a conversation we need to have.

**Assemblyman Gurr:**

Most of this discussion is way above my pay grade. This bill and the amendment look like it will significantly impact the length of time it takes to get a permit in the state of Nevada. Have you talked or worked with the federal regulators and discussed how much emphasis this will have on what they do? Also, is this not a little duplicative of federal laws?

**John Hadder:**

This is about water. This is not backfilling all pits. This is looking at backfilling pits that would have a pit lake; this is about water. The federal government does not address waters of the state in this way. Yes, they look at water quality issues. They have to address what is considered undue and unnecessary degradation. They do look at the land aspect, but this is about how we avoid the loss of water in pit lakes and the loss of the access. No, they do not address those issues in the National Environmental Policy Act (NEPA) directly. They do address loss of water some, but it is really left up to the state and the state regulators to address that, from my understanding.

**Assemblywoman Peters:**

A lot of the technical aspects that would go into the justification process is driven by the NEPA process. It is not duplicative; it is just reusing it for the state's purpose rather than the federal government's purpose.

**Assemblyman Gurr:**

Does that answer my question about how much more time it will add to the permitting process?

**Assemblywoman Peters:**

Each permit does not come out in a defined period of time. It takes what it takes to get through the process. There are suggested time frames, but we know that certain NEPA permits and environmental impact statements take much longer than others. It is driven by how much science you can get done and how much time it takes to reasonably engineer a project. I think it is impossible to know how much more time it could add because the process is still driven by what is required to meet the criteria set by the federal and state governments. However, most permitting processes are driven by the federal timelines, not the state timelines.

**Assemblywoman Considine:**

My question is along the lines of permitting as well. From my understanding, you can start planning for mines for a decade. You are figuring out all the engineering, everything you need to do along those lines including the engineering foreclosure. I am seeing the permit

issue date is January 2024. I do not know where that permit would fall in that timeline when you are planning to mine. Does that date work because the closure planning is late in the process? I am just checking on that permit timing because I do not know where this permit would fall in on that timeline.

**Assemblywoman Peters:**

I think we are more than willing to address the timeline criteria in the proposed legislation. However, there is an existing requirement to make evidential proof that you cannot reasonably reclaim an open pit. The burden is not expected to be significantly more. I think there are aspects around the profitability, and maybe reasonable mine plan language and delineating that out. You are right, we probably should tie it to when those regulations are promulgated because you cannot define most of this process outside of having those regulations in place and those authorities in place to help drive those decisions.

**Chair Cohen:**

We know that we have mining going on in surrounding states. What is going on in those surrounding states? Are they doing anything like this with their pit mines?

**Assemblywoman Peters:**

In California, they have a prohibition on pit lakes. All potential pit lakes must be backfilled. There are other issues around how we in particular address the water interactions. Other states deal with water in a different way than we do. That defines some of the ways they regulate pit lakes. I will let Mr. Hadder go ahead and describe some of those.

**John Hadder:**

Pit lakes seem to be kind of a quandary. We have looked at a lot of different states, and other than California that requires the backfill, it is usually kind of a case-by-case basis. As I mentioned with Colorado, they do have in their regulations addressing hydrologic balance. Their regulation is so that you need to look at water systems in some way. A number of years ago, I talked to a number of regulators from other states and they said, Well, you know, if the water is bad, we treat it. It is not something that is universally dealt with. I think that here in Nevada, we will have a lot of pit lakes, maybe more than a lot of other states. Because it is dry, a lot of these pit lakes will have a lot of water evaporation loss, that could be another driver for this process. There is not a lot out there specifically on this. I do think that we would be taking a step forward.

**Chair Cohen:**

During your presentation, you mentioned the treatment. Can you give us a little more information about what treatments are being done? What is the aim when there is treatment being done? Is that to keep the surrounding water from getting impacted and to make that water usable? Also, who is doing that treatment? Who is paying for that treatment?

**John Hadder:**

The regulation, NAC Chapter 529, sets what is considered groundwater degradation and what is the standard that would be used for a mining pit lake. The pit lake must not have the

potential to affect human health and harm avian and terrestrial wildlife. There is a Profile III standard that the agency uses internally to judge whether that potential exists or not. It is not like a drinking water standard; it is different than that. In the case of the Lone Tree pit, it became very acidic very quickly. Any birds that would alight on that water would be in serious jeopardy. The Migratory Bird Treaty Act, a federal regulation, does require, at the very minimum, that the pit lake needs to be neutralized. The Lone Tree was a serious situation. At one point they added caustic soda very early on to try to immediately reduce the acidity. Caustic soda is also known as lye. Mostly, the treatment is using lime. The problem with lime is that it does not dissolve that well in water and has a tendency to settle out. At Lone Tree, they have also been treating it with sodium carbonate, and for a while Newmont was doing that. It was actually effective in understanding how much acid was coming into the lake. Unfortunately, it has long-term implications too.

In the case of the Sleeper pit lake, which is another pit lake that I did not talk about here, it was very bad initially but has actually come around quite a bit. It is possible that some of these pit lakes could become better. I believe there was a fair bit of organic matter that was added to that pit lake as well. Perhaps the agency knows better all the treatments that were done there. The idea is to add carbon and try to get the chemical reactions to get the acid and change the chemical characteristics of the pit lake. It is not easy; it is a complicated process. Once you have a pit lake with that kind of acid generation, it is very difficult to predict what is the best way to go.

If you do not have a situation like Lone Tree, one that is not reactive ore, it is mostly a matter of increased saltiness and trying to ensure that there are no constituents in there that could cause harm. Mostly it is neutralization. Once it becomes less acidic, a lot of the problematic toxins will precipitate, drop out, and become part of the sediments. That is a big piece of it. Other additions are possible as well. These things can be treated. If it is a terminal lake, as I mentioned, where there is no water flow, then it is a matter of in-pit treatment. However, if it does have outflow and you have got bad water, that water has to be intercepted and treated. For example, the Thacker Pass Lithium Mine has been permitted. Their pit lake would be one of a few flow-through pit lakes in Nevada. In that pit lake, they determined that the backfill would cause problems long term. The agency had said—rightfully in our opinion—we are not going to let you mine below the water table for now, anyway. Their permit does not allow that. If they are able to submit a management plan that avoids groundwater degradation, then possibly they could go below the water table. That would probably require intercepting the water and treating it; depending upon the toxins, the treatment is a little bit different.

**Chair Cohen:**

As quickly as possible, who is responsible for doing the treatment?

**John Hadder:**

Ultimately the mining company does it, but it is the regulatory agency that says it has to be done.

**Assemblyman DeLong:**

As a point of clarification on what is happening in other states, California does require return to original contour. That is their regulatory standard, not backfill, meaning everything has to be obliterated back to original contour, everything put back in the pit. Idaho, Utah, and Arizona do not require backfill of pit lakes.

**Chair Cohen:**

Seeing no further questions, I will go on to support. We will start with those in support in Las Vegas.

**Sarah Wochele, Mining Justice Organizer, Progressive Leadership Alliance of Nevada:**

We are in support of Assembly Bill 313. Progressive Leadership Alliance of Nevada believes that everyone has the right to live in a clean and healthy environment regardless of their race, gender, income, or immigration status. In the driest state in the nation, as the climate crisis worsens, not addressing unnecessary water waste is a direct threat to a clean and healthy environment for current and future Nevadans. We know from decades of organizing with communities on the front lines of mining, that low-income and communities of color are disproportionately impacted by the mining industry's mismanagement of our collective natural resources. Mining pit lakes are not only a toxic legacy left by the industry, but they unnecessarily waste fresh water and leave communities to suffer the consequences, all while people across the state are concerned about dwindling water. For example, here in Las Vegas, people are increasingly stressed about our water systems and are facing restrictions and fines if they do not take steps to conserve water. Nevadans want to know why the mining industry is not being responsible with our fresh water. How can they just walk away? Why are they not required to do a simple thing to prevent significant water waste?

Assembly Bill 313 would help ensure the industry has to take responsibility not to waste water in pit lakes. This bill would require mining companies to clean up their mess and conserve some of the water they waste. Nevadans deserve access to clean air, water, and environment, and that means putting people and planet before profits. Please support this bill. This bill is about protecting our water. Thank you.

[A letter was also provided, [Exhibit O](#).]

**Laken Kelly, Private Citizen, Las Vegas, Nevada:**

I am in support of Assembly Bill 313. The bottom line is this bill is about water. As a lifelong Nevadan, in a general sense we all understand and are concerned about drought. I can speak to that especially in southern Nevada. Water waste is just not acceptable here. That is pretty much the common sentiment. Mining companies ought to embrace the best practice that is proposed by this bill. Our Nevada Legislature has a responsibility to require that we protect these resources. As a graduate student who has studied environmental science and discourse around mining and electric energy, I do believe this bill is timely and important for protecting water resources right now as Nevada becomes such a focus in the electric energy transition. We all need to do our part with water, and this is about water.



**Shaun Navarro, Private Citizen, Las Vegas, Nevada:**

I am here to speak in favor of A.B. 313. I want to thank Assemblywoman Peters for bringing this bill forward. Unlike Assemblywoman Peters, I am very much not a scientist. I appreciate both her and Mr. Hadder's explaining this bill and breaking down this very important issue. I believe the water in Nevada belongs to the people and this bill is about water. As clearly stated, pit lakes have disastrous effects on nearby groundwater and surface water, rendering that water completely unusable. Pit lakes destroy nearby ecological systems and poison local communities that live around these mining pit lakes—communities such as Indigenous communities and small family farms. It is expected that 550 billion gallons of water or 1.5 million acre-feet is to be locked up, made unusable, and wasted by these pits. That is three times the annual usage of water in Las Vegas.

I want to speak about this bill as someone who was not born in Nevada, but someone who chose Nevada as their home. I originally came here for work, but I found so much more here than just a job. I found community; I truly found a home. Since the state has given me so much, I feel I owe a debt to the state to make sure the state is protected. I believe all Nevadans share this responsibility to be good stewards to our state, to our home. We have to do all we can to ensure the state is habitable, not just for ourselves and our neighbors but future generations of Nevadans. This bill is not targeting or attacking the mining industry. This bill is simply asking the mining industry to take responsibility for their mining practice. This bill is asking the mining industry to use only a small portion of their vast financial resources to do their part in preserving the most valuable of all of our state's natural resources, which is water. We can agree this state has been very good to the mining industry, and this bill asks that mining should be good to the state by protecting the public from pit lakes they create. It is literally the least they can do. I ask this Committee to pass this bill and protect the future of Nevada. Please protect the people and Nevada's water.

**Nathaniel Phillipps, Private Citizen, Las Vegas, Nevada:**

I live in downtown Las Vegas. I want to echo the sentiments of presenter John Hadder, and also fellow speakers, that this is about water, one of our most precious natural resources in one of the driest regions in our country and the world. It is also perhaps one of the most responsible things that you have the opportunity to pass this session. It does better by our natural resources, the people's water, and it also balances cost to industry as we have heard concern from this afternoon. Let us please be clear on behalf of your constituents when it comes to voting, your role as legislators requires you to make decisions in the best interest of our state's resources. I have to be honest, it stretches belief that in the most profitable and industry-friendly state in the Union, that international mining conglomerates cannot afford to preserve the quality of water that they removed or that is removed from the water table in the course of an industry that Nevada is very proud of, which is mining. Other industries across the state, as well as Nevadans up and down and across our state, conserve our water. Pit lakes currently hold more water than three years' usage of our largest city in Nevada. Make it make sense. We cannot. Gaps in the current statute enable this problem. Chairwoman and Committee members, you can start to fix it. Lastly, it is so important that city folks like

myself and others here in Las Vegas show up in solidarity on issues that impact other parts of our state. We love all of Nevada. This bill will do something to protect rural communities, Indigenous communities, and agricultural communities. They deserve this respect and so does our state's water. Thank you so much.

**Justin van Wijk, Private Citizen, Las Vegas, Nevada:**

I am speaking in support of A.B. 313. I have worked in conservation projects in every county in Nevada over the last decade. One of those conservation projects was funded by Barrick Gold. I distinctly remember Barrick Gold hiring a videographer to make sure to film all the great environmental work we were completing. They made sure to get the videographer on the helicopter to get some aerial footage of us. I do find it incredibly ironic that when the videographer was flying in circles around us, that if he would only tilt his camera up to the horizon in the distance, he would have filmed a pit lake, a pit lake created by industry that loves to appear to be environmentally friendly and has no intention to fix the real mess left behind. Please support this bill. Thank you.

**Zach Brill, Private Citizen, Las Vegas, Nevada:**

I live in Assembly District 35. Pit lakes are avoidable. In the driest state in our nation, however, they are unacceptable. If backfilling the pits would indeed destroy the future of the industry as they have claimed, this bill enables them to apply for an exemption and requires they hold a public meeting to make these processes more transparent to impacted communities. Please support Assembly Bill 313. This is about protecting our water.

**Chair Cohen:**

I will now hear testimony in support in Carson City.

**John Solomon, Private Citizen, Reno, Nevada:**

I am a member of Faith in Action, and I support A.B. 313. When I finished graduate school, my first job was in the design and engineering of the largest man-made mechanical device on the planet, a high-speed bulk conveyor for the hard rock mining industry in Australia. I also worked on the conveyor design for numerous pit and underground mines. As such, I have a very good in-depth understanding of the costs and challenges of pit mining. Of course, the cheapest thing to do is to leave a big mess when done mining. I also realize it is impossible to leave it in the same condition it was before the mine existed. I lived in rural Nevada for 22 years and it is obvious that water is the most valuable resource we have. Without the safeguards called for in A.B. 313, we will have a net financial loss for rural Nevada. If you look at the value of clean, fresh water in a desert environment, the water that is being polluted by the pit mining industry is worth more than the value of the cost of complying with A.B. 313. It is undeniable that water's value now is far greater than any tax revenue created by the pit mining if A.B. 313 is not passed. Not passing A.B. 313 is a very large financial burden for the residents of rural Nevada, both long and short term. The costs of cleaning up polluted groundwater are astronomical and rarely even feasible. The only viable path forward is to keep it clean. Therefore, the passage of A.B. 313 is a win for residents of Nevada. The only people who are against this have not made a rational, informed decision. Thank you for your time and consideration.

**Patrick Donnelly, Nevada State Director, Center for Biological Diversity:**

We are in support of A.B. 313 and we are grateful to Assemblywoman Peters for sponsoring this important legislation. I am not going to go into the reasons we support this bill because you have heard lots about the effects of pit lakes. Instead, I would like to talk a little bit about some of the critiques we have heard on this bill. This bill is not about stopping mining; it is about regulating a very specific environmental impact inherent to open pit mining below the water table. That applies to a very small fraction of mines. Most mines do not go below the water table. This applies to the small fraction of mines that do go below the water table with an open pit that requires this extra level of environmental attention to ensure permanent damage is not done to our aquifers. You will hear Nevada has the gold standard for mining regulation. Well, in fact, mining.com ranked Nevada as the friendliest jurisdiction in the world for mining. The mining industry is not going to call this the friendliest jurisdiction in the world for mining if we have got the gold standard for mining regulation. In fact, it is an incredibly permissive standard that allows the mining industry to get away with things that they might not get away with elsewhere. In effect, the people of Nevada are subsidizing the mining industry right now with the water of Nevada. The water of Nevada is impacted by mining, and this is effectively a subsidy to industry.

You will hear that this could make mines unprofitable, but this is really about mining cleaning up their mess and eliminating that subsidy that Nevadans are providing through water for the mine. If the only way a mine can be profitable is by leaving a mess for future generations, then maybe that is not a viable mine. Again, we are going to hear this could increase carbon emissions, because all the carbon you use pulling rock out of the ground, you are going to have to use to stick that rock back in the ground. However, again, if mining cannot clean up their own messes, then perhaps those mines are not viable. In conclusion, please support this bill. Thank you.

**Annette Magnus, Executive Director, Battle Born Progress:**

I am here today in support of A.B. 313. Water is essential for the health and well-being of all Nevadans. As a state that is suffering through a drought, it is vital that we protect all our sources of water. We know that the mining industry in Nevada is responsible for pumping millions of gallons of Nevada's water every day. Their current practices do not require them to reclaim these pits, and they effectively waste and oftentimes pollute precious groundwater. In fact, their history with this practice has been less than stellar. It has been downright dangerous for some of our communities in this state, like what we saw in Yerington. We thank Assemblywoman Peters for her work on this important issue and we hope you will support A.B. 313.

**Olivia Tanager, Member, Nevada Environmental Justice Coalition:**

I am here to urge you to support A.B. 313. Water conservation is one of the Nevada Environmental Justice Coalition's priorities. This is a great example of a water conservation measure. We want you to keep in mind that this bill is about water, and all that we are asking you to do is to ask mining to clean up after themselves and consider communities in water-scarce regions. Thank you.

**Matthew Tanager, Private Citizen, Reno, Nevada:**

I am speaking in support of A.B. 313 as someone who works in outdoor recreation and is an avid outdoorsman. In September of this past year, I traveled to Yerington and visited the Anaconda pit mine and the lake that is there. What I was greeted with was this is not a body of water that is compatible with life, human or animal, or that has any kind of clear, beneficial use. For people in the room who are not familiar, Nevada is part of what is called the Pacific Flyway, an important birding area. As a very dry state, any body of water that is on the surface is incredibly important for these birds to use as they go on north-south paths. For these lakes to consume this water and leave it toxic and unusable for wildlife, I find incredibly irresponsible. Regardless of the profitability of the mining industry, these operators should be held to a certain level of due diligence and clean up their mess. I would like you to please consider supporting A.B. 313 to prevent unnecessary wastage of our water in the driest state in the nation.

**Jennifer R. Lanahan, representing Las Vegas Paiute Tribe:**

We are in support. Thank you.

**Jonathon McNeill, Private Citizen, Reno, Nevada:**

I am here today on behalf of Patagonia in support of A.B. 313. [Written support also provided but not mentioned includes [Exhibit P](#) and [Exhibit Q](#).]

**Kassandra Lisenbee, Outreach and Program Coordinator, Great Basin Resource Watch:**

I am a multigenerational Nevadan and I urge you to support A.B. 313. Thank you.

**Chair Cohen:**

I will now go to Elko for those in support.

**Mary Gibson, Private Citizen, Elko, Nevada:**

I am Western Shoshone from Elko. I am here to ask that you support A.B. 313 related to the mining water reclamation. While the mining industry has land reclamation responsibilities after a project's ending, it is also critical to consider water reclamation for conserving Nevada's fresh water. What toxics do of wasted water in need of conservation is pit lakes. Many of these lakes will develop acid sulfite conditions with high levels of dissolved metals, making it unusable and hazardous. The mining industry's misuse of the precious and vital source is not even considered in reclamation projects, and yet billions of gallons of water are extravagantly and carelessly expended on a daily basis while the citizens in Nevada are asked to minimize water use during times of drought. How is it that the industry has a right to waste and destroy our water sources? Indigenous people's lands and resources have always been sacrificial zones for industry, often violating our human rights and nature's right to exist and thrive. There are 16 pit lakes located on the unceded treaty territory of the Western Shoshone. These 16 pit lakes on our land represent a loss of water for consumption, access to water to plants and medicinal foods, and the potential danger to humans and wildlife. While the mining industry and their employees are afforded to relocate at the conclusion of a mining project, we as Western Shoshone do not have that opportunity as this is our

homeland, our mother country Newe Segobia. I implore you to pass A.B. 313 to include water reclamation by eliminating pit lakes in Nevada. It is time this massive and powerful industry takes responsibility and does their part in conserving precious water sources. Water is medicine. Water is sacred. Water is life.

**Fermina Stevens, Private Citizen, Elko, Nevada:**

I am a Western Shoshone in support of A.B. 313. Nevada's goal is to grow its economy through lithium mining, making Nevada ground zero for energy transition and energy independence. The plan is focused on expanding vehicle production and technological innovations. While this plan might sound like heaven to the mining industry, saying the right words does not right the destruction caused. The destruction of land and water is what has to happen in order to make this goal a reality. With that in mind, in the coming years, Nevada will have more pit lakes than any other state in the United States, billions of gallons of toxic water behind fences with some being built next to rivers and streams. Who benefits the most from this scheme? In this drought, mining is the biggest user and abuser of water in Nevada, and they are the least held accountable for overuse along with corporations, casinos, and billionaires. The mines say it is not fair to backfill the pit because they might want to remine later. Is it fair that they threaten the livelihood of community members who speak in favor of this bill? Is it fair that foreign corporations will come to destroy the land and water and then go home after the water is polluted and their pockets are full? Is it fair that plants and animals will not have water to survive? They say there is no problem with pit lakes as they ignore the chemical reactions and acid accumulation at Anaconda. Start reclaiming the water that has already been sacrificed. The mines say the evaporation is small and irrelevant. What they mean is that Nevada is expendable. Who will pay the price for this grand scheme? It will be the grandchildren and great-grandchildren of Nevada who pay the price, not the grandchildren of corporations or billionaires. In this time of drought, we need to keep an eye on the future of Nevada and demand that rule makers, policymakers, and lawmakers make the security of public water a priority. Support A.B. 313. Thank you.

**Chair Cohen:**

Seeing no further testimony in support in Elko, is there anyone on the phone in support?

**Yesenia Moya, Private Citizen, Las Vegas, Nevada:**

I am in full support of this bill. Thank you to the Assembly for bringing this forward. As somebody who lives down here in Las Vegas, I can only water on Tuesdays, Thursdays, and Saturdays. If I overwater, I can pay anywhere between \$80 and almost up to \$5,000 for a violation. Mining is having some type of issue with our just having them clean up after themselves. This is not against mining. This is about water. This is about reclaiming the water. This is ensuring that all Nevadans get to use the water that is here. Again, I get penalized for watering on days that are not Tuesday, Thursday, and Saturday, but mining wastes thousands of gallons and has not and does not want to clean up after themselves. This bill will ensure that they do and that our families are here for generations. Thank you.

**Christi Cabrera-Georgeson, Deputy Director, Nevada Conservation League:**

I will echo what has already been said. Our water resources are precious, and we urge the Committee's support. Thank you.

**Dwight George, Private Citizen, Fallon, Nevada:**

I am a member of the Native Voters Alliance Nevada, and a member of the Fallon Paiute Shoshone Tribe. I am here to support this bill about water. I think that it should be noted that a lot of the people you are hearing from in support of this bill are from conservation leagues, or they are from people who love the outdoors. Also very importantly and very underrepresented are the tribal voices, the Indigenous voices, the people who actually care for this land and have always called this land home. I do not think that could be understated. Just like it has been stated before, there is too much thought on profits for mines over the effects that it has on the people and the places that they end up overtaking. That is what it is when they do mine, they do overtake. It is ultimately irreversible and a potentially damaging thing. I feel like the people who are supporting this are truly looking to take care of the land and the water, which is super important here, where we do not have enough. Regular people are constantly told to regulate while the mines get to use as much as they can to get as much for themselves as they can. Then they ultimately leave the land scarred and hurt for everybody who has always called it home. We just want to be able to take care of it better and also watch after it better, as I feel like everyone should. I believe that water is the top of everyone's list here in Nevada, being in the desert, and I just want to see everyone being taken care of along with the land and that is possible with this bill. Please support this bill about the water.

**Teresa Crawford, Volunteer Member, Legislative Committee, Toiyabe Chapter, Sierra Club:**

On behalf of our 30,000 members and supporters statewide, we are strongly in support of Assembly Bill 313 with thanks to Assemblywoman Peters for spotlighting the wastage and pollution of the people's water caused by unfilled, abandoned mining pits. This bill finally cures a serious omission of water in the requirements for postmining reclamation plans that currently only include land. This is a devastating waste of Nevada's most precious resource. We have already heard statistics about the potential sequestration of millions of acre-feet of water in existing pit mines. These ground and surface waters rightfully belong to the ecosystem surrounding them. We call on industry to respect that water conservation is the Nevada way of life and take responsibility to prevent new pit lakes from ever forming by planning for backfill before ground is ever broken. For all of these reasons, the Sierra Club values the right of humanity to clean, accessible water and the sustainable use of resources. Pit lakes render underground water unusable in perpetuity, the opposite of sustainability. We urge you to support Assembly Bill 313 and protect the people's water. [A letter in support was also provided, [Exhibit R](#).]

**Catherine Moses, Private Citizen:**

I am speaking here today because I care deeply about protecting our natural resources in Nevada. Six years ago, I moved to Elko to work for the state. During my time there, I became an avid adult-onset hunter, angler, and backpacker. I lived in Elko for four years

and during my time recreating and living there, I witnessed firsthand the impact that our mining has had on our landscape. I toured underground mines and I have hunted in hot springs within the vicinity of surface pit mines. Mining creates large wounds in and on our lands, and these wounds need to heal into scars rather than festering and potentially causing harm to people or the environment.

Most of the friends I made in Elko were geologists or environmental managers for Nevada gold mines. They share the same values and respect for the outdoors that I do. They educated me about the need for mines and providing gold and other minerals to support our country's infrastructure, technology, and currency. They confidentially told me how mines reclaim their sites as required by law. These laws, however, do not require that surface water or groundwater be reclaimed. That is why I am here to support the passing of A.B. 313, which would require mines to start thinking about the reclamation of our water. According to the Bureau of Land Management's website, 49 percent of Nevada public lands host mining programs. Mining companies should not get to exploit our valuable land; they must use our land responsibly and minimize the impact. This land is our land. This water is our water. Our water resources need to be protected so that our environment remains healthy for generations to come. I urge you all to support this bill and to protect our water resources and our environment.

**Maeve Moynihan, Private Citizen, Yerington, Nevada:**

I am speaking in support of A.B. 313. As a resident of Yerington and a previous employee of the Walker Basin Conservancy, I believe that with your support of this bill, our beloved state will have a brighter future in relation to our aquifers and demand for water. This bill has an opportunity to hold mines accountable for the unaffordable amounts of water that would otherwise get wasted in pit lakes, especially since, according to the Legislature's Research Division, 50 percent of the basins in Nevada are overallocated. It is vital to hold mines responsible for the thorough backfill of these holes created by mines so we do not lose more of this precious resource in the name of other resources. We cannot drink money. This bill is about protecting our water, which will ultimately protect ourselves and our beloved and resilient wildlife. [Written testimony was also provided, [Exhibit S](#).]

[Also provided but not discussed is [Exhibit T](#).]

**Chair Cohen:**

We are going to move to opposition. Is there anyone in opposition in Las Vegas? Seeing no one, I will begin in Carson City.

**Greg Gibson, Vice President of Operations, Americas, SSR Mining; and Chair, Nevada Mining Association:**

I appear before you today in opposition to A.B. 313. I would like to thank Assemblywoman Peters for meeting with our staff and discussing these issues. We share her belief that Nevada's water resources should be protected. The fact is existing federal laws and state regulations already require mining companies to account for the impacts of pit lakes that may form after mining has been completed. This thorough and scientific analysis takes place long

before the pit lake develops, and public comment on the plans is always invited. This is governed by NRS 519A.230 and NAC 519A.250. The Bureau of Mining Regulation and Reclamation manages this process with oversight from the State Environmental Commission. As introduced, this bill would make new open pit mining projects extremely unlikely and could put existing mines out of business, ironically accelerating the creation of new pit lakes. While we appreciate the sponsor's suggested amendment, the bill still potentially creates new environmental problems and makes new open pit mine development challenging, if not impossible. The fact is every pit lake is like a fingerprint. Each has its own geological factors, and each requires careful analysis from regulators on a case-by-case basis. I know this from personal experience, as I am currently in the middle of permitting in northern Nevada. In my current role, I see mining operations all around the world, and Nevada's mining regulations are the model for the country and the world because Nevada's mining environmental regulators already prioritize the protection of the public health and welfare. Nevada Mining Association would welcome the chance to work with NDEP and Assemblywoman Peters to identify any updates that may be needed to Nevada's stringent regulatory structure.

**Chair Cohen:**

Is there anything in the bill that you would endorse and approve of, as amended?

**Greg Gibson:**

I will let Mr. Biaggi answer that.

**Allen Biaggi, representing Nevada Mining Association:**

At this time, the bill and its amendment [[Exhibit N](#)] are not acceptable. As Mr. Gibson has stated, we are willing to work with the sponsor to find areas of agreement, but at this time, we are opposed to the bill.

We appreciate the amendment to [A.B. 313](#) and the sponsor's willingness to discuss it with us. However, the industry remains opposed to the bill and to the amendment. First, the amendment still changes requirements in the middle of the permitting process. Mines often take ten years or more to complete the necessary environmental reviews at the state and federal levels. This bill, as amended, would put into place new mandates that would take effect in less than a year. This could leave a project that is well into the permitting process with an entirely new regulatory scheme along with new economic criteria.

Second, the amendment introduces language such as: "clear and convincing evidence" and a "preponderance of the evidence" and a "reasonable mine plan." These are all new terms that are not defined in the bill and create significant uncertainty for existing and new projects. Who makes these decisions and who decides what is a "reasonable mine plan"? Perhaps most importantly, the economic component is of great concern. The stated implication is that under the amendment, the state will determine business profitability.



Third, the amendment leaves existing mines with new operators with significant uncertainty. Take the case of a mine that has ceased operation and is in closure, but then sells the project to a new operator who seeks to reopen the mine. Would he be treated like a new permit under the provisions of the bill and face the prospect of backfilling a pit that was never contemplated in the original mine reclamation plan?

Finally, the proper venue for this issue is through a regulatory petition to the State Environmental Commission. The statutory authority is already in place.

**Joel C. Donalson, Head of Permitting, Environmental, and Land, Nevada Gold Mines:**

I am here testifying in opposition to A.B. 313 on behalf of Nevada Gold Mines. I am an environmental engineer and an ecologist, and my role is to make sure that we mine responsibly. I am also a father of four with a family who loves to spend time outdoors. Mining's impact on the environment matters to me. This bill will not protect the environment. As you heard, we already backfill pits where the science shows that it makes sense. We looked at the numbers to backfill our other open pits and they are staggering: 3 billion tons of rock hauled, 760 million gallons of diesel burned, \$7 billion in cost, 9 million tons of greenhouse gas emitted, and 25 billion gallons of water used. This bill is supposed to be about preventing wasted water. The material needed to backfill is not even available because it has been used in tailing storage facilities and heap leach pads. This bill will also shorten the lives of new mines or prevent them from starting, leaving valuable minerals behind, wasting Nevada's mineral endowment.

Backfilling pits prevents expansion. We started the gold quarry pit in the 1980s with a five-year mine plan. Processing technology improved and gold prices increased, and we continue to mine that pit today. If we had to backfill it after five years, we would have sterilized the pit, ending the jobs of people who spent whole careers there.

This bill will not protect water quality or the public, but it will put Nevada mining companies out of business and irreparably harm the economy of our state and our local communities. When I think about what this bill will mean, I cannot help but consider the thousands of Nevada families who will be impacted, including my own. Thank you for your time. [Written testimony was also provided, [Exhibit U](#)].

**Debra Struhsacker, Cofounder and Board Member, Women's Mining Coalition:**

Pit backfilling to eliminate pit lakes is not a prescription for protecting the environment. The premise in A.B. 313 that backfilling will benefit the environment is flawed because at some mines, backfilling will create environmental problems. At others, backfilling will forego the habitat and recreational opportunities that some pit lakes provide. Nevada's laws and regulations prohibit pit lakes from degrading waters of the state and require mine operators to use the best available science to determine how to protect the environment. Assembly Bill 313 turns that evaluation upside down by imposing one-size-fits-all backfilling unless an operator can prove that backfilling will harm the environment. Nevada should not settle for this second-rate environmental outcome. Nevada's regulatory scheme for mines requires a detailed analysis of the site-specific geologic environmental and

hydrologic characteristics at each mine. This bill's universal pit lake backfilling mandate throws site specificity out the window. Assembly Bill 313 simultaneously seeks to ban pit lakes and also to provide the public with greater access to pit lakes. This irreconcilable internal contradiction demonstrates that this bill is ill-conceived and unworkable. This bill will cause unnecessary environmental impacts because backfilling large pits will require decades long un-mining operations that will consume enormous amounts of diesel, electricity, and water. Assembly Bill 313 will chill investment in lithium exploration and development, obstruct Nevada's goals to become a lithium supply chain powerhouse, and diminish Nevada's standing as an excellent place for mineral investment. Because A.B. 313 will weaken Nevada's regulation, we urge the Committee to uphold Nevada's regulations and reject A.B. 313. [Letters in opposition were also provided, [Exhibit V](#), [Exhibit W](#), and [Exhibit X](#).]

**Chair Cohen:**

I am now going to Elko for opposition.

**Ralph R. Sacrison, Private Citizen, Elko, Nevada:**

There are catch-22 aspects of the bill which seem contrary to the mission of the Division of Environmental Protection. Conducive geology and hydrology, along with scientific and engineering advancements and accomplishments, can foster beneficial pit lakes or wetlands. They have been across history with those opportunities allowed by existing statute and regulations.

Backfilling operates on the same scale as the original mining, such as time, fuel consumption, fuel emissions, and water for dust control. Heap leach operations may not have sufficient backfill, as upon closure the leach rock is within line and capped heaps, and unsuitable for placing as an exposed backfill. Must they mine excessively to produce backfill?

By disallowing an exception to backfill, the bill forces reclamation of slopes and rock faces which cannot be feasibly reclaimed. That essentially guarantees those projects will not proceed. The bill can require an operation to flatten its slopes and rock faces further broadening the environmental disturbance and eliminating potential aerie and other wildlife habitats. The bill needlessly hinders resource development and job creation while confounding environmental protection. The proposed amendment simply codifies an income stream for select consultants. Please oppose the bill. [Written testimony was also provided, [Exhibit Y](#).]

**Chair Cohen:**

Seeing no one else in opposition in Elko or Las Vegas, is there anyone on the phone?

**Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:**

I am in opposition. Thank you. Have a lovely day.

**Chair Cohen:**

Is there anyone else on the phone in opposition? Hearing no one, I will come back to Carson City.

**Chantae Lessard, Head, Mason Project, Hudbay Minerals:**

I am here today to express Hudbay Minerals' opposition to A.B. 313, an act to revise provisions relating to mining reclamation. We believe that the mine reclamation requirements proposed in the bill, specifically the requirement to backfill mine pits, are both punitive and unnecessary and could lead to unintended environmental harm as well as significantly affecting the economics of existing and future mining operations in Nevada.

Backfilling a mine pit once operations are complete seems like the right thing to do from an environmental standpoint, but it could lead to unintended negative environmental impacts. For example, the process of loading and trucking material back into a pit will necessarily include years of additional dust and tailpipe emissions from loaders and haul trucks. Additionally, the current language does not consider what type of material would be appropriate for backfilling pits. In some circumstances, the material available at a site would degrade groundwater quality if it were placed back into a pit where groundwater could saturate and flow through it.

Assembly Bill 313 also puts proposed new mining projects in Nevada at risk, including Hudbay's proposed Mason Project located west of Yerington. Hudbay plans to spend approximately \$2 billion to build this new copper mine and pay hundreds of millions in state and local taxes over the project's life. The Mason Project would also create 500 good full-time jobs in an area with above-average unemployment and very few similar opportunities for economic development. While the economic impact of A.B. 313 on the Mason Project is not yet clear, it could be significant enough to impact Hudbay's development plans. For all the reasons outlined above, I urge you and all Committee members to oppose A.B. 313. There are likely more efficient and effective ways to achieve the goals of A.B. 313 than simply requiring that all pits be backfilled. Thank you. [A letter was also provided, [Exhibit Z](#).]

**Tim Dimock, General Manager, Coeur Rochester, Inc.:**

Rochester mine is located in Pershing County, Nevada, where our 350 employees produce silver and gold. We appreciate the willingness of Assemblywoman Peters to work with the mining industry on this bill and the effort put forth to amend the bill. However, even with the amendments, we are still opposed to the proposed legislation. Assembly Bill 313, if enacted, would essentially make mining in Nevada economically and environmentally unfeasible. The legislation would require any open pit excavated below the water table to be backfilled. The text of the bill ignores decades of science, decades of regulatory oversight of pit lakes, and ignores the credibility of the National Environmental Policy Act (NEPA), under which all modern open pit mining occurs when on or connected to federal lands.

The NEPA process, which covers the vast majority of Nevada mine plans, is an exhaustive open and public process that formally assesses the mine plan to provide the most environmentally protective option for a mining operation. The creation of pit lakes that occur under the guidance of NEPA is done so because that is the most environmentally protective alternative to prevent surrounding water sources from being impacted. A state law mandating backfill will inevitably be in direct conflict with the federal NEPA process in some situations. We should allow science, favorable modern mining practices, and a comprehensive suite of state and federal regulations guide how we create, maintain, or backfill mine pits. We respectfully ask the Committee to not approve this legislation and allow the scientists, engineers, and other experts to continue to do their jobs and protect the environment surrounding pit lakes. Thank you for the opportunity to testify. [Written testimony was also provided, [Exhibit AA.](#)]

**Steve K. Walker, representing Eureka County:**

Eureka County is in support of the mining industry and is in opposition to [A.B. 313](#).

**Frederick K. Partey, Chairman, Environmental Committee, Nevada Mining Association:**

I am a geochemist by trade. I am also the Senior Environmental Resource Manager at the KGHM Robinson Mine in Ely. I appear before you on behalf of the Nevada Mining Association in opposition to [A.B. 313](#). We appreciate Assemblywoman Peters' meeting with us and discussing her goals with bringing this bill forward. We share her goals of discussing and ensuring the wise protection of our natural resources. The mining industry is subject to environmental regulations at both the state and federal level. A blanket requirement to backfill pit lakes is not protective of the waters of the state. Depending on the type of rock used to backfill a pit lake, metals could be released into solution and impact the waters of the state. What type of rocks will be used to backfill the pit lake? Do we have to backfill the pit from which the waste rock would come from? Where would that waste rock to backfill the second pit come from? In an attempt to solve one problem, could you be creating others? What problem are we trying to solve here?

Nevada's regulations for reclamation are the model for the world in ensuring a productive postmine use of the land. The Bureau of Mining Regulation and Reclamation has a step-by-step process for pit lake predictive models. These step-by-step processes, when followed, will accurately predict the chemistry for a pit lake. There are regulations in place to mitigate pit lakes that have the potential to impact the waters of the state. [Assembly Bill 313](#) would introduce an entirely new legal paradigm that projects will be subject to, and because the elements are not defined and the standards not set, the courts will have to make those decisions. [Assembly Bill 313](#) places at risk close to 40,000 jobs that Nevada's mining industry provides. Thank you for your time and consideration.

**Allison Anderson, Manager, Community and Government Relations, i-80 Gold Corp.:**

We are a three-year-old Nevada-based gold mining company with our headquarters in Reno, Nevada. We operate four legacy sites in northern Nevada. Each is unique in its own right, and each is in its own stage of production and permitting. Today, we employ approximately

120 employees and work with hundreds of vendors and contractors. In the next few years, we plan to grow our operations and our workforce. Assembly Bill 313, as drafted, would stop our plan of operations dead in its track and bankrupt our company. Assembly Bill 313, as amended, is better than bankruptcy, but it creates redundancy and uncertainty for mining companies like ours doing business in Nevada. This bill also requires us to engage with regulators in a way that is excessive. Section 4 of the bill requires NDEP to determine both undue economic hardship and the reasonableness of a mining plan, then requires public hearings around that mining plan. In no other part of Nevada law do we require a business to prove whether their business model is reasonable in the eyes of state regulators. Should this bill pass, it would create an extremely challenging mining climate in Nevada and lead to certain bankruptcies for many companies. This creates a scenario where the state may become the responsible party for reclamation and closure activities, and this is not the desired outcome for anyone. Our goal as an industry is to mine and to mine responsibly. We urge your defeat of this measure. I also invite you to visit our sites at any time and our team would be happy to show you all of the effort and energy that goes into a safe and responsible mining operation. Thank you.

**Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:**

The Vegas Chamber is opposed to A.B. 313. As you know, the mining industry has been long vested in our community and provides many good jobs in our rural communities, and they are an economic engine in our state. The Vegas Chamber does support the industry. As you heard from many folks who have come before me in the industry, there are concerns with the bill as originally drafted and amended. We believe that the bill in either form will lose jobs in the state, will put additional pressure on our social services to make up that loss of revenue to those communities, and we believe this bill is not good for Nevada. We believe the industry has been responsible; they are regulated at the state level, and there are federal regulations too. The Nevada mining industry has been a landmark industry throughout the world in how they operate. Thank you very much.

**Jay Dixon, representing Singatse Peak Services, LLC:**

I am testifying in opposition to A.B. 313. I am here today representing Singatse Peak Services, a wholly owned subsidiary of Lion Copper and Gold, and operator of two mining projects in Mason Valley, one of which includes the former Yerington mine. Singatse anticipates dewatering the Yerington mine to resume and deepen the pit, adding an essential domestic copper resource to support the green energy supply chain right here in Nevada. As you may be aware, the Yerington mine is undergoing remediation to address the legacy environmental issue under the jurisdiction of the Division of Environmental Protection. A common misconception is that the pit lake is of poor water quality. In fact, pit lake water samples collected over the last 30 years show current water quality at or near drinking water standards, making this water ideal for other uses.

Our project is located in a basin where groundwater pumping has been under pressure from possible regulatory curtailment. Dewatering of the Yerington pit lake would provide an opportunity to manage water in the basin such that we could help offset some of that pumping, which may ultimately allow for more water to support a variety of other uses

elsewhere in the area. Even with the proposed removal of retroactive language in the amendment [[Exhibit N](#)], our project could not move forward on the possibility of a regulatory exemption. Investments like this require regulatory certainty, and [A.B. 313](#), even with the amendment, is anything but certain. [Assembly Bill 313](#), if passed, modern mining reclamation of the Yerington mine will not occur, which means the community would continue to live with the standard of remediation instead of a comprehensive modern mine reclamation, and long-term postclosure would continue to be the responsibility of the state and its taxpayers. I encourage you to vote against this. [A letter in opposition was also provided, [Exhibit BB](#).]

**Mackenzie Campbell, Business Development Specialist, Hunt & Sons, Inc.:**

I am here on behalf of the Nevada Petroleum Marketers & Convenience Store Association and the Nevada Mining Association as a vendor representative. I am here to ask you to vote in opposition to [Assembly Bill 313](#). Currently, the mining industry provides 37,000-plus direct jobs and thousands of suppliers and indirect jobs like mine. Voting in favor of [A.B. 313](#) puts many of those Nevada jobs in jeopardy due to the impact [A.B. 313](#) imposes on current and future mining operations. Nevada is home to many precious metal operations and at the forefront of many future renewable resource mining operations. If this bill were to pass, many of these operations could potentially suspend, close, or never begin business in our state. If these operations were to close, it would cause a trickle effect: First affecting the mines, shutting down or downsizing; secondly, affecting my business as a vendor. This then leads to our communities, where we are no longer able to support our local, state, and other organizations. For example, Hunt & Sons provides many teacher appreciation lunches in our communities multiple times a year; we do toy drives for underprivileged communities, like the Fourth Street corridor here in Reno; and we support Boys and Girls Clubs along with 4-H in our rural communities. As a state, we rely on these industries in both rural and urban counties to provide tax revenue, careers, and community support. On a personal note, as a vendor, I get to visit a lot of these operations, all of the different companies, and I know how much they care about their communities, their water, and the environment. I ask you to please vote against [A.B. 313](#). Thank you.

**Kyle Davis, representing Nevada Mining Association:**

First, I want to thank Assemblywoman Peters for working with us. We have really enjoyed the conversations we had as we have tried to work through these issues and come to some place where we might be able to meet. Unfortunately, we were not able to get there on this. You have heard a lot of the testimony today and why the bill as amended is still problematic. I do not want to take up too much of your time as I know we have had a very long hearing today. I just want to touch on a couple of quick points that I think came up in the presentation today that deserve addressing.

One of the things pointed out is that it is not legal to degrade the waters of the state. We absolutely agree. That is the case and that is clear in state law, but many of the presenters and much of the support testimony would lead you to believe that mining is exempt from these statutes. We are not. We have to follow all of the laws and regulations having to do with water quality and maintaining water quality. We are held to these requirements, these



are part of our permits, and there are penalties if we do not hold to these requirements. This is not a case where mining is somehow exempt from protecting the waters of the state. We are held to those standards just like everybody else.

Another thing you have heard about is the concept of dewatering the pit, leaving the impression that this water is somehow wasted. I would like to point out that when a mining operation is dewatering that pit, much of that water is not used consumptively, and the portion that is used consumptively is done so with a water right. Most of that water is returned to the system. That water is used: it is either reinjected or is otherwise discharged to the system for other water rights to be able to use. Furthermore, at the end of a mining operation, the water that is in the pit is not locked up in the pit as you are led to believe but is available for appropriation under Nevada water law just like all other groundwater.

The last thing I will point to is the discussion that came up about the value of wetlands and the situation where the bill is requiring that a pit be backfilled above the water table in order not to create a wetland. The reason given for this is there is a concern that you could potentially create a toxic wetland. The only point I would make is that under the status quo, we have the ability to treat that water when it exists in the pit. But if you pile rock into it without any kind of thinking about how that would interact, we do not have the ability to treat that water anymore.

[Also provided but not discussed is [Exhibit CC.](#)]

**Chair Cohen:**

We are going to go on to neutral. Is there anyone in Las Vegas or Elko in neutral? Seeing no one, is there anyone in Carson City?

**Michael Visher, Administrator, Division of Minerals:**

I am here testifying neutral on [A.B. 313](#). I want to remind the Committee that the Division of Minerals receives roughly 75 percent of all its revenue from the \$10 mining claim fee filing that is recorded at the county recorder's office. More than 40 percent of that revenue is spent on our Abandoned Mine Lands (AML) Program. Any bill that negatively impacts interest in locatable mineral exploration and development in Nevada will negatively impact our revenue and result in a decrease in the amount of AML work that gets performed. Additionally, in the amendment, number three includes the Division of Minerals as part of the report [[Exhibit N](#)]. The Division is a very small agency and does not regulate any of the activities that occur at open pit mines. Thank you.

**Jennifer Carr, P.E., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources:**

I am available to answer questions before I give my testimony.

**Assemblywoman Hansen:**

I do not know that my question can be answered very quickly, but because of time I will ask it and then you see how you could address it. I think what was missing here is that we did

not have a small overview of what current reclamation efforts are. As we talk about this process, there are a lot of people here who are new and are not familiar. Could you touch on current reclamation in regard to this issue?

**Jennifer Carr:**

With me today I have Deputy Administrator Rick Perdomo and the Bureau of Mining Regulation and Reclamation (BMRR) Chief Robert Kuczynski. Mr. Kuczynski has a few notes about the different branches of BMRR and the different functions, and he can answer your question quite directly.

**Robert Kuczynski, Chief, Bureau of Mining Regulation and Reclamation, Division of Environmental Protection, State Department of Conservation and Natural Resources:**

It is the mission of the Bureau of Mining Regulation and Reclamation to ensure that Nevada's surface and groundwaters are not degraded by mining operations and that lands disturbed by mining operations are reclaimed to safe and stable conditions to ensure productive post mining land use. The Bureau works collaboratively with the mining industry and public to achieve its mission. We are 100 percent fee-funded by the mining industry.

There are four technical branches in BMRR: regulation, closure, reclamation, and hydrology, all of which perform program-specific plan review, permitting, inspection, compliance monitoring, and enforcement activities. The branch programs address the design, construction, operation, closure, and reclamation of mining and exploration operations. Operators must file a financial assurance guarantee with the Division or federal land manager to ensure that reclamation will be completed should an operator default on the project. The regulation and closure branches regulate mining in Nevada and have the responsibility of protecting waters of the state under the authority of the *Nevada Revised Statutes* (NRS) Chapter 445A, and the *Nevada Administrative Code* (NAC) Chapter 445A.

The regulation branch issues water pollution control permits prior to the construction of any mining, milling, or other beneficiation process activity, and conducts inspections to ensure that the quality of Nevada's water resources is not impacted by mining and confirm that operations are in compliance with their permit's requirements. The need for a 445A permit is not dependent on whether or not a discharge is intended or the quantity of ore to be extracted or processed. Facilities using chemicals for processing ores are generally required to meet a zero-discharge performance standard. A separate permit may be issued for certain activities at a specific facility, or a permit may be issued for all activities at a facility. A 445A permit is required for the extraction of ore or previously processed material for beneficiation at any site. A 445A permit does not apply to facilities involved solely in mining.

The reclamation branch regulates exploration and mining activities on public and private lands in Nevada under the authority of NRS and NAC. The branch issues permits to operators to ensure reclamation is conducted for the overall disturbance created by mining and to return the land to safe and stable conditions for a productive postmining land use. On public lands, the branch coordinates with the Bureau of Land Management or the Forest



Service, and in some cases, both. Reclamation permits are required for any exploration, mining, or milling activity that proposes disturbance over five acres. State reclamation permits are life-of-project permits that do not require renewal. But the reclamation branch reevaluates the required bond value on a three-year schedule to ensure that there are adequate funds to reclaim the operation in the event the operator walks away.

**Jennifer Carr:**

One thing I want to add that maybe resets the baseline with some of that as a backdrop as to what NDEP does. One of the things that I have heard a lot about this evening is, with all due respect to the bill sponsors, much of what they presented is mixing issues related to water rights, beneficial uses, and water quality, which is what we regulate.

All discussions you heard about consumptive loss, those sorts of things are not under the purview of NDEP. One of the things that we did early on, when the bill sponsor shared some information with my predecessor in February, we looked through some of the initial draft language for the bill draft request. One of his main concerns was that there is a lot of blurring between the Division of Water Resources and the Division of Environmental Protection, and he sought more bifurcation of those issues. Unfortunately, I think a lot of that blurring of lines still exists today.

In addition to water use, we also heard things about land use. Again, NDEP does not have the authority to dictate final land use issues. That is up to others.

**Chair Cohen:**

Is there anything else you would like to add? Would you like to present your testimony now?

**Jennifer Carr:**

As has been relayed a number of times, BMRR protects water quality, including groundwater, from the beginning of mining exploration, through operation, through reclamation, through closure, and postclosure monitoring. At this time, we do not believe that there is a necessity to create additional policy for reclaiming groundwater because we already protect groundwater. It is also unclear how reclamation of groundwater that is being inserted in NRS Chapter 519A will intersect with, or supersede, or complement, the existing law that we already have for water quality protection in NRS Chapter 445A. We do appreciate the conceptual amendment [\[Exhibit N\]](#) seeking to limit the scope of the bill to new mines while also keeping the concept of backfilling a pit that cannot come at the expense of groundwater quality. But there are still concerns. Some of the phrasing in the bill that was mentioned by Assemblyman DeLong does bring in different standards for the evaluation that the agency is not used to, or has never used before, such as "preponderance of evidence" and "clear and convincing evidence." The bill actually says that something cannot be "technically not possible." The presenters used the phrase "technically not feasible": not feasible and not possible are two very different things. The bottom line, I think, with all of those terms is that we are concerned that the bill will be difficult to interpret and implement as it is drafted today.

I have just a couple more things. Number three of the amendment that newly requires the Division of Minerals and NDEP to prepare a report on pit lake impacts related to evaporative losses, land use, and water use. In addition to being overly broad, our concern is that again, land and water use decisions are outside the purview of NDEP. Finally, the bill does not have an effective date, therefore defaulting to October 1, 2023. Considering all that you have heard tonight, considering the need for regulation revisions, considering our personnel vacancy issues at the moment and trouble with recruitment, we do not believe NDEP will be able to begin this work until the calendar year 2025. I appreciate the opportunity to be here today.

**Chair Cohen:**

Is there anyone else in neutral? Seeing no one, is there anyone on the phone?

**Teresa Melendez, Private Citizen, Sparks, Nevada:**

I am an Indigenous organizer here in Nevada. I want to thank Assemblywoman Peters and Mr. Hadder for carrying the bill and sharing a lot of helpful information this evening. I want to share a perspective during this neutral conversation. I want to remind folks that Nevada is Indigenous stolen land, and that the mining industry has contributed towards the morbidity and mortality of Native Americans throughout the state. We are hearing about the appropriate regulations and the ethical mining practices and the gold star standard, but those of us with connections to tribal communities also know that there are cancer clusters throughout the state, that there are mines all around our reservations, and that the tribes then have the responsibility of cleaning up environmental contamination. Paying for cancer treatments and health care often falls on tribal members who did not make any profits and have no say-so of the environmental degradation of their Indigenous homelands. Also, in watching this hearing today, it reminds me of something that all should think more about: these are the Indigenous homelands of the Shoshone, Paiute, and Washoe people. It is the State of Nevada and the 28 federally recognized tribes and colonies that govern this state. We really need to be conscious of the impact of those of the Indigenous people of this state whose lands are most affected. With that, I would like to thank the Committee for thinking broadly and considering the position of the Indigenous people of the land.

**Chair Cohen:**

Is there anyone else on the phone in neutral? Hearing no one, I will call up the bill sponsor for any closing statements.

**John Hadder:**

Thank you very much for this hearing and for the Committee listening to all of the stuff, including a lot of technical aspects you are not used to hearing. I appreciate your time and all your questions; this is not an easy issue to address. I think it will take some time. Hopefully this is a step in the direction. I do feel as though the language of looking at reclaiming water systems is something that the time has come for Nevada to take some leadership in putting this forward. I hope the mining industry also can join us in that process of looking at how we reclaim water systems for postmining use. That is what is critical here when you talk about reclamation. We hope that can go forward. I do want to mention also some of the comments

about economy. That is why we have the clause for an exemption. Again, the language may need some work. Mining companies develop a feasibility study and in the feasibility study, they also talk about reserves.

I think there is ample time for the mining companies to determine whether or not they are going to go back in and do additional mining at a location in the future. I think the time frame is there and present. My experience in Nevada is that there seems to be plenty of time for that evaluation before any kind of backfilling would be needed. I think that can definitely be addressed. I also think that we hear what the agency is saying about mixing agency statutes. The problem is that these things do overlap. How do we address that? This is one possibility of addressing access to water or availability to water. I think this bill would help to encourage more discussion between agencies in how to address issues that do cut across over the line. As many of you know, life and environment are not made up of rigid lines all the time. A lot of times there are gray areas. I hope that you all keep that in mind. I thank you very much for your time and your work as legislators.

**Assemblywoman Peters:**

Thank you for the opportunity to round out some comments and kind of redirect the narrative here. There were obviously some communication issues, particularly with the state agencies as there was some turnover in that Division. I think we must have crossed wires. I did not realize there were continued issues with the bill given the discussion that we had via email previously. This bill is really about the responsibility to water, the profitability at what cost, asking for the evaluation of impacts to water and the long-term costs to our state and our resources. What is our role as legislators? How do we want to direct the policy in the best interest of the state resources? This is about striking the balance between the cost to our future and the cost to our economy. I would continue to invite the Nevada Mining Association and their members to engage in conversation on this. However, the last venture into conversation did not lead to any assistance in writing an amendment to this bill, or even offering supportive adjustments. I am not sure how far we will get with them. I do appreciate the sentiment and share with you that their intention is to continue to work on this issue. We will hold them to that in the future. Thank you so much for your consideration on this bill and for your time tonight.

**Chair Cohen:**

With that, I will bring the hearing on Assembly Bill 313 to a close and I will go into public comment. Is there anyone in Carson City, Las Vegas, or Elko who would like to speak in public comment? Is there anyone on the phones? [Public comment was heard.] Are there any comments from the Committee? Seeing none, we are adjourned [at 7:25 p.m.].

RESPECTFULLY SUBMITTED:

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Nancy Davis  
Committee Secretary

APPROVED BY:

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Assemblywoman Lesley E. Cohen, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 20](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 70](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 184](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 220](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 249](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 349](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 424](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Concurrent Resolution 5](#), presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is a copy of a PowerPoint presentation titled "AB 313: Mining Water Reclamation and Conservation Act," presented by John Hadder, Director, Great Basin Resource Watch.

[Exhibit L](#) is written testimony dated April 10, 2023, presented by John Hadder, Director, Great Basin Resource Watch, in reference to [Assembly Bill 313](#).

[Exhibit M](#) is a document titled "Nevada Larger Pit Lakes – January 2023," submitted by John Hadder, Director, Great Basin Resource Watch, in reference to [Assembly Bill 313](#).

[Exhibit N](#) is a proposed conceptual amendment to [Assembly Bill 313](#), submitted by Assemblywoman Sarah Peters, Assembly District No. 24.

[Exhibit O](#) is a letter dated April 7, 2023, submitted by Sarah Wochele, Mining Justice Organizer, Progressive Leadership Alliance of Nevada, in support of [Assembly Bill 313](#).

[Exhibit P](#) is written testimony dated April 7, 2023, submitted by Jonathon McNeill, Private Citizen, Reno, Nevada, in support of [Assembly Bill 313](#).

[Exhibit Q](#) is a letter dated April 7, 2023, signed by Meghan Wolf, Healthy Lands and Water Advocacy, North America, Patagonia, submitted by Jonathon McNeill, Private Citizen, Reno, Nevada, in support of [Assembly Bill 313](#).

[Exhibit R](#) is a letter dated April 10, 2023, submitted by Teresa Crawford, Volunteer Member, Legislative Committee, Toiyabe Chapter, Sierra Club, in support of [Assembly Bill 313](#).

[Exhibit S](#) is written testimony submitted by Maeve Moynihan, Private Citizen, Yerington, Nevada, in support of [Assembly Bill 313](#).

[Exhibit T](#) is a compilation of letters submitted in support of [Assembly Bill 313](#).

[Exhibit U](#) is written testimony submitted by Joel C. Donalson, Head of Permitting, Environmental, and Land, Nevada Gold Mines, in opposition to [Assembly Bill 313](#).

[Exhibit V](#) is a letter dated April 7, 2023, submitted by Debra Struhsacker, Cofounder and Board Member, Women's Mining Coalition, in opposition to [Assembly Bill 313](#).

[Exhibit W](#) is a letter dated April 7, 2023, signed by Timothy Thompson, Senior Vice President, AngloGold Ashanti North America, Inc., and submitted by Debra Struhsacker, Cofounder and Board Member, Women's Mining Coalition, in opposition to [Assembly Bill 313](#).

[Exhibit X](#) is a letter dated April 7, 2023, signed by Simon Clarke, CEO and Director, American Lithium Corp, and submitted by Debra Struhsacker, Cofounder and Member, Women's Mining Coalition, in opposition to [Assembly Bill 313](#).

[Exhibit Y](#) is written testimony submitted by Ralph R. Sacrison, Private Citizen, Elko, Nevada, in opposition to [Assembly Bill 313](#).

[Exhibit Z](#) is a letter dated April 10, 2023, submitted by Chantae Lessard, Head, Mason Project, Hudbay Minerals, in opposition to [Assembly Bill 313](#).

[Exhibit AA](#) is written testimony submitted by Tim Dimock, General Manager, Coeur Rochester, in opposition to [Assembly Bill 313](#).

[Exhibit BB](#) is a letter dated April 7, 2023, signed by C. Travis Naugle, Co-Chairman and CEO, Lion Copper and Gold Corp., and submitted by Jay Dixon, representing Singatse Peak Services, LLC, in opposition to [Assembly Bill 313](#).

[Exhibit CC](#) is a compilation of letters submitted in opposition to [Assembly Bill 313](#).