

SENATE BILL NO. 47—COMMITTEE ON NATURAL RESOURCES

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

PREFILED NOVEMBER 16, 2016

Referred to Committee on Natural Resources

SUMMARY—Makes various changes relating to the appropriation
of water. (BDR 48-499)

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

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

AN ACT relating to water; requiring the State Engineer to prepare a water budget and inventory of groundwater for each basin in this State; declaring the policy of this State to manage conjunctively all sources of water in this State; revising provisions relating to certain applications to appropriate water; revising provisions relating to certain fees collected by the State Engineer; revising the provisions governing the procedures for the State Engineer to declare a forfeiture of certain water rights; revising provisions relating to the Program for the Management of Groundwater in the Las Vegas Valley Groundwater Basin; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Engineer is charged with managing the appropriation of water in this State. (Title 48 of NRS) **Section 1** of this bill requires the State Engineer to prepare a water budget and calculate and maintain an inventory of groundwater for each basin located in whole or in part in this State. **Section 1.3** of this bill declares the policy of this State to manage conjunctively the appropriation, use and administration of all water in the State, regardless of the source.

Existing law requires any person who wishes to appropriate public waters to apply to the State Engineer for a permit to do so. (NRS 533.325) **Section 1.7** of this



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bill revises the requirements for an application for a permit to appropriate water. **Section 2** of this bill requires the State Engineer to publish notice of an application to appropriate water in a newspaper of general circulation where the point of diversion is located.

Existing law requires the State Engineer to conduct an inventory of a basin from which water is to be exported before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater if the basin has not previously been studied or inventoried. (NRS 533.364) **Section 3** of this bill authorizes the applicant to waive the time limit for completion of the inventory by the State Engineer.

Upon approving an application for a permit to appropriate water, existing law authorizes the State Engineer to extend the deadline by which construction related to the appropriation of water or the application of water to a beneficial use must be completed or made. A single extension for a municipal or quasi-municipal use for a public water system may not exceed 5 years and an extension for any other use may not exceed 1 year. (NRS 533.380) **Section 4** of this bill increases to 5 years the period of a single extension for a use other than for a municipal or quasi-municipal use for a public water system and requires an application to extend the deadline to include evidence of good faith on the part of the applicant in pursuing the perfection of the application.

Section 5 of this bill eliminates the requirement that a certificate of appropriation set forth the post office address of each holder of the permit.

Section 6 of this bill revises provisions relating to certain fees collected by the State Engineer.

Existing law recognizes a subsisting right to water livestock which may be proved by the owner of livestock by submitting certain evidence to the State Engineer. (NRS 533.492) **Section 7** of this bill revises the scale required for a topographic map showing the location of a subsisting right to water livestock from not less than 1:100,000 to not less than 1:24,000. **Section 7** also provides that a subsisting right to water livestock is a pre-statutory vested right.

Existing law prohibits the denial of an application to change the point of diversion under an existing water right on the basis that the proposed point of diversion is situated in another state. **Section 8** of this bill adds the same restriction for applications to change the manner of use or place of use.

Existing law requires, under certain circumstances, the State Engineer to notify the owner of a water right that the owner has 1 year after the date of the notice to either: (1) use the water right beneficially and provide proof of such use to the State Engineer; or (2) apply to the State Engineer for an extension of time to work a forfeiture of the water right. If, after 1 year after the date of the notice, the owner of the water right has not taken either action, the State Engineer is required to declare the right forfeited within 30 days. (NRS 534.090) **Section 9** of this bill requires the State Engineer to send a final notice to the owner of the water right before the 30-day period begins. **Section 9** also provides certain additional factors which the State Engineer is required to consider when deciding whether to grant an extension of time to work a forfeiture.

Existing law creates the Advisory Committee for the Management of Groundwater in the Las Vegas Valley Groundwater Basin and provides for the membership, meetings and duties of the Advisory Committee. (Sections 8 and 9, Chapter 572, Statutes of Nevada 1997, p. 2800, as amended by chapter 180, Statutes of Nevada 2011, p. 820) **Section 16** of this bill makes creation of the Advisory Committee discretionary by the Southern Nevada Water Authority and reduces the term of the members of such an Advisory Committee to 2 years. **Section 19** of this bill removes the requirement that the Advisory Committee meet at least once every year.



Under existing law, the Southern Nevada Water Authority and the Advisory Committee are required to hold at least annually a joint workshop to discuss issues related to the basin and the management program. (Section 11 of chapter 572, Statutes of Nevada 1997, p. 2801) **Section 17** of this bill eliminates the required participation of the Advisory Committee in the workshop. **Section 18** of this bill makes a conforming change.

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

Section 1. Chapter 532 of NRS is hereby amended by adding thereto a new section to read as follows:

For each basin located in whole or in part in the State, the State Engineer shall prepare a water budget and calculate and maintain an inventory of water which includes, without limitation:

1. The total amount of groundwater appropriated in the basin in accordance with decreed, certified and permitted rights regardless of whether the water appropriations are temporary in nature;

2. An estimate of the amount of groundwater used by domestic wells in the basin; and

3. An estimate of the amount of all groundwater that is available for appropriation in the basin.

Sec. 1.3. NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.

(e) To manage conjunctively the appropriation, use and administration of all waters of this State, regardless of the source of the water.



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2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

Sec. 1.7. NRS 533.335 is hereby amended to read as follows:

533.335 Each application for a permit to appropriate water shall contain the following information:

1. The name and post office address of the applicant and, if the applicant is a corporation, the date and place of incorporation.

2. The name of the source from which the appropriation is to be made.

3. The amount of water which it is desired to appropriate, expressed in terms of cubic feet per second ~~ft~~ and acre-feet per year, except in ~~ft~~:

(a) An application for a permit to store water, where the amount shall be expressed in acre-feet ~~ft~~; and

(b) An application for generating hydroelectric power or a diversion rate only application, where the amount shall be expressed in cubic feet per second.

4. The purpose for which the application is to be made.

5. A substantially accurate description of the location of the place at which the water is to be diverted from its source and, if any of such water is to be returned to the source, a description of the location of the place of return.

6. A description of the proposed works.

7. The estimated cost of such works.

8. The estimated time required to construct the works, and the estimated time required to complete the application of the water to beneficial use.

9. The signature of the applicant or a properly authorized agent thereof.

Sec. 2. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 2 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation ~~and printed and published~~ in the county where the ~~water is sought to be appropriated,~~ point of diversion is located, a notice of the application which sets forth:

(a) That the application has been filed.

(b) The date of the filing.

(c) The name and address of the applicant.



(d) The name of the source from which the appropriation is to be made.

(e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.

(f) The purpose for which the water is to be appropriated.

➤ The publisher shall add thereto the date of the first publication and the date of the last publication.

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

3. If the application is for a proposed well:

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

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

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

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

Sec. 3. NRS 533.364 is hereby amended to read as follows:

533.364 1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater from a basin which the State Engineer has not previously inventoried or for which the State Engineer has not conducted, or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include:

(a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;



(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

(c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.

4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory ~~H~~, *unless the time limit is waived by the applicant.*

Sec. 4. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,

↪ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and,



1 except as otherwise provided in paragraph (b) of subsection 1, to a
2 shorter time for the perfecting of the application than named in the
3 application.

4 3. Except as otherwise provided in subsection 4 and NRS
5 533.395 and 533.4377, the State Engineer may, for good cause
6 shown, grant any number of extensions of time within which
7 construction work must be completed, or water must be applied to a
8 beneficial use under any permit therefor issued by the State
9 Engineer, but a single extension of time ~~for a municipal or quasi-~~
10 ~~municipal use for a public water system, as defined in NRS~~
11 ~~445A.235, must not exceed 5 years. [and any other single~~
12 ~~extension of time must not exceed 1 year.]~~ An application for the
13 extension must in all cases be:

14 (a) Made within 30 days following notice by registered or
15 certified mail that proof of the work is due as provided for in NRS
16 533.390 and 533.410; and

17 (b) Accompanied by proof and evidence of the *good faith and*
18 reasonable diligence with which the applicant is pursuing the
19 perfection of the application.

20 ➔ The State Engineer shall not grant an extension of time unless the
21 State Engineer determines from the proof and evidence so submitted
22 that the applicant is proceeding in good faith and with reasonable
23 diligence to perfect the application. The failure to provide the proof
24 and evidence required pursuant to this subsection is prima facie
25 evidence that the holder is not proceeding in good faith and with
26 reasonable diligence to perfect the application.

27 4. Except as otherwise provided in subsection 5 and NRS
28 533.395, whenever the holder of a permit issued for any municipal
29 or quasi-municipal use of water on any land referred to in paragraph
30 (b) of subsection 1, or for any use which may be served by a county,
31 city, town, public water district or public water company, requests
32 an extension of time to apply the water to a beneficial use, the State
33 Engineer shall, in determining whether to grant or deny the
34 extension, consider, among other factors:

35 (a) Whether the holder has shown good cause for not having
36 made a complete application of the water to a beneficial use;

37 (b) The number of parcels and commercial or residential units
38 which are contained in or planned for the land being developed or
39 the area being served by the county, city, town, public water district
40 or public water company;

41 (c) Any economic conditions which affect the ability of the
42 holder to make a complete application of the water to a beneficial
43 use;

44 (d) Any delays in the development of the land or the area being
45 served by the county, city, town, public water district or public



1 water company which were caused by unanticipated natural
2 conditions; and

3 (e) The period contemplated in the:

4 (1) Plan for the development of a project approved by the
5 local government pursuant to NRS 278.010 to 278.460, inclusive; or

6 (2) Plan for the development of a planned unit development
7 recorded pursuant to chapter 278A of NRS,

8 ➔ if any, for completing the development of the land.

9 5. The provisions of subsections 1 and 4 do not apply to an
10 environmental permit or a temporary permit issued pursuant to NRS
11 533.436 or 533.504.

12 6. For the purposes of this section, the measure of reasonable
13 diligence is the steady application of effort to perfect the application
14 in a reasonably expedient and efficient manner under all the facts
15 and circumstances. When a project or integrated system is
16 composed of several features, work on one feature of the project or
17 system may be considered in finding that reasonable diligence has
18 been shown in the development of water rights for all features of the
19 entire project or system.

20 **Sec. 5.** NRS 533.425 is hereby amended to read as follows:

21 533.425 1. Except as otherwise provided in NRS 533.503, as
22 soon as practicable after satisfactory proof has been made to the
23 State Engineer that any application to appropriate water or any
24 application for permission to change the place of diversion, manner
25 or place of use of water already appropriated has been perfected in
26 accordance with the provisions of this chapter, the State Engineer
27 shall issue to the holder or holders of the permit a certificate setting
28 forth:

29 (a) The name ~~{and post office address}~~ of each holder of the
30 permit.

31 (b) The date, source, purpose and amount of appropriation.

32 (c) If for irrigation, a description of the irrigated lands by legal
33 subdivisions, when possible, to which the water is appurtenant.

34 (d) The number of the permit under which the certificate is
35 issued.

36 2. If the water is appropriated from an underground source, the
37 State Engineer shall issue with the certificate a notice of the
38 provisions governing the forfeiture and abandonment of such water
39 rights. The notice must set forth the provisions of NRS 534.090.

40 **Sec. 6.** NRS 533.435 is hereby amended to read as follows:

41 533.435 1. The State Engineer shall collect the following
42 fees:

43
44 For examining and filing an application for a
45 permit to appropriate water \$360.00



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|----|---|----------|
| 1 | This fee includes the cost of publication, | |
| 2 | which is \$50. | |
| 3 | For reviewing a corrected application or map, or | |
| 4 | both, in connection with an application for a | |
| 5 | water right permit..... | \$100.00 |
| 6 | For examining and acting upon plans and | |
| 7 | specifications for construction of a dam..... | 1,200.00 |
| 8 | For examining and filing an application for each | |
| 9 | permit to change the point of diversion, | |
| 10 | manner of use or place of use of an existing | |
| 11 | right..... | 240.00 |
| 12 | This fee includes the cost of publication, | |
| 13 | which is \$50. | |
| 14 | For examining and filing an application for a | |
| 15 | temporary permit to change the point of | |
| 16 | diversion, manner of use or place of use of an | |
| 17 | existing right..... | 180.00 |
| 18 | For issuing and recording each permit to | |
| 19 | appropriate water for any purpose, except for | |
| 20 | generating hydroelectric power which results | |
| 21 | in nonconsumptive use of the water , <i>watering</i> | |
| 22 | <i>livestock</i> or wildlife purposes..... | 360.00 |
| 23 | plus \$3 per acre-foot approved or fraction | |
| 24 | thereof. | |
| 25 | Except for generating hydroelectric power , | |
| 26 | <i>watering livestock</i> or wildlife purposes, for | |
| 27 | issuing and recording each permit to change an | |
| 28 | existing water right whether temporary or | |
| 29 | permanent for any purpose..... | 300.00 |
| 30 | plus \$3 per acre-foot approved or fraction | |
| 31 | thereof. | |
| 32 | For issuing and recording each permit for | |
| 33 | additional rate of diversion <i>from a well</i> where | |
| 34 | no additional volume of water is granted..... | 1,000.00 |
| 35 | For issuing and recording each permit to change | |
| 36 | the point of diversion or place of use only of | |
| 37 | an existing right whether temporary or | |
| 38 | permanent for irrigational <i>irrigation</i> | |
| 39 | purposes, a maximum fee of | 750.00 |
| 40 | For issuing and recording each permit to | |
| 41 | appropriate or change the point of diversion or | |
| 42 | place of use of an existing right whether | |
| 43 | temporary or permanent for watering livestock | |
| 44 | or wildlife purposes..... | 240.00 |



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|----|--|----------|
| 1 | plus \$50 for each <i>cubic</i> foot of water <i>per</i> | |
| 2 | <i>second</i> approved or fraction thereof. | |
| 3 | For issuing and recording each permit to | |
| 4 | appropriate or change an existing right whether | |
| 5 | temporary or permanent for water for | |
| 6 | generating hydroelectric power which results | |
| 7 | in nonconsumptive use of the water | \$480.00 |
| 8 | plus \$50 for each second <i>cubic</i> foot <i>per</i> | |
| 9 | <i>second</i> of water approved or fraction | |
| 10 | thereof. | |
| 11 | For issuing <i>filing and examining a request for</i> a | |
| 12 | waiver in connection with an application to | |
| 13 | drill a well | 120.00 |
| 14 | For filing and examining a notice of intent to drill | |
| 15 | a well | 25.00 |
| 16 | For filing and examining an affidavit to relinquish | |
| 17 | water rights in favor of use of water for | |
| 18 | domestic wells | 300.00 |
| 19 | For filing a secondary application under a | |
| 20 | reservoir permit | 300.00 |
| 21 | For approving and recording a secondary permit | |
| 22 | under a reservoir permit | 540.00 |
| 23 | For reviewing each tentative subdivision map | 180.00 |
| 24 | plus \$1 per lot. | |
| 25 | For reviewing and approving each final | |
| 26 | subdivision map | 120.00 |
| 27 | For storage approved under a dam permit for | |
| 28 | privately owned nonagricultural dams which | |
| 29 | store more than 50 acre-feet | 480.00 |
| 30 | plus \$1.25 per acre-foot storage capacity. | |
| 31 | This fee includes the cost of inspection | |
| 32 | and must be paid annually. | |
| 33 | For flood control detention basins | 480.00 |
| 34 | plus \$1.25 per acre-foot storage capacity. | |
| 35 | This fee includes the cost of inspection | |
| 36 | and must be paid annually. | |
| 37 | For filing proof of completion of work | 60.00 |
| 38 | For filing proof of beneficial use | 60.00 |
| 39 | For issuing and recording a certificate upon | |
| 40 | approval of the proof of beneficial use | 350.00 |
| 41 | For filing proof of resumption of a water right | 360.00 |
| 42 | For filing any protest | 30.00 |
| 43 | For filing any application for extension of time | |
| 44 | within which to file proofs, of completion or | |



| | | |
|----|---|-----------------|
| 1 | beneficial use, for each year for which the | |
| 2 | extension of time is sought..... | \$120.00 |
| 3 | For filing any application for extension of time to | |
| 4 | prevent a forfeiture, for each year for which | |
| 5 | the extension of time is sought..... | 120.00 |
| 6 | For reviewing a cancellation of a water right | |
| 7 | pursuant to a petition for review | 360.00 |
| 8 | For examining and filing a report of conveyance | |
| 9 | filed pursuant to paragraph (a) of subsection 1 | |
| 10 | of NRS 533.384..... | 120.00 |
| 11 | plus \$20 per conveyance document. | |
| 12 | For filing any other instrument..... | 10.00 |
| 13 | For making a copy of any document recorded or | |
| 14 | filed in the Office of the State Engineer, for the | |
| 15 | first page..... | 1.00 |
| 16 | For each additional page..... | .20 |
| 17 | For certifying to copies of documents, records or | |
| 18 | maps, for each certificate | 6.00 |
| 19 | For each copy of any full size drawing or map | 6.00 |
| 20 | For each color copy of any full size drawing or | |
| 21 | map (2' x 3')..... | 12.00 |
| 22 | The minimum charge for a blueprint copy, per | |
| 23 | print | 3.00 |
| 24 | For colored mylar plots | 10.00 |
| 25 | | |

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

29 3. Except as otherwise provided in this subsection, all fees
30 collected by the State Engineer under the provisions of this section
31 must be deposited in the State Treasury for credit to the Water
32 Distribution Revolving Account created pursuant to NRS 532.210.
33 All fees received for ~~blueprint~~ copies of any drawing or map must
34 be kept by the State Engineer and used only to pay the costs of
35 printing, replacement and maintenance of printing equipment. Any
36 publication fees received which are not used by the State Engineer
37 for publication expenses must be returned to the persons who paid
38 the fees. If, after exercising due diligence, the State Engineer is
39 unable to make the refunds, the State Engineer shall deposit the fees
40 in the State Treasury for credit to the Water Distribution Revolving
41 Account created pursuant to NRS 532.210.

42 **Sec. 7.** NRS 533.492 is hereby amended to read as follows:

43 533.492 1. A subsisting right to water livestock , *which is a*
44 *pre-statutory vested right for watering livestock*, may be proven by



1 an owner of livestock by one or more of the following items of
2 evidence for the number of livestock and date of priority:

3 (a) As to water rights on open range, whether public lands or
4 unfenced private lands or a combination of these:

5 (1) A statement of priority of use submitted to the Taylor
6 Grazing Service, predecessor to the Bureau of Land Management, to
7 show the numbers of livestock grazed upon the open range, for
8 years from 1928 to 1934, inclusive, if accompanied by evidence of
9 changes or absence of change since the date of the statement;

10 (2) A license issued by the Taylor Grazing Service for use
11 upon the open range; or

12 (3) A statement of priority of use, or a license, issued by the
13 United States Forest Service for the grazing of livestock before
14 1950.

15 (b) As to water rights on other privately owned land:

16 (1) An affidavit concerning the number and kind of livestock
17 by a person familiar with the use made of the lands;

18 (2) A record of livestock assessed to the claimant of the
19 right, or the claimant's predecessor, by a county assessor;

20 (3) A count of livestock belonging to the claimant or the
21 claimant's predecessor made by a lender; or

22 (4) An affidavit of a disinterested person.

23 2. The location of a subsisting right to water livestock and its
24 extent along a stream may be shown by marking upon a topographic
25 map whose scale is not less than ~~1:100,000~~ **1:24,000** or a map
26 prepared by the United States Geological Survey covering a
27 quadrangle of 7 1/2 minutes of latitude and longitude and by further
28 identifying the location or extent by one-sixteenth sections within a
29 numbered section, township and range as certified by a registered
30 state water right surveyor.

31 **Sec. 8.** NRS 533.515 is hereby amended to read as follows:

32 533.515 1. No permit for the appropriation of water or
33 application to change the point of diversion , **manner of use or**
34 **place of use** under an existing water right may be denied because of
35 the fact that the point of diversion described in the application for
36 the permit, or any portion of the works in the application described
37 and to be constructed for the purpose of storing, conserving,
38 diverting or distributing the water are situated in any other state; but
39 in all such cases where the place of intended use, or the lands, or
40 part of the lands ~~to be irrigated by means of the water,~~ **identified**
41 **as the place of use**, are situated within this state, the permit must be
42 issued as in other cases, pursuant to the provisions of NRS 533.324
43 to 533.450, inclusive, and chapter 534 of NRS.

44 2. The permit must not purport to authorize the doing or
45 refraining from any act or thing, in connection with the system of



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appropriation, not properly within the scope of the jurisdiction of this state and the State Engineer to grant.

Sec. 9. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a right for which a certificate has been issued pursuant to NRS 533.425, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse.

2. If the records of the State Engineer or any other documents ~~specified~~ *obtained* by *or provided to* the State Engineer indicate ~~at least~~ *4 or more* consecutive years ~~but less than 5 consecutive years,~~ of nonuse of all or any part of a water right which is governed by this chapter ~~the~~ :

(a) *The* State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail *of the nonuse and* that the owner has 1 year after the date of the notice *of nonuse* in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection ~~2~~ *3* to avoid forfeiting the water right.

(b) If, after 1 year after the date of the notice ~~of nonuse pursuant to paragraph (a),~~ proof of resumption of beneficial use is not filed in the Office of the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, *send a final notice to the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail, that the water right is held for forfeiture. If the owner of the water right, within 30 days after the date of such final notice, fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture, the State Engineer shall declare the right , or the portion of the right not returned to beneficial use, forfeited .* ~~within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon~~ *The State Engineer shall send* notice *of the declaration of forfeiture,* by registered or certified mail , to the owner of record ~~whose~~ , *as determined in the records of the Office of the State Engineer, of the water* right *that* has been declared forfeited . ~~the~~



(c) *If, after receipt of a notice of the declaration of forfeiture pursuant to paragraph (b), the owner of record of the water right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. ~~[The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.~~*

~~—2.]~~ *Upon the forfeiture of the water right, the water reverts to the public and is available for further appropriation, subject to existing rights.*

3. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under ~~[that]~~ subsection 2 if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has ~~[shown good cause for]~~ *submitted proof and evidence that* the ~~[holder's failure to use all or any part of the]~~ *holder is proceeding in good faith and with reasonable diligence to resume use of the* water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The ~~[unavailability of]~~ *number of years during which the* water ~~[to]~~ *has not been* put to ~~[a]~~ *the* beneficial use *for which the right is* ~~[beyond the control of the holder;]~~ *acquired or claimed;*

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) ~~[Any prolonged period in which precipitation in the basin where]~~ *Whether* the water right is located ~~[is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin;]~~ *within a county under a declaration of drought by the Governor, United States Secretary of Agriculture or the President of the United States;*

(e) Whether a groundwater management plan has been approved for the basin *where the water right is located* pursuant to NRS 534.037; ~~[and]~~

(f) Whether the holder has demonstrated ~~[efficient ways of using the]~~ *efforts to conserve* water ~~[for agricultural purposes, such as center-pivot irrigation;]~~ *which have resulted in a reduction in water consumption;*

(g) *The date of priority of the water right as it relates to the potential curtailment of water use in the basin;*



1 (h) *The availability of water in the basin, including, without*
2 *limitation, whether withdrawals of water consistently exceed the*
3 *perennial yield of the basin; and*

4 (i) *Any orders restricting use or appropriation of water in the*
5 *basin.*

6 ➤ The State Engineer shall notify, by registered or certified mail,
7 the owner of the water right, as determined in the records of the
8 Office of the State Engineer, of whether the State Engineer has
9 granted or denied the holder's request for an extension pursuant to
10 this subsection. If the State Engineer grants an extension pursuant to
11 this subsection and, before the expiration of that extension, proof of
12 resumption of beneficial use or another request for an extension is
13 not filed in the Office of the State Engineer, the State Engineer shall
14 *send a final notice to the owner of the water right, by registered or*
15 *certified mail, that the water right will be declared forfeited if the*
16 *owner of the water right fails to file the required proof of*
17 *resumption of beneficial use or an application for an extension of*
18 *time to prevent forfeiture within 30 days after the date of the final*
19 *notice. If the owner of the water right fails to file the required*
20 *proof of resumption of beneficial use or an application for an*
21 *extension of time to prevent forfeiture within 30 days after the date*
22 *of such final notice, the State Engineer shall* declare the water
23 right , *or the portion of the right not returned to beneficial use,*
24 *forfeited .* ~~{within 30 days after the expiration of the extension~~
25 ~~granted pursuant to this subsection.~~

26 ~~3. If the failure to use the water pursuant to subsection 1 is~~
27 ~~because of the use of center pivot irrigation before July 1, 1983, and~~
28 ~~such use could result in a forfeiture of a portion of a right, the State~~
29 ~~Engineer shall, by registered or certified mail, send to the owner of~~
30 ~~record a notice of intent to declare a forfeiture. The notice must~~
31 ~~provide that the owner has at least 1 year after the date of the notice~~
32 ~~to use the water beneficially or apply for additional relief pursuant~~
33 ~~to subsection 2 before forfeiture of the owner's right is declared by~~
34 ~~the State Engineer.]~~

35 4. *The failure to receive a notice pursuant to subsection 2 or*
36 *3 does not nullify the forfeiture or extend the time necessary to*
37 *work the forfeiture of a water right.*

38 5. A right to use underground water whether it is vested or
39 otherwise may be lost by abandonment. If the State Engineer, in
40 investigating a groundwater source, upon which there has been a
41 prior right, for the purpose of acting upon an application to
42 appropriate water from the same source, is of the belief from his or
43 her examination that an abandonment has taken place, the State
44 Engineer shall so state in the ruling approving the application. If,
45 upon notice by registered or certified mail to the owner of record



1 who had the prior right, the owner of record of the prior right fails to
2 appeal the ruling in the manner provided for in NRS 533.450, and
3 within the time provided for therein, the alleged abandonment
4 declaration as set forth by the State Engineer becomes final.

5 **Sec. 10.** (Deleted by amendment.)

6 **Sec. 11.** (Deleted by amendment.)

7 **Sec. 12.** (Deleted by amendment.)

8 **Sec. 13.** (Deleted by amendment.)

9 **Sec. 14.** (Deleted by amendment.)

10 **Sec. 15.** (Deleted by amendment.)

11 **Sec. 16.** Section 8 of the Southern Nevada Water Authority
12 Act being chapter 572, Statutes of Nevada 1997, as amended by
13 chapter 180, Statutes of Nevada 2011, at page 820, is hereby
14 amended to read as follows:

15 Sec. 8. 1. The *Southern Nevada Water Authority*
16 *may create an* Advisory Committee for the Management of
17 Groundwater in the Las Vegas Valley Groundwater Basin .
18 ~~It is hereby created. The~~ *If created, the* Advisory Committee
19 consists of:

20 (a) Seven members to be appointed by the Board of
21 Directors, including:

22 (1) Two persons who own and operate domestic wells
23 located in the Basin;

24 (2) One representative of an organization that owns
25 and operates a quasi-municipal well located in the Basin;

26 (3) One representative of an industrial or commercial
27 user of groundwater which is located in the Basin;

28 (4) One representative of a private water company
29 which operates in the Basin;

30 (5) One consumer whose water service is provided
31 entirely by a municipal water purveyor which is located in the
32 Basin; and

33 (6) One representative of a municipal water purveyor
34 that owns and operates wells located in the Basin;

35 (b) The State Engineer, or a designated representative of
36 the State Engineer, who is an ex officio nonvoting member of
37 the Advisory Committee; and

38 (c) The Administrator of the Division of Environmental
39 Protection of the State Department of Conservation and
40 Natural Resources, or a designated representative of the
41 Administrator, who is an ex officio nonvoting member of the
42 Advisory Committee.

43 2. Members of the Advisory Committee serve without
44 compensation . ~~It except that while engaged in the business of~~
45 ~~the Advisory Committee, each member is entitled to the per~~



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~~diem allowance and travel expenses provided for state officers and employees generally, to be paid by the Southern Nevada Water Authority.]~~

3. ~~[After the initial term, the]~~ *The* term of each appointed member is ~~[4]~~ *2* years. Members may be reappointed. ~~[At the expiration of the term of a member, or if]~~ *If* a member resigns or is otherwise unable to ~~[complete his or her term,]~~ *serve*, the Board of Directors shall, not later than 90 days after the vacancy occurs, appoint a person pursuant to subsection 4 to fill the vacancy.

4. In ~~[replacing a member]~~ *appointing the members* described in:

(a) Subparagraph (1), (2) or (3) of paragraph (a) of subsection 1, the Board of Directors shall consider recommendations solicited from a representative sampling of owners of domestic wells, persons and organizations associated with quasi-municipal wells, and industrial and commercial users of groundwater, respectively.

(b) Subparagraph (4), (5) or (6) of paragraph (a) of subsection 1, the Board of Directors shall consider recommendations solicited from the various entities that comprise the Southern Nevada Water Authority.

Sec. 17. Section 11 of the Southern Nevada Water Authority Act, being chapter 572, Statutes of Nevada 1997, at page 2801, is hereby amended to read as follows:

Sec. 11. 1. At least once each calendar year, the ~~[advisory committee and the]~~ Southern Nevada Water Authority shall conduct a ~~[joint]~~ workshop to discuss issues related to the basin and the management program. The Southern Nevada Water Authority shall give public notice of the workshop in accordance with NRS 241.020. ~~[Members of the general public, owners of wells and other interested persons must be encouraged to attend the joint workshop.]~~

2. The issues and concerns expressed on the record by persons attending the ~~[joint]~~ workshop must be recorded in writing and appended to the summary and ~~[joint]~~ reports prepared pursuant to section 12 of this act.

Sec. 18. Section 12 of the Southern Nevada Water Authority Act, being chapter 572, Statutes of Nevada 1997, as amended by chapter 180, Statutes of Nevada 2011, at page 821, is hereby amended to read as follows:

Sec. 12. On or before December 31 of each even-numbered year, the Southern Nevada Water Authority shall prepare a report and submit the report to the Director of the



Legislative Counsel Bureau for transmittal to the Nevada Legislature. The report must include, without limitation:

1. A summary of all of the activities, studies and research conducted on behalf of the Management Program during the previous 2 calendar years;

2. A detailed assessment of the ~~joint~~ public workshops conducted by the Southern Nevada Water Authority ~~and the Advisory Committee~~ during the previous 2 calendar years, including documentation of the comments made on the record by the members of the general public who attended the workshops;

3. A statement of income and expenditures related to the Management Program; and

4. An assessment from the Advisory Committee , *if created*, concerning the status of the groundwater in the Basin and the activities related to the management of the Basin, including any recommendations concerning:

(a) Whether activities, fees and other aspects of the Management Program should be continued, modified or terminated; and

(b) Plans for additional activities for the management of groundwater in the Basin, and for the protection of the aquifer in which the Basin is located.

Sec. 19. Section 9 of chapter 572, Statutes of Nevada 1997, as amended by chapter 180, Statutes of Nevada 2011, at page 821, is hereby repealed.

Sec. 20. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

Section 9 of Chapter 572, Statutes of Nevada 1997:

Sec. 9. The Advisory Committee shall meet at least once every year.



