

STATE OF NEVADA  
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING  
401 S. CARSON STREET  
CARSON CITY, NEVADA 89701-4747  
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800

MICHAEL ROBERSON, *Senator, Chair*  
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821

PAUL ANDERSON, *Assemblyman, Chair*  
Cindy Jones, *Fiscal Analyst*  
Mark Krmpotic, *Fiscal Analyst*

RICK COMBS, *Director*  
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830  
ROCKY COOPER, *Legislative Auditor* (775) 684-6815  
SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

**MEETING NOTICE AND AGENDA**

Name of Organization: Legislative Commission's Subcommittee to Study Water  
(*Nevada Revised Statutes* 218E.200)

Date and Time of Meeting: Friday, August 26, 2016  
9 a.m.

Place of Meeting: Legislative Building, Room 3138  
401 South Carson Street  
Carson City, Nevada

Note: Some members of the Subcommittee may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following location:

Grant Sawyer State Office Building, Room 4401  
555 East Washington Avenue  
Las Vegas, Nevada

*If you cannot attend the meeting, you can listen or view it live over the Internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "[Calendar of Meetings/View](#)."*

Note: Minutes of this meeting will be produced in summary format. Please provide the secretary with electronic or written copies of testimony and visual presentations if you wish to have complete versions included as exhibits with the minutes.

Note: Items on this agenda may be taken in a different order than listed. Two or more agenda items may be combined for consideration. An item may be removed from this agenda or discussion relating to an item on this agenda may be delayed at any time.

I. Opening Remarks

## II. Public Comment

(Because of time considerations, each speaker offering comments during the period for public comment will be limited to not more than 3 minutes. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by e-mail, facsimile, or mail before, during, or after the meeting.)

*For  
Possible  
Action*

## III. Approval of Minutes of the Meeting Held on July 11, 2016, in Pahrump, Nevada

*For  
Possible  
Action*

## IV. Work Session—Discussion and Possible Action on Recommendations

The “Work Session Document” is attached below and contains recommendations received by the Legislative Commission’s Subcommittee to Study Water during the 2015–2016 Legislative Interim. The document is also available on the Subcommittee’s webpage ([Legislative Commission's Subcommittee to Study Water](#)) or a written copy may be obtained by contacting the Research Division, Legislative Counsel Bureau, at (775) 684-6825.

## V. Public Comment

(Because of time considerations, each speaker offering comments during the period for public comment will be limited to not more than 3 minutes. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by e-mail, facsimile, or mail before, during, or after the meeting.)

## VI. Final Comment and Adjournment

---

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call the Research Division at (775) 684-6825 as soon as possible.

---

Notice of this meeting was posted in the following Carson City and Las Vegas, Nevada, locations: Blasdel Building, 209 East Musser Street; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Legislative Counsel Bureau, Las Vegas Office, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was faxed, e-mailed, or hand delivered for posting to the following Carson City and Las Vegas, Nevada, locations: Capitol Press Corps, Basement, Capitol Building, 101 North Carson Street; Clark County Government Center, Administrative Services, 500 South Grand Central Parkway; and Capitol Police, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature’s website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

Supporting public material provided to Committee members for this meeting may be requested from Natalie J. Pieretti, Committee Secretary, Research Division of the Legislative Counsel Bureau at (775) 684-6825 and is/will be available at the following locations: Meeting locations and the Nevada Legislature’s website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

**Legislative Commission's Subcommittee to  
Study Water**

*(Nevada Revised Statutes 218E.200)*

**WORK SESSION  
DOCUMENT**



**August 26, 2016**

Prepared by the Research Division  
Legislative Counsel Bureau



## WORK SESSION DOCUMENT

Legislative Commission's Subcommittee to Study Water  
(*Nevada Revised Statutes* 218E.200)

**August 26, 2016**

This "Work Session Document" has been prepared by the Chair and staff of the Legislative Commission's Subcommittee to Study Water. It is designed to assist the Subcommittee members in determining which recommendations will be forwarded to the 2017 Session of the Nevada Legislature and what other actions the Subcommittee will endorse. Each item in this document may be the subject of further discussion, refinement, or action.

The inclusion of recommendations does not imply the support of the Subcommittee. Rather, these possible actions are compiled so the members may review them to decide if they should be adopted, changed, rejected, or further considered. The members of the Subcommittee may vote to send as many Subcommittee statements or letters as they choose; however, pursuant to *Nevada Revised Statutes* (NRS) 218D.160, the Subcommittee is limited to five bill draft requests, including requests for the drafting of legislative resolutions. The recommendations have been grouped by topic and are not preferentially ordered.

Additionally, although possible actions are identified for each recommendation, the Subcommittee may choose to recommend any of the following actions: (1) draft legislation; (2) draft a resolution; (3) send a letter; or (4) include a position statement in the final report.

The source of each recommendation is noted in parentheses. Please note that a recommendation may have been modified during the preparation of the

Work Session Document for a variety of reasons, including without limitation: (1) through combination with similar proposals; (2) to propose a different type of action; or (3) by the addition of details needed for drafting purposes. Further, some recommendations may contain unquantified or unknown fiscal impacts. Subcommittee members are advised that Legislative Counsel Bureau staff will coordinate with the interested parties to obtain fiscal estimates, where appropriate or feasible, for inclusion in the final report.

Finally, please note that during the legislative drafting process, specific details of approved requests for legislation or other Subcommittee action may be further clarified by Subcommittee staff in consultation with the Chair or others, as appropriate. Also, some recommendations may include references to specific chapters or statutes. However, as part of the bill drafting process, amendments to other related chapters or sections of the NRS may be added to fully implement the recommendation.

## Cloud Seeding

1. **A. Request the drafting of a bill** to appropriate \$740,250 per year (\$1,480,000 for the fiscal year 2017-2018 Biennium) to cover 75 percent of the estimated cost for cloud-seeding activities in Nevada during the 2017 and 2018 winters utilizing fully automated generators, as proposed by Desert Research Institute (DRI), within the following areas in Nevada: Upper Walker River watershed; Upper Truckee River/Lake Tahoe watershed; Mount Charleston; and cloud seeding by aircraft in the Upper Walker River Basin, the Upper Carson River Basin, and the Upper Truckee River and Lake Tahoe basins; and cloud-seeding activities in the Humboldt River Basin during the 2017 and 2018 winters utilizing manually operated ground-based generators, as proposed by North American Weather Consultants, within the following areas of the Humboldt River Basin: Independence Range; Ruby Mountains; Toiyabe Range; Santa Rosa Range; Sonoma Range; Humboldt Range; and Diamond Mountains (just outside of the Humboldt River Basin); and direct the State Department of Conservation and Natural Resources (SDCNR) to develop and operate a matching grant program (requiring at least a 25 percent match) to which local stakeholders could apply for funds to undertake cloud-seeding programs. (*Humboldt River Basin Water Authority [HRBWA].*)  
  
**B.** Alternatively, **request the drafting of a bill** to amend the statutes to expand the allowable uses of the existing grant program for water projects (NRS 349.980 et seq.), otherwise known as the “AB 198 Grant Program,” (Assembly Bill 198, *Statutes of Nevada* 1991) to include a cloud seeding program as an allowable use of grant funds. (*HRBWA*)

## Domestic Use

2. **A. Request the drafting of a bill** to provide that at times of curtailment by priority by the Office of the State Engineer, Division of Water Resources (DWR), SDCNR, only outdoor use withdrawals from domestic wells are curtailed and indoor use remains authorized. (See NRS 534.110.) (*Jason King, P.E., State Engineer, DWR, SDCNR.*)  
  
**B.** Alternatively, **request the drafting of a bill** to provide that at times of curtailment by the Office of the State Engineer, only withdrawals from domestic wells for outdoor water use are curtailed, with an excepted allowance for outdoor watering of pets and livestock. (*Nye County Water District; Utilities Inc. of Central Nevada, Pahrump Utility Co. Inc., and Desert Utilities Inc.*)
3. **A. Request the drafting of a bill** to provide that in severely over-appropriated basins and designated critical management areas (CMAs), the Office of the State Engineer may limit withdrawals from new domestic wells to 0.5-acre-feet



annually. According to proponent, this restriction would be applicable to “new” domestic wells on parcels that do not currently have a domestic well. This restriction would not be applicable to currently existing domestic wells. (*Nye County Water District.*)

**B. Alternatively, request the drafting of a bill** to provide that no new domestic wells may be drilled in severely over-appropriated basins and designated CMAs. (*Discussion at July 11, 2016, meeting in Pahrump.*)

**C. Request the drafting of a bill** to provide that in severely over-appropriated basins and designated CMAs, the Office of the State Engineer may require meters on all new domestic wells. (*Nye County Water District.*)

4. **Request the drafting of a bill** to provide that the priority date of a domestic well is the date of land possession and remove the provision in statute that provides that the priority date of a domestic well is the date of completion of the domestic well. See NRS 534.080(4). (*Private Well Owners Cooperative of Nye County.*)
5. **Request the drafting of a bill** to allow for de minimus rainwater collection for domestic use or wildlife guzzlers (*Discussion with Jason King, P.E., State Engineer, DWR, SDCNR, at July 11, 2016, meeting in Pahrump.*)

## Basin Management

6. **Request the drafting of a bill** to provide that metering is required on all users in the State. (*Southern Nevada Water Authority [SNWA]; Utilities Inc. Subcommittee discussion with Jason King, P.E., State Engineer, DWR, SDCNR, at July 11, 2016, meeting in Pahrump [and others].*)
7. **A. Request the drafting of a bill** to clarify that the Office of the State Engineer is authorized to utilize adaptive management approaches to mitigate potential conflicts. According to proponent, current law (NRS 533.3705) allows the Office of the State Engineer to limit the initial use of water under a permit to a quantity that is less than the total amount approved under the application and provides that the use of an additional amount of water may be authorized by the Office of the State Engineer at a later date if additional evidence demonstrates to the satisfaction of the Office of the State Engineer that the additional amount of water is available and may be appropriated in accordance with Nevada water law.

This proposed revision to the water law would expand that authority to include adaptive resource management, which provides for additional monitoring and management in the use of the water, and provides for augmentation or mitigation to avoid conflicts with existing rights in order to maximize the beneficial use of a shared and limited resource. (See NRS 533.3705) (*SNWA; Jason King, P.E., State Engineer, DWR, SDCNR.*)

**B. Alternatively, request the drafting of a bill** to provide that the Office of the State Engineer may not utilize adaptive management approaches to mitigate potential conflicts. According to proponents, the Office of the State Engineer's proposed amendment to NRS 533.370(2) should be opposed for a number of reasons, including that the existing "no conflict" requirement in NRS 533.370(2) protects a senior water right holder from potential destruction of an already existing water right, and there is no guarantee a promised mitigation plan will keep a senior water rights holder whole. (This recommendation combines concepts received by Eureka County; *Central Nevada Regional Water Authority [CNRWA], HRWBA; Great Basin Water Network [GBWN].*)

8. **Include a position statement** in the final report to acknowledge surface-groundwater connectivity and the need for the Office of the State Engineer to utilize conjunctive management of surface water and groundwater resources where connected. (*This recommendation combines concepts in recommendations received by the Office of the State Engineer, CNRWA, The Nature Conservancy, GBWN, and Pershing County Water Authority, and others.*)
9. **Request the drafting of a bill** to require the claimant of a pre-statutory water right to submit proof of the claim to the Office of the State Engineer on or before December 31, 2025, regardless of whether an adjudication has been ordered for a water source. If the claimant fails to submit such proof, the claim is deemed to be abandoned. According to proponent, intent is to ensure that the Office of the State Engineer will have a correct accounting of groundwater and surface water rights in a basin, including vested water rights. (*CNRWA*)
10. **Include a position statement** in the final report recommending a statewide Nevada water future discussion and strategy. Include a statement in the Subcommittee's final report encouraging the executive branch of the State government, the Nevada Legislature, Nevada's local governments, Nevada's business community, the environmental community, and the public to come together in a partnership to discuss Nevada's water future and develop a Nevada water future strategy and to utilize the work of the Legislative Commission's Subcommittee to Study Water, the Governor's Drought Summit, and the Nevada Drought Forum as a foundation for a meaningful statewide water future discussion and strategy. (*CNRWA*)



11. **Include a position statement** in the final report calling for local government land-use plans to be based on identified sustainable water resources. According to proponent, many local government land-use plans have been developed without consideration of the amount and source of water needed to implement the plans. Such plans create property owner expectations that cannot be supported by available water resources. (CNRWA)
12. **Send a letter** to the Office of the State Engineer recommending the use of the independent and peer-reviewed United States Geological Survey (USGS), U.S. Department of the Interior, estimates of a basin's groundwater resources (sustainable water resources or perennial yield) instead of using a water right applicant's estimate of a basin's groundwater resources. Where an updated estimate of a basin's groundwater resources is required, as a result of an application or applications to transfer a substantial amount of groundwater from one basin to another basin, the applicant should provide funds to the Office of the State Engineer to pay for the update, and the update should be performed by the USGS. (CNRWA)
13. **Include a position statement** in the final report recommending the Office of the State Engineer replace the perennial yield concept of groundwater availability with a sustainability concept for groundwater development and management. According to proponents, a sustainability concept would provide a determination of acceptable capture of groundwater discharge, as opposed to maximum capture of all groundwater discharge. (*This recommendation combines concepts received in recommendations from CNRWA; The Nature Conservancy; and GBWN.*)
14. **Request the drafting of a bill** to authorize the Office of the State Engineer to suspend cancellation and forfeiture of water rights under the "use it or lose it" doctrine during times of drought in severely over appropriated basins or designated CMAs. According to proponents, the "use it or lose it" doctrine provides disincentive for conservation of water. (This recommendation combines concepts in recommendations received by *Utilities Inc. of Central Nevada [UICN], Pahump Utility Co. Inc., and Desert Utilities Inc.; Jason King, P.E., State Engineer, DWR, SDCNR, Winnemucca Farms; and Joe Ratliff.*)
15. **Include a position statement** in the final report supporting the Office of the State Engineer's use of flexible and innovative tools for managing over-appropriated basins and in approving Groundwater Management Plans (GMPs). (*This recommendation combines concepts in recommendations received by Jason King, P.E., State Engineer, DWR, SDCNR, SNWA, the Diamond Valley Groundwater Management Plan Advisory Board, The Nature Conservancy, Walt Kuver, and others.*)
16. **Request the drafting of a bill** to authorize the implementation of a GMP that converts existing water rights to a credit system. According to proponents, the system would have priority built in to provide senior rights that would receive more

water than junior rights. (See NRS 534.110 (7), NRS 534.037 and NRS 534.120).  
Background: Diamond Valley, Basin 153, is the only basin in the State to be designated as a CMA. A GMP is being developed for the Diamond Valley and stakeholders are considering use of a credit system. (*The Diamond Valley Groundwater Management Plan Advisory Board and the Diamond Natural Resources Protection and Conservation Association.*) (Statutory authorization of “unbundled market-based pilot projects” was also recommended by *The Nature Conservancy, and Winnemucca Farms.*)

17. **Request the drafting of a bill** to clarify that an approved GMP applies to all water users in basin. (UICN, *Pahrump Utility Co. Inc., and Desert Utilities Inc.*)

### Mine Dewatering

18. **Request the drafting of a bill** to require owners of mining pit lakes to secure water rights for mining pit lake evaporative loss. (*HRBWA, Pershing County Water Conservation District [PCWCD].*)
19. **Request the drafting of a bill** to require temporary rights for mine dewatering be renewed every five years, with a required assessment of water used in the past five years and projections for future use. (*This recommendation combines concepts received from Great Basin Resource Watch (GBRW), Progressive Leadership Alliance of Nevada (PLAN), and PCWCD.*)
20. **Draft a resolution** to require a long-term analysis of the Humboldt River Basin, including effects of mine dewatering, filling of pit lakes and pit lake evaporation and require that mine dewatering be included in calculation of basin budget. (*This recommendation combines concepts received from GBRW, PLAN, and PCWCD.*)