

Senate

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ENVIRONMENT AND PUBLIC RESOURCES COMMITTEE

April 14, 1975

The meeting was called to order in Room #213 at 12:10 p.m., on Monday, April 14, 1975, with Senator Thomas Wilson in the chair.

PRESENT: Senator Thomas Wilson
Senator Richard Blakemore
Senator Mary Gojack
Senator Gary Sheerin
Senator Carl Dodge
Senator Richard Bryan

OTHERS PRESENT: See Exhibit A

ABSENT: Senator Joe Neal

S.B. 418: Revises various provisions in laws relating to air pollution.

Richard Serdoz, Bureau of Environmental Health, testified in favor of S.B. 418. His written testimony is attached and will be labeled ATTACHMENT 1. Following his testimony questions were asked by the committee members.

Senator Dodge: Does the requirement on the bottom of page 2 require every person who plans some sort of modest installation to present an environmental impact statement?

Mr. Serdoz said he did not believe so and thought this was just a clarification of the language contained in Section B. Senator Wilson said he did not believe so either. Senator Dodge said it was his opinion that that is exactly what you are asking them to do. Mr. Serdoz said the administrative procedure is to obtain the prior approval before construction does commence and so this would just be a clarification of the existing procedures.

Senator Dodge: How do you act? Mr. Serdoz said by regulation.

Senator Bryan: What's the source of this piece of legislation. Mr. Serdoz said he didn't know. He said it may have come out of the Clark County area, but said his office was not the sponsor of the bill. He indicated he had spoken to Senator Hilbrecht and this bill could be the result.

Daisy Talvitie, League of Women Voters, testified next. They would not actually oppose the bill. She said the areas of discussion are perhaps already covered in other areas of the law where they have review procedures and do already have some authority to issue orders, stop construction under certain conditions and basically it is the veto power that is in existence today. She said she recognized a little of the language as to design, material and construction. Mrs. Talvitie said that she had heard many people testify that that language was not clear. She has heard from various sources and people that the idea behind the sentence was to clarify the language. This sentence has been criticized by construction and various people as being somewhat confusing. Mrs. Talvitie said the League of Women Voters neither oppose or or support the bill. She said complex source regulations and definitions have already been approved by the federal government and when we start changing regulations that have a definition in them you have to go to public hearings and back through the whole federal procedure again. It would cause some expense to the state to get approval and go through the whole process with the government.

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Senator Dodge: Does this testimony give any thought to A.B. 480. Mrs. Talvitie said her organization will oppose that bill all the way. In fact she was to testify later to oppose the bill. A.B. 480 is a bill basically designed to hamper the state in various ways. It would put a conflict of interest on the hearing board, a quasi-judicial board, which act as a jury for the determination of violations. A number of features of that kind are in it. Mrs. Talvitie suggested to them that if they want to redefine complex sources, that would be all right.

Donald Crosby, Deputy State Highway Engineer, testified next. He stated the department has no general quarrel with S.B. 418. He referred to Page 3, Section 4. At the present time the Highway Department is involved in rather complicated procedures and by assuring that all of their projects from the initial planning stage, up to and during construction, are consistent with and complementary to the state implementation on air quality. They view this proposed amendment as giving the Director of the Department of Human Resources a veto power over the Highway Board. It is the Highway Board who must approve the Highway Department's plans and specifications. The Highway Department objects to this. In fact, they saw nothing wrong with the law as it is presently written on that particular section.

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Chuck Breckler, Managing Engineer on the Regional Street and Highway Commission of Las Vegas, testified next. He also objected to the bill and again to the point of having the Department of Human Resources having the authority to approve the plan. His group has no objection to submitting plans and to accepting recommendations, but he does not feel it is logical for them to have the say, for instance, on the design of a traffic signal. He felt this clause makes them voluble for approval and it does limit the authority of the Regional and Street Highway Commission.

Allen Bruce, Associated General Contractors, testified next. He agreed with Mr. Breckler's remarks. He feels outside of that one area discussed above, the bill does not seem to have a great deal of substance. Because of the other measure, A.B. 480 in the Assembly, which will have a hearing today, perhaps the committee can defer any action on this bill until they find out the disposition of A.B. 480.

Senator Bryan: Don't you feel that the changes made on page 2 are of a substantive nature rather than the present language. This requires prior approval, isn't that right. Mr. Bruce said he questioned whether that section applies to complex sources. Upon a cursory reading of it, it appeared to him that it might. Mr. Bruce stated he would have to oppose that also. In general, Mr. Bruce does not feel the bill accomplishes a great deal.

Senator Blakemore: Would you have any objection if the bill were killed? Mr. Bruce said no.

Don Arkell, Director of Air Pollution Control Division at the Health Department in Clark County, testified next. He stated this proposal appears to them to contain clarifying language, which is more consistent with real life practice. This is particularly true where it is involved with review of new and modified sources. In addition, it deletes sewer, water and gas lines in the definition of complex sources. The problem with identifying sewer, water and gas lines as complex sources is in defining cut-off points. Although the construction of such general utilities may influence the overall growth pattern, they themselves are not readily related to particular air quality impact. It would be more meaningful to include distribution systems such as utility lines such as sewer, water, power, and gas as part of the consideration given to the basic facility, such as air-water treatment plant or that type of facility. Many of these could be handled under the Nevada Impact Statement required by the National Environmental Quality Act.

He further stated that he had communicated from his Board some suggestions to Senator Hilbrecht for the clean-up and improved language to be recommended to the act. This appears to be what has come out of that suggestion. The deleted portion, page 2, of the proposed deletion, was written into the act 4 years ago or so. Since that time they have been required to, in fact, have veto power over certain categories of sources, both point and complex. This simply reconstructs the act to reflect what is occurring now. They already have authority in other parts of the act to approve things like industrial operations. They call them point sources.

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Senator Dodge: This goes much further. The veto power is alright and I can understand the reasoning behind this. If you have a violation, there are ways and means with which you can proceed, but the question of primary responsibility may be at the expense of a considerable amount of time to clear the improvements with you before they can go ahead with the project. I feel this amendment goes much further than just a piece of clean up language.

Mr. Arkell said that all he is saying is that it is already fact. He was just describing what is already occurring.

Senator Bryan: Do you have to give prior approval?

Mr. Arkell said yes, under the basic permit system. It is related to the permit to construct. It is in the Clean Air Act and has been in their act for the past four years. It has been interpreted in the past that this section establishes that all this language does is make it more clear what has actually been occurring. It relates specifically to point sources. Anyone who wants to build a specific control device, add on to a piece of industrial equipment or wants to establish a new process, which would be a source of air pollution. This says they have to approve this first before they can construct that. This is what the language says.

Senator Dodge: Why didn't you take the same position on the highway plans and specifications. From the testimony prior to yours, they have to have prior approval from your department.

Mr. Arkell said this is the same as what is going on now. The basis for their approval is whether it is consistent with the implementation that we have for an improvement.

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Gene Milligan, Nevada Association of Realtors, testified next. He thought there was some doubt, in that it has already been stated that this merely cleans up the language to conform to actions that are presently taking place. He stated that it appears to him that this language may broaden it to some degree, although it does state complex sources include, but are not limited to, and then it states certain specific areas. Then it says any source of air contaminant which would mean any place a car goes. It could be interpreted that way. He stated his organization has some reservation about the bill. They would like to see more information about the bill and he tends to concur with Senator Dodge that the burden is being shifted and if, in fact, this is the case, then perhaps they could see something in the record to verify that. Mr. Milligan stated he found the whole concept burdensome in that the whole approach in stating that a shopping center or sports complex causes air pollution. He can't agree with that because it is cars that cause air pollution. The problem can be attached at another source. It seemed to him that the problem could be approached in another way. This just brings greater restrictions on real estate development in this state.

S.B. 424: Requires certification by division of water resources as to water quantity in subdivisions.

H.L. Rosse, Department of Human Resources, testified in support of S.B. 424. His written testimony is attached and will be labeled ATTACHMENT 2.

Senator Dodge: In some places you have hydrographic basins and in others you do not. In the Fallon area, we have had a lot of problems there because that valley is generally not underlaying with water. The air base spent an enormous amount of money prospecting for water. They got closer and closer to the city of Fallon. They got within two miles and tapped the same source that the city is on. What about that situation?

Mr. Rosse said that is the purpose of the wording he used there because they have areas within a subbasin that you can't get water.

Senator Wilson: What is the basic reason. Have you concurred with the state engineer on this. Mr. Rosse said that in their discussion with them, they are operating within the law that they have. He felt that their law just didn't apply to the situation. They are being deluged in certain situations by subdivision development that is way beyond the capability of the water resource.

Senator Blakemore: That's by your statement.

Senator Wilson: Can you give us those areas for the record. Mr. Rosse said the one he was most familiar with is the Pahrump Valley.

Senator Blakemore: You are using a very inact size. You cannot prove it, yet you are imposing rules and regulations upon something that is based on an inexact size. I agree there are certain things we can do to make some judgements, but to make absolute decisions upon something based upon inexact size is rather ridiculous. Mr. Rosse said he didn't believe you could justify granting potential water demand as much as ten times over the perrenial yield.

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Senator Blakemore: What would happen if you did that. How far would that water fall? Mr. Rosse said that would depend on the development. Senator Blakemore said in other words, that is a question you cannot answer. Mr. Rosse said that was right, but the state is still liable to provide that water. Senator Blakemore said that was speculative, but yet they are making a judgement that is absolute. He maintained that that is impossible. Mr. Rosse said aside from Pahrump Valley, take Warm Springs, north of Reno. They have a perennial yield of 6,000 acre feet there and they limited development to that amount of water.

Senator Sheerin: Right now, with the law the way it is, the state engineer has to review it as to water quantity. Mr. Rosse said that was right.

Senator Sheerin: If the state engineer or the Health Department approved the subdivision and they didn't, in fact, have enough water, do you think the state would be exposed to any liability? Mr. Rosse said that he felt that it was.

Senator Sheerin: Are there any attorneys in your division that have come up with this idea? Mr. Rosse said he had discussed it with the attorney for the Department of Human Resources and he feels that the state is liable.

Senator Dodge: Was it last session or two sessions ago we tried to come to the relief of the state engineer and also to address these questions. I think we had a bill in that would require a warranty from the developer as far as the water quantity. I know that we are going to hear from the state engineer. It seems to me that one of this problems, unless its in an area thats been otherwise approved on way or the other, and I think the discussion arose in this particular piece of legislation. I am not sure that anybody knew for sure about the water capability. Would the warranty have any

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application in any of these situations? It would not direct itself necessarily to the question of whether you would have to recharge. Do you have other situations where, whether you have to do it or he has to, where it is difficult to determine about water availability without somebody drilling wells and making the determination? Mr. Rosse said their present procedures are that those areas that they don't have any data on as to where the water is, where individual wells are proposed, they just require the developer to put down wells to show them there is water there that meets a certain quality. As far as community water systems go, the state engineer has authority for granting permits for quasi-municipal use. There is some control there. As far as looking at the picture of the water resource, they have to put a limit on development.

Senator Wilson: One of the things you are saying by the bill is presently you have got the statutory obligation to approve a project and reach a conclusion as to water availability, not quantity. You have made one approach and the state engineer has made another. If you are going to have the responsibility you are going to do it by the facts as to what is the best approach or some other department should have the responsibility and you should not. Mr. Rosse said that was right.

Senator Bryan: What occurs at the present time under the provisions of the law which indicate subject to the review of the state engineer. What kind of review does he give you and what kind of definitive answers has he given you at the present as to water quantity? Mr. Rosse said that up until recently, they were a little bit vague. You could interpret them either way. They give them a review and presently them make a positive statement that in their opinion, there is water available.

Senator Bryan: Isn't that all that you really need is there statement? Mr. Rosse said that was true; but it doesn't relieve, in his opinion, the state's liability to provide water if it ever runs out.

Senator Dodge: Wouldn't you have the same situation if you put the monkey on their back? Mr. Rosse said that's true, but there has to be a limit on it. Senator Dodge asked what the limit would be on. Mr. Rosse said on how much development you are going to allow.

Senator Bryan: I don't think we are addressing ourselves to that right now. I would have to agree that you are over charging. But the point being that the state engineer at the present time makes a determination. You are suggesting, I believe, that that's the appropriate agency of government to do so, at least in the question of water quantity. Is that correct? Mr. Rosse said yes.

Senator Bryan: If he is doing so and certifying, yes, there is water available for this project, isn't that about as far as you can go? Mr. Rosse said that was true, but he didn't feel that he can put his signature on that final map if he doesn't believe that there is water quantity there.

Senator Bryan: Is that what you are trying to do? Just divest yourself of that responsibility? That's a policy justification. You are all part of state government.

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Senator Wilson: I think what you are saying is that you don't agree with the present practice being followed. Mr. Rosse said that was true. Senator Wilson: If that's the case, you're provision is that you are not going to approve. You have a primary responsibility. He may perverse you or confirm you, approval subject to his approval, or you may deny and he may approve. Then what do you have? Mr. Rosse said they had that case come out in Pahrump where they determined the perennial yield was being exceeded too many times. In this particular case, in excess of ten. The subdivider took them to court and the judge in district court determined that it was not their responsibility to make that determine even though it was their signature on the final map.

Senator Wilson: Mechanically, how does that work? The subdivider comes to you and you have to make an approval or disapproval and sign it. When does it go to the state engineer for his review? Mr. Rosse said they don't sign it until they get a letter from the state engineer saying he has reviewed it.

Senator Dodge: Are you more concerned about the immediate question of whether there is, let's say, water available for a subdivision; or are you more concerned about the long range question whether you are getting more people into an area with some known availability that the annual recharge, which might leave them out there high and dry some time. This might leave the state liable. Mr. Rosse said that was correct.

Senator Sheerin: You also indicated that as inexact as the science is that the expertise is with the state engineer and the final decision should be with the state engineer. Mr. Rosse said that was correct as far as water quantity goes.

Senator Bryan: Are you ever in a position where you have submitted this to the state engineer for review and you department overrides that review? I suppose, in theory, you have the power to do so. Mr. Rosse said that was what he was referring to when he spoke of the court action they were involved in. They reviewed it and said they had

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water rights to use for development and Mr. Rosse's department determined that in looking at the total basin, there wasn't water available for what had already been approved in recorded lots

Senator Bryan: In answer to Senator Sheerin's question, if he has the expertise, why would your department then override the state engineer's assessment? Mr. Rosse said in their evaluation of the situation, they felt that they were putting the state in a libelous situation.

Senator Blakemore: Aren't you still doing that by passing it on to the state engineer? Mr. Rosse said as far as the state is concerned, that's true. That's why he put the limiting situation in the proposal.

Senator Wilson: I don't know what the facts are on Pahrump. I gather your department took it there were grounds for disagreement with the state engineer. Is that what brought this to a head? Mr. Rosse said it wasn't only this one but generally, that's true.

Roland Westergard, State Engineer, testified next. He stated that the subject has been discussed quite thoroughly at the last two sessions of the legislature. He said he can see the position of the Division of Environmental Health in regards to the approval of subdivisions and in regards to water quantity. For that reason, they would certainly have no objection to the first sentence in the suggested addition, where the statutes would require that the final approval would be by the Division of Water Resources and the State Engineer. He said they didn't feel too strongly about and didn't think it had worked too badly the way it has been the last two years. To go farther than that and set the criteria by statute that they would have to consider, he didn't think was appropriate. Some of the terminology that the committee members have alluded to, he thought, demonstrated that administratively, it would cause some real problems. For example, they would have to account for existing recorded future domestic demand. This would mean they would almost have to have a continuing inventory in the various county recorder offices to see what individual lots have been sold. There is also reference here to not approving subdivisions if the proposed source of water supply is on converted water rights. He said it has been a practice for years in the state as subdivision and municipal development takes place, to in fact convert irrigation water rights over. There is reference to interbasin transfers. He said he didn't know how you could speculate as to whether interbasin transfers might potentially exist in the future. He thought they would be required to do this under that terminology. Senator Dodge mentioned natural recharge. This is a term related to perennial yield, but its not entirely synonymous. This amendment would require that they base their determination on natural discharge, which is the amount that nature pumps out of a basin every year. The amount coming in under natural conditions might something greater. He thought this would be quite restrictive.

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Mr. Westergard said he could see why the Division of Environmental Resources would not want to sign something they do not agree with. On the other hand, if that responsibility is specifically to the state engineer, and they think they have it already in regard to water quantity. If the legislature gives them the authority to actually sign off on the plans, they wouldn't mind to accept but would not want to be restricted on the criteria.

Senator Dodge: Are you under any statutory responsibility to make a value judgement about when there has been enough well development and cut it off? Mr. Westergard said he felt they did have statutory responsibility. This is because in approving new appropriations of water they have to determine if there is water available and if it will hurt someone that is already there. They also consider the perennial yield in their evaluation of whether they can be allowed or not.

Senator Dodge: Is this what you did, in effect, when you turned down the application on Palimino Valley? Mr. Westergard said essentially yes, because they had applied for much more than they felt was available on a perennial basis.

Senator Wilson: What was the dispute all about in the Pahrump Valley? Mr. Westergard said this gets into the concept about subbasins within a basin. Pahrump Valley, they feel, are two distinct areas. One is up on the east side of the valley on the foot of the Charleston Mountains. There has been a lot of water allowed and developed in that area. The water table has declined over the last ten years. They are now pumping from approximately 200 feet. A mile farther on the valley floor they are pumping from 10, 15 and 20 feet. They have restricted further development by the mountains but feel it is hard to refuse on the valley floor because of the water table.

Senator Dodge: Is that irrigation recharge. Mr. Westergard said part of it was. He said the water level has been at that level for as long as they have been monitoring the valley.

Senator Wilson: Is it one basin? Mr. Westergard said it was but for administrative purposes they have divided in into two.

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Senator Sheerin: If anybody gets into the mining of water do you presently have the power and position to prohibit a new subdivision? Mr. Westergard said yes, but there would have to be a demonstrated physical mining. That is why they have difficulty with the language. It says an "over appropriation." In some areas, the Stead Area just north of Reno, they have allowed appropriations that have approached ten times the perennial yield, but in the last two years they haven't allowed any new appropriations out there. The people that have the water rights tenfold, have a requirement under state statute, to prove they are going to use that water beneficially. Just about a year from now all those people are going to have to prove up. The Department is confident that when that time comes they won't be pumping even a 1500 acre lot. Under this language they would have had to cut that off a long time ago. They have been administratively able, and Mr. Westergard thought in accordance with the statutes, to allow this over appropriation in order to get the resource up to its potential.

Senator Wilson: When you talk about the people, do you mean the buyers of the individual lots? Mr. Westergard said no, in this particular case the subdividers, the water companies, etc. There are people who have bought individual lots who, under the law, would have the right to drill a domestic well.

Senator Blakemore: What is the water table out there? Mr. Westergard said it varied, but right around the Stead school it's almost at the surface. In other areas it is 40 to 50 feet deep.

Senator Dodge: I referred to the situation in Virginia City. Let's take an area like that. Are you sometimes placed in a position where you are asked to certify the water quantity and really not knowing? Do you have situations where, if you are in an area that hasn't been tested previously, and somebody says go ahead and drill the well and show us if we certify? Do you have to look into a "crystal ball" on some of those situations. Mr. Westergard said you have to exercise judgement but it doesn't really present too much of a problem in a community type water system. Again, they have to issue a permit there and have a responsibility to show whether they can or can't use it. When a permit is issued, they have a responsibility to develop it.

Senator Dodge: Have you ever given any approvals and then the water was not available? Mr. Westergard said not to his knowledge.

Senator Blakemore: Doesn't this impose a strain on your office to make these quantity judgements? Mr. Westergard said it did.

Senator Sheerin: Is it really an inexact science? Don't you make tests and have a certain knowledge? Mr. Westergard said they do have knowledge. In most areas they do have pretty good information.

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Senator Wilson: What happens to the man who buys a lot before the water is proved up? Does the real estate cover the base of that or is there a gap? Mr. Westergard said he didn't think they covered the base and he didn't really think there was a gap. Senator Wilson said there was if the developer loses his right to appropriate the water. That person is like the developer with 20 or 100 acres where they have denied a permit. In an area where they are saying no to a person who has 100 acres and wants to subdivide it for 100 lots, one acre apiece. They either say no to him or give him five years to prove up. Under the law, they can't look at him any differently than the man who buys an individual lot and holds it for five years. They don't feel that the man who holds it for ten years should have any preference over the person who has 100 acres and they have already said no to.

Senator Bryan: Have you been placed in situation where you are defending litigation brought on the basis that you certified availability of water and there wasn't any? Mr. Westergard said no. He said there was a section that states this is not a warranty.

Senator Bryan: What about the form of the certification in the situation where the certification goes to the developer. Is it sufficiently clear that the purchaser from the developer understands what his legal relationship is? Mr. Westergard said he thought it was. He said at Lake Tahoe when they give a review of a subdivision in the basin, they cite all the conditions. They feel they are putting the purchaser on notice of everything that exists and everything that could occur.

Senator Bryan: In the situation of the permit or certification to the developer, do you indicate in that that if the developer fails to appropriate this to the beneficial use in a certain period of time, his water rights can be lost and the individual lot owner must make application? Mr. Westergard said he didn't believe that appeared in the subdivision review itself. It is a condition of the permit. Senator Bryan said his concern was the same as Senator Wilson's. This was that the individual purchaser of the lot who doesn't have the sophistication the developer would have. Is he fully charged with what the limitations are? Mr. Westergard said he would think they have been but if they haven't they would like to modify their review.

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Senator Sheerin: As far as the mining problem is concerned, do you feel you have a handle on it right now? Mr. Westergard said yes. He said they thought they had enough authority under the statutes.

Senator Sheerin: Does your department have any legislation requested in this area this year? Mr. Westergard said no. They did make a general statement that perhaps the subdivision laws should be reviewed.

Senator Sheerin: I realize you are not an attorney, but do you feel there is some exposure now or in the future, if you did approve water and there wasn't water there? Mr. Westergard said they were concerned about it coming into the last session because the word then was confirmation. With the legislative intent, the way they remember it, they don't feel the liability is there. They give the individual purchasers notice.

Senator Sheerin: What do you give them notice of? Mr. Westergard said of the conditions of the appropriation.

Senator Dodge: In that notice, do you indicate or incorporate this language that we wrote in for you last session. It is on the middle of page 3 of the bill, line 25. Mr. Westergard said the part about the warranty does not go in the notice. Senator Dodge asked if he thought they should do it? Mr. Westergard said he thought it was a good idea. Senator Dodge said the person should fully understand that this is not a guarantee.

Senator Dodge: I don't want to restrict development, but I really believe that developers have some property responsibility to the people that are going to buy properties in a subdivision. You haven't got anything without water, just a lot of cheap real estate.

Senator Wilson: I agree with you. How does the real estate division handle this? I would assume they look at the signature on the map. Mr. Westergard said an alternative might be to require a subdivider to have water available prior to the sale and recording of the lots. Senator Dodge said that was exactly what they were talking about two years ago in Virginia City. If he drills for wells and the water is there, then there is no case of misrepresentation.

Senator Wilson: Does the Real Estate Division, Department of Commerce have that authority now? Mr. Westergard said he wouldn't think so without some statutory authority.

Senator Wilson: Do you have any question on Mr. Rosse's amendatory language? Mr. Westergard said he hadn't see it, but in just listening to it, I would have the same concern about that as he did with the language as drafted.

Senator Bryan: Would it be your preference to process the Assembly bill? Mr. Westergard said he wouldn't object to that. Senator Bryan asked if he wanted the criteria built in by statute. Mr. Westergard said if they were to go so far as to establish criteria, there would be problems with having the water available before you sell the lot.

Senator Sheerin: Do you think two years from now that criteria might be developed? Mr. Westergard said he thought so. He said he didn't mean to infer they didn't have information available, he just didn't know if it would be acceptable.

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Gene Milligan, Nevada Association of Realtors, testified next. He endorsed the position taken by the state engineer. They felt the regulatory power does exist, at least as far as the stated science would allow. That authority is being exercised and that is evidenced by the fact that subdivisions have been stopped. Mr. Milligan said the testimony given in favor of the bill was very general and no specifics were given. There were no facts and figures as to the future.

A.B. 80: Makes various changes in provisions concerning milk and milk products.

James Edmunson, Bureau of Environmental Health, testified in favor of the bill. Presently NRS 585 requires that they go out of state annually to inspect milk that comes into the State of Nevada. They feel with the inspection which is now carried on by the surrounding states, that this is not necessary. Under Section 3, lines 17, does give them the authority to go out of state and that would be at the expense of the people shipping the milk in. This bill just makes it so it is not mandatory to do so every year.

Senator Dodge: I don't see anything wrong with this bill relieving them of an unnecessary responsibility. The only thing that crossed my mind is whether you are going to add the word inspection after transport on line 12. You don't say anything about a substantially equivalent inspection. I think you should have this. Mr. Edmunson said they really do have in the interstate program. Each state has certified inspectors that certify back to the Public Health Service that their standards are up to the interstate milk shipment agreement. This is in effect in all 50 states.

Senator Sheerin: What does the industry feel about this bill? Mr. Edmunson said they have no objection.

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Senator Dodge: If you are going to have a reciprocal arrangement, you should specify that there is a substantially equivalent inspection. Mr. Edmunson said there is only one way to tell and that is through inspection. Mr. Edmunson said he would have no objection to that change.

Senator Wilson: You want to amend Line 12 by striking the word "and" and adding after the word transport the word "inspection." Senator Dodge said yes.

Senator Bryan: What was the justification for changing the time limits after denial? That is line 44 page 2. Mr. Edmunson said 15 days is really plenty of time for the appeal. Senator Bryan asked if they had any particular problems with the 30 day period. Mr. Edmunson said he didn't think they really needed 30 days

After a short discussion the following action was taken:

Senator Dodge moved to amend by adding inspection and do pass.

Senator Bryan seconded the motion.

The vote was unanimous with Senators Blakemore and Neal were absent.

Senator Gojack had a bill that she wanted the committee to introduce. It was requested by some people in Reno. After a short discussion, the committee decided to introduce it.

S.B. 424: Senator Bryan moved to amend and do pass.

Senator Sheerin seconded the motion.

The vote was unanimous with Senators Blakemore, Dodge and Neal absent.

S.B. 418: After a short discussion it was decided to hold the bill.

S.B. 327: Senator Sheerin moved an indefinite postponement.

Senator Wilson seconded the motion.

The vote was unanimous with Senator Blakemore, Dodge and Neal absent.

S.B. 326: Senator Sheerin indicated that he still felt very strongly as far as the land exchanges were concerned. He felt they should be allowed to get involved in the land exchanges. He said if they don't do that, they are going to be back in two years without seeing any changes. He said the first three lines of the new language is the language that Gary Owens is worried about and he is justified. Senator Sheerin said he had no objection at all to taking out the first three lines. He also said the last six words of the new language had some bad connotations. Senator Sheerin would prefer to have that say "owners of real property within the basin for real property outside the basin."

Senator Wilson: I don't know what the problem is. The impediment to exchange has not been the agency. I think it is the Department of Interior's fault.

Senator Sheerin: I don't think the agency has put the work into it. I'll bet if you review the minutes of that board, you'll not find the question at all. Mr. Heikka said he knew they had been back to Washington one day working on some land exchanges, but there is no concerted effort, in my opinion, to support land exchanges within the board. The League to Save Lake Tahoe works very hard on land exchanges. We all recognize that land exchange is the way to potentially solve the problem. I don't think anybody on this committee will deny that. Yet, if we don't give somebody the duty to do something, two years are going to slip by and nothing will happen.

over

Senator Wilson: What's the sentiment of the people on the bi-state compact?

Senator Sheerin: I think this goes to the staff more than anyone else because there is not going to be a decision made by the governing body.

Senator Gojack: Are they just keeping an inventory list?

Senator Wilson: Has a man got to list his property?

Senator Sheerin: The land owner would list his property. He'll have a place to come and shop for publicly owned land.

Senator Wilson: You aren't talking about listing property inside the basin, you are talking about listing property outside the basin that is available. In other words, you are talking about government land.

Senator Sheerin: The landowner within the basin can come in and shop.

Senator Wilson: Are there lands available?

Senator Sheerin: There is all kinds of BLM land all around Carson City.

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Environment and Public Resources Committee

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Senator Wilson: Are they available:

Senator Sheerin: They aren't in use. Its vacant land owned by BLM.

Senator Wilson: You are saying the agency would list property to be exchanged outside the basin, BLM land, that is available. Does BLM establish lists of land that could be exchanged.

Senator Sheerin: I don't know. I'm not sure about that aspect. But obviously they have land that is available. Let's assume that's correct. I think the staff up there should go out and look around and develop with BLM what they have available outside the basin for purpose of land exchange.

Senator Gojack: You would then be depending on the good will of the BLM staff to cooperate.

Senator Bryan: Do you want to build that into the compact? I certainly have no objection to a resolution.

Senator Gojack: A resolution might be the way to go.

Senator Sheerin: I think a resolution is just a piece of paper. I will support a resolution, obviously, because that's second-best.

Senator Wilson: I just question about it being in the compact. I think there are plenty of ways of putting heat on these guys to facilitate exchanges.

Senator Bryan: Do you have a resolution in now directing the Department of Interior and the BLM, to be a little bit more sensible. To my way of thinking, they are the real impediment to exchange.

Senator Sheerin: S.J.R. 13 memorializes Congress to consent to amendments of the compact. This is really tied up with S.B. 327.

Senator Bryan: Have we acted on S.J.R. 13? Senator Sheerin: No. Again, that was kind of drafted in relation to S.B. 327 more that S.B. 326. I wouldn't mind amending S.J.R. 13 to make it in support of Santini's bill in Congress.

Senator Bryan: In essence what does Santini's bill do?

Senator Sheerin: The Forest Service is part of the Department of Agriculture. They have income from timber sales, etc. Santini wants to take that money and use it to buy land within the basin. Presently, about 25 percent is already given back to the state for various things. The other 75 percent goes into a general fund. He wants to keep some of that money to buy land.

Over

Senator Bryan: How about a resolution memorializing Congress to do that?

Senator Sheerin: That's still dealing with land purchasing. They are going to have a hard time getting that bill on.

Senator Bryan: One resolution would address itself to Congress and the other would be to the agency. I certainly have no objection to a resolution, and I think we should, particularly the one to Congress. I might help. Is there a movement to get the California delegation to send a resolution?

Senator Sheerin: I don't know. There are California Congressmen on the bill. I will get something together to amend S.J.R. 13.

There being no further business, the meeting adjourned at 1:50 p.m.

Respectfully submitted:

Kristine Zohner

Kristine Zohner, Committee Secretary

APPROVED BY:

Thomas Wilson
Senator Thomas Wilson, Chairman

1st meeting

Exhibit A

SENATE Environment COMMITTEE

ROOM # 213

DAY Monday DATE April 14, 1975

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NAME	ORGANIZATION	ADDRESS	PHONE NUMBER
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*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.

DAISY J. TALVITIE	LWU-1421	DOROTHY #2, L.V.	739 6201
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Robert D. Westergard	State Engineer	201 S. Fall St. CC,	885-4380
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Wm. J. Newman	Ground Water Eng. Div. Water Res.	201 S. Fall St CC	885-8388
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Donald J. Crosby	State Hwy Dept	Stewart St,	885-5441
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Roger S. Trounaday	Dept. Human Resources	308 N. Curry	885-4730
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Ernie Gregory	Envir. Prot. Section	1209 Johnson	885-4670
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RICHARD SERDOZ	AIR QUALITY B.E.H	1209 Johnson	885-4670
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James A. Edmundson	Consumer Health Prot.	2015 Fall	885-4750
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S. D. Mastromarino	Con. Health Prot	2015 Fall	885-4750
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Donald R. Arkell	Clark Co. Dist. Health	625 Shadow Ln.	739 6201
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H. LAVERNE ROSSE	ENVR. Prot. SECTION	1209 Johnson St	885-4670
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LH DODGSON	B. E. H	201 S. Fall	885-4730
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JIM VASEY	VASEY-SCOTT ENG. CO	2989 HWY 50E, C.C.	883-1600
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TOM YOUNG	S.P.P. Co.	Reno Nev.	
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JACK KENNEY	SOME NEW HOME BUILDERS	1230 501TH LV NV 89104	384-3556
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Maibye Vasey	Vasey-Scott Eng.	2989 Hwy 50E	883-1600
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STATEMENT OF RICHARD SERDOZ

SENATE BILL 418

APRIL 14, 1975 12:00

THE AIR QUALITY STAFF OF THE BUREAU OF ENVIRONMENTAL HEALTH HAS REVIEWED SENATE BILL 418. WE FULLY SUPPORT THIS BILL.

THE DELETION OF SEWER, WATER, POWER AND GAS LINES IN THE DEFINITION OF COMPLEX SOURCE CAN BE SUPPORTED BECAUSE: FIRST, IT IS VERY DIFFICULT TO DETERMINE THE BASINWIDE AIR QUALITY ASSESSMENT BASED ON INTERCEPTOR OR POWER LINES AND HOW THESE LINES WOULD INDIRECTLY AFFECT LOCALIZED AMBIENT AIR QUALITY CONCENTRATIONS. THIS LOCALIZED CONCENTRATION WE FEEL IS THE RESPONSIBILITY OF DEVELOPERS AND MUST BE COORDINATED WITH ALL LAND-USE PLANNING AGENCIES. THIS WAS BROUGHT TO OUR ATTENTION DURING THE PUBLIC HEARINGS WHICH THE ENVIRONMENTAL COMMISSION HELD IN 1974 FOR DETERMINING SIZE CUT-OFFS. SECOND, IT WAS FURTHER BROUGHT TO OUR ATTENTION THAT MANY OF THE COMPLEX SOURCES WOULD BE REQUIRED TO BE REVIEWED TWICE, ONCE BASED ON THE PUBLIC UTILITIES, AND SECOND, BASED ON THE INDIVIDUAL COMPLEX SOURCES. WE THEREFORE BELIEVE THAT THIS DELETION IS RELEVANT.

IN SECTIONS 3 AND 4 OF THE BILL WE FEEL THAT THE LANGUAGE CLARIFICATION CONTAINED IN THE AMENDMENT WILL AID IN ADMINISTERING

THE PROGRAM. WE DO NOT BELIEVE THAT THE AMENDMENTS WOULD REQUIRE ANY SUBSTANTIVE CHANGE TO THE STATE AIR QUALITY REGULATIONS OR IN EXISTING PROCEDURES.

FURTHER, WE HAVE NO OBJECTION TO SECTION 5. THIS IS ONLY AN AMENDMENT FOR CLARIFICATION OF ADMINISTRATIVE PROCEDURES FOR THE LOCAL AIR POLLUTION CONTROL AGENCIES, AND IS EQUIVALENT TO THE STATE AGENCY REQUIREMENTS.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

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MY NAME IS H. L. ROSSE. I LIVE AT 202 MARY STREET, CARSON CITY, AND AM EMPLOYED BY THE DEPARTMENT OF HUMAN RESOURCES, ENVIRONMENTAL PROTECTION SECTION AS A PUBLIC HEALTH ENGINEER.

I AM TESTIFYING IN SUPPORT OF SENATE BILL 424. THE INTENSITY OF SUBDIVISION DEVELOPMENT IN AREAS OF THE STATE HAS REACHED A POINT WHERE THE AVAILABLE SOURCE OF WATER DOES NOT HAVE THE CAPABILITY TO MEET THE DEMANDS OF DOMESTIC USE, IRRIGATION, AND COMMERCIAL USE.

THE PRESENT STATUTES REQUIRE THE HEALTH DIVISION TO APPROVE EACH SUBDIVISION RELATIVE TO SEWAGE DISPOSAL, WATER POLLUTION, WATER QUALITY, AND, SUBJECT TO THE STATE ENGINEER'S REVIEW, WATER QUANTITY.

S.B. 424 IS A PROPOSAL TO CHANGE THE APPROPRIATE STATUTES SO THAT THE HEALTH DIVISION LOOKS AT THE WATER SUPPLY FACILITIES AND TO PLACE THE RESPONSIBILITY FOR THE APPROVAL FOR WATER QUANTITY WITH THE STATE ENGINEER.

PRESENTLY THE STATUTES REQUIRE THE HEALTH DIVISION TO CERTIFY WATER QUANTITY WHEN THIS RESPONSIBILITY SHOULD MORE PROPERLY BE WITH THE STATE ENGINEER.

WHILE S.B. 424 PROVIDES THAT THE STATE ENGINEER SHALL NOT APPROVE SUBDIVISIONS WHERE THE PERENNIAL YIELD IS EXCEEDED, IT IS RECOGNIZED THAT THIS MAY BE TOO RESTRICTIVE SINCE MOST BASINS ARE PRESENTLY OVER APPROPRIATED AS FAR AS PERENNIAL YIELD IS CONCERNED. HOWEVER, IT IS IMPERATIVE SOME CONTROL MUST BE EXERTED ON SUBDIVISION DEVELOPMENT WITH RESPECT TO AVAILABILITY OF WATER.

THE HEALTH DIVISION REVIEWS OF SUBDIVISION DEVELOPMENT FOR THE PAST 4 YEARS HAS POINTED OUT THAT THERE ARE MANY AREAS WHERE DEVELOPMENT HAS REACHED SUCH INTENSITY THAT WHEN BUILD OUT OCCURS WATER WILL BE VERY SHORT OR NONE WILL BE AVAILABLE. WHEN A SUBDIVISION IS APPROVED, THE STATE IS CERTIFYING TO THE SUBDIVIDER AND THE LOT PURCHASER THAT WATER IS AVAILABLE TO SUPPORT THE DEVELOPMENTS DEMANDS WITH NO TIME LIMIT OR QUALIFICATIONS, AS IT SHOULD BE. IF DEVELOPMENT IS NOT LIMITED TO THE AMOUNT OF AVAILABLE WATER, I AM CONCERNED THAT THE STATE BY CERTIFYING WATER QUANTITY, IS LIABLE TO PROVIDE WATER WHICH IS NOT READILY AVAILABLE, OR PERHAPS TO PURCHASE THOSE LOTS WHICH CANNOT BE PROVIDED WATER.

SUBDIVISION APPROVALS FOR WATER QUANTITY CAN NOT BE CONDITIONED OR A TIME LIMIT ESTABLISHED WHEN THOSE LOTS NOT BUILT ON WOULD REVERT TO RAW LAND, AND NOT HAVE A RIGHT TO APPROPRIATE WATER FOR DOMESTIC USE. IF THE UNDEVELOPED LOTS REMAINED IN THE SUBDIVIDERS POSSESSION PERHAPS IT COULD BE REVERTED. HOWEVER, THE SUBDIVIDER WOULD VERY LIKELY SELL THE PROPERTY TO OTHER INDIVIDUALS OR COMPANIES WHEN THE TIME LIMIT APPROACHED, IF A

TIME LIMIT WERE ESTABLISHED.

THE ONLY REASONABLE CONTROL IS TO ESTABLISH A LIMIT ON DEVELOPMENT IN EACH BASIN OR AREA BASING THAT LIMIT ON WHAT THE WATER RESOURCE CAN INDEFINITELY SUPPORT.

I FEEL PERENNIAL YIELD MUST BE USED OR CONSIDERED IN DETERMINING AVAILABLE WATER AND THE STATE ENGINEER NEEDS SOME LEGISLATIVE DIRECTION TO LIMIT DEVELOPMENT TO WATER AVAILABILITY PARTICULARLY WHEN CONSIDERING THE WATER SUPPLY FOR THE CITIZENS OF NEVADA.

IF S.B. 424 AS WRITTEN IS FELT TO BE TOO RESTRICTIVE IN THE INTERESTS OF THE STATE AND FOR WATER RESOURCES TO OPERATE WITH, IT IS SUGGESTED THAT PERHAPS THE WATER QUANTITY REVIEW SECTION COULD BE REWORDED TO READ AS FOLLOWS:

(B) THE DIVISION OF WATER RESOURCES OF THE STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, SHOWING THAT THE FINAL MAP IS APPROVED CONCERNING WATER QUANTITY. THE DIVISION OF WATER RESOURCES SHALL DETERMINE IF THERE IS UNAPPROPRIATED WATER IN THE SOURCE IN THE HYDROGRAPHIC BASIN AND/OR SUBBASIN OR AREA AFFECTED AND MAY APPROVE THE FINAL MAP IF SUCH DETERMINATION IS AFFIRMATIVE WHILE TAKING INTO ACCOUNT PERMITS AND PENDING APPLICATIONS. THE DIVISION OF WATER RESOURCES SHALL ALSO DETERMINE THE AMOUNT OF WATER REQUIRED BY EXISTING RECORDED SUBDIVIDED LOTS INCLUDING THOSE INTENDED TO BE SERVED BY INDIVIDUAL DOMESTIC WELLS AND CONSIDER THIS AMOUNT

OF WATER IN THE DETERMINATION OF WHETHER OR NOT THERE IS
UNAPPROPRIATED WATER IN THE SOURCE. INTERBASIN TRANSFERS
MAY BE CONSIDERED IN DETERMINING AVAILABILITY OF
UNAPPROPRIATED WATERS.

*Next page number is 472.