

MINUTES

ENVIRONMENTAL & PUBLIC RESOURCES COMMITTEE  
JANUARY 27, 1977

Members Present: Chairman Moody  
Mr. Coulter  
Mr. Chaney  
Mr. Jeffrey  
Mr. Kissam  
Mr. Ross  
Mr. Serpa  
Mr. Polish  
Mr. Howard

Guests Present: Verne Rosse, Environmental Protection Service  
Lew Dodgion, Health Division  
Bob Broadbent, Las Vegas Water District  
M. Douglas Miller, Personal  
Margie Kissam  
Paul Lumos, Carson City  
Roland D. Westergard, State Engineer  
Peter G. Morros, Water Resources  
B. W. Weise, Self  
Tom Young, Sierra Pacific Power Company  
Tom Moore, Clark County

The meeting was called to order by Mr. Moody at 3:00 p.m.  
He explained that this meeting was for the purpose of taking  
testimony and discussing A.B. 94 and A.J.R. 11.

ASSEMBLY BILL 94

Chairman Moody called for Mr. Weise to testify, who asked Mr. Westergard, State Engineer, to accompany him so that he could ask questions and "get a little dialogue going". Mr. Weise explained that he is familiar with water rights and water law and became concerned when the situation develops that more water use permits are issued than there is water available. His concern is that when an individual buys a piece of property the engineer certifies at the time the subdivision is filed that it is approved on the basis of individual wells or maybe a small private water company and that there is sufficient water to meet the needs of the subdivision. The people who buy don't realize that if this water isn't put to beneficial use within five years that the water permit can ~~expire~~ and will come back later and find that they don't have a water right. He wants protection against this sort of thing.

Mr. Westergard didn't completely agree that the bill as drafted would accomplish what it apparently intends. He stated that by law the public actually owns the water of Nevada and it can be appropriated for beneficial use only. The purpose of time limits is to insure that water resources will be developed within a reasonable time, and if not the right to use it will revert back and be available for someone else. He feels that in this bill, as drafted, people could have excessive time to go ahead and build and the water supplies would be tied up and become a penalty against those who want to go forward and favor those who comply only partially with the law to acquire a permit but do not proceed with the beneficial use requirement. The first amendment in proposed Paragraph 4 of Section 1, regards municipal water delivered other than through municipal facilities. Very little water is left in the State of Nevada that has not been appropriated. An example might apply in Truckee Meadows where the Sierra Pacific Power Co. is not a municipal supplier but acquires water out of Truckee River irrigation rights and then changes them over to municipal and under old concept they could sit there and hold that water for an indefinite period of time without assuming the obligation of placing it to beneficial use. Now non use of an established right over a period of five years would result in invoking forfeiture. Under the new amendment it would seem to him you could not invoke the forfeiture provision

Mr. Weise suggested, at this point, that the bill be referred to the Division of Water Resources with the recommendation that they provide the appropriate amendments to accomplish what he originally had in mind and the attorney general they have could insert amendments to properly re-write it in accordance with the law for the state's best interests. He wants the individual protected. A subdivision should not just be improved to a point where the developer is just trying to tie up water rights on speculation.

Mr. Ross asked Mr. Weise if the problem would be solved if the developer advised the buyer of the provisions of the law so he would know the restrictions. Mr. Weise says this is done but it scares people away or they buy a lot and resell it in four years and the new buyer doesn't know he only has one year to develop or lose water right. Mr. Westergard said that when a subdivision is approved a copy of the report is to be furnished to every purchaser by the seller so he is put on notice, whether he passes this on to a new purchaser or not. There are provisions in the statute for extensions of time over the five years if it is warranted.

Mr. Howard asked Mr. Westergard if this applies only to one permit for the subdivider or to individual permits for a lot owner. Mr. Westergard said that individual lot owners with

one house on it could drill a domestic well without a permit unless there is an area where there is water service available. He then asked if the subdivider loses his permit after five years could he, as an individual, still drill a well, and Mr. Westergard replied yes. The law mainly pertains to small water companies or multiple users.

Mr. Serpa asked if planting trees, etc, could be considered proving up on a well for the permit. Mr. Westergard said yes, if there was a beneficial result from the application of that water it would count.

Mr. Weise stated that he was under the misconception that if the subdivider didn't prove up his water rights that individuals could not take it from there. Mr. Westergard stated that the only thing that would preclude the individual from drilling a well was if there was no municipal service available.

Mr. Kissam asked Mr. Westergard if a developer overstayed his permit for economic reasons, would request for extension automatically be looked at with disregard. Mr. Westergard said no, an extension would be granted for any reasonable reason with some exceptions such as in a critical area where it would be necessary to be a little more restrictive. Then they should give other persons ready to go the chance to do so, based on judgment and the status of water supply and demand at that time. They do notify the property owner when a permit is about to expire.

Mr. Jeffrey asked if the department has definitions as to what the ability to serve amounts to, such as, could a home owner dig a well rather than have to run 1000 foot line to property. Mr. Westergard replied that if a water line is adjacent to property they should use that unless distance is too great to be economically feasible. Commercial could be a little stricter.

Mr. Douglas Miller, testifying for himself, asked about designated areas and what restrictions are being put on agricultural lands in those areas, and if they exceed five years what happens then. Mr. Westergard answered that in those areas they are more restrictive on the extension of time for any purpose, agricultural and domestic.

Mr. Broadbent of the Las Vegas Water District concurred with Mr. Weise and Mr. Westergard that the bill be referred to the attorney general in the Division of Water Resources to make sure everything is covered, as he has reservations about the changes in the bill as presently written.

Mr. Serpa moved that there be no action taken on the bill, seconded by Mr. Jeffrey and unanimously approved.

ASSEMBLY JOINT RESOLUTION 11

Mr. Moody explained that this Resolution had been introduced by Assemblyman Dini regarding the water running from the Columbia River into the Pacific Ocean and then being lost, and it is asking Congress to study feasibility of transporting said water to the water-short western states. Mr. Miller testified particularly for the mining and agricultural industries, which are approaching critical periods, and recommended study and approval by the committee. Mr. Kissam asked Mr. Miller about the study done in the past. Mr. Westergard said he would furnish copies of the study to the members. Mr. Howard stated that this resolution has been around for a long time and it should be submitted to keep jogging the government along so that something will eventually be done. Mr. Westergard said the committee should be aware that in 1968 Mr. Jackson, from Washington, was able, when the Colorado River Basin Act was being considered, to get an amendment on it that said federal agencies were precluded from this type of investigation for ten years, so now is the time to go ahead with this resolution.

Mr. Coulter moved that the committee pass the Resolution, seconded by Mr. Jeffrey, and the motion was passed unanimously.

Mr. Moody stated that there are three bills that the Fish and Game Department wants the committee to introduce. It was stated that committee introduction of a bill does not obligate anyone to approve them, but gives people who are interested in certain legislation an opportunity to be heard.

Mr. Coulter moved that the Committee give introduction of three bills of the Fish and Game Commission, BDR-45-210, BDR-45-212 and BDR-45-209. The motion was seconded by Mr. Ross and carried unanimously.

Following general discussion, it was decided not to take any action on the request of the Society for Range Management to introduce a bill regarding the adoption of Indian Ricegrass as the State Grass of Nevada.

Mr. Demers has submitted a noise pollution bill for introduction by the committee, and it was moved by Mr. Ross and seconded by Mr. Jeffrey to introduce BDR-40-603. The motion was carried, with Mr. Serpa, Mr. Howard and Mr. Kissam dissenting.

Mr. Moody announced that the next meeting will be held on Tuesday, February 1, 1977, at 3:00 p.m. in Room 214.

Mr. Chaney moved that the meeting be adjourned and was seconded by Mr. Coulter. The motion was passed unanimously. The meeting was adjourned at 3:00 p.m.

Respectfully submitted,

*Ruth Olguin*  
Ruth Olguin

Assembly Committee on Environment and Public Resources  
Assembly Attache

January 27, 1977