

MEMBERS PRESENT: Chairman Jeffrey
Vice Chairman Redelsperger
Assemblyman Mello
Assemblyman Dini
Assemblyman Polish
Assemblyman Schofield
Assemblyman DuBois
Assemblyman Kovacs

MEMBERS ABSENT: Assemblyman Rhoads (excused)

GUESTS PRESENT: See Attached Guest List

The meeting was called to order by Chairman Jeffrey at 3:00 P.M.

A.J.R. 3 Requests agencies of the United States to apply for water rights pursuant to state law.

Assemblyman Dini provided some background information on the four resolutions to be heard at today's meeting. He stated that all four resolutions came from a study done to solve the state's water problems and that Mr. Fred Welden had been on the staff at that time and could answer questions regarding the study.

At this time Mr. Roland Westergard of the Department of Conservation for the State of Nevada, testified in support of passage of this resolution and stated that he and Mr. William Newman would be happy to answer any questions concerning the resolution.

Assemblyman Dini stated that the basis of the resolution was that the State of Nevada was a water short state and could ill afford to have someone take over water rights on public lands without permission from our state agencies.

Mr. Westergard affirmed the state jurisdiction of authority over water resources.

Assemblyman Redelsperger expressed concern that in the past the Bureau of Land Management had been privileged to ownership of water on the BLM land. Mr. Westergard stated that there is an effort on behalf of the BLM to file some application in Mr. Newman's office to appropriate public waters of the state and those applications are pending. Mr. Newman is intending to hold public hearings before a decision is made. Mr. Westergard stated that BLM intends to claim water on the public domain for what they call public uses, that they feel they can justify from specific congressional action. The Western States Counsel has this under review and his office also intends to oppose this measure strenuously and continue to take the position that in fact, the Western water laws are not only adequate but superior for providing for the proper management and control of these resources.

Assemblyman Redelsperger again expressed concern as to what purpose the BLM had in applying for this water.

Mr. Westergard stated that he felt that in some cases they were applying for stock watering purposes and in other cases for recreational purposes. The judgment that Mr. Newman would have to make is whether they (BLM) have the capability to put water to beneficial use for those purposes. The BLM, through the Department of Justice filed claims in a New Mexico case where the water supplies of a stream system were being adjudicated. They claimed reserve rights on the basis that their permit holders, or the stockman, were in fact putting water to beneficial use but, because it was on the public domain the rights would best be held in the name of the United States. The Federal District Court, the Court of Appeals and the United States Supreme Court overthrew that doctrine and said that in fact, the Federal Government did not have the capabilities to put it to beneficial use and do not recognize, at least as reserve right, those claims of the BLM and the Forest Service.

Mr. Matt Benson, representing the Nevada Cattlemen's Association and private land users in the Carson Valley, the Walker River Drainages and the Humboldt testifies in support of AJR 3 on behalf of these groups.

Senator Virgil Getto testified in support of AJR 3 and stated that in a recent court case decisions the authority of adjudicating the water system is indeed with the state and not the Federal Government.

A.J.R. 6 Urges Congress of United States to ratify California Nevada Interstate Compact

Chairman Jeffrey asked for background on AJR 6 from Mr. Fred Welden, Legislative Counsel Bureau staff. Mr. Welden stated that AJR 6 urges Congress to ratify the California-Nevada Interstate Compact. The purpose of this compact is to apportion the waters between the two states. On the Walker River, the Carson River, the Truckee River and Lake Tahoe, negotiations began in 1955 and finally had the details completed in 1971. Both states still have it on their books but Congress has never ratified the compact. The legalities being that both states have to pass identical laws, then Congress has to pass the same law in order to ratify the two states and their compact. The Department of the Interior seems to be the problem in that several of their agencies cannot agree on their positions regarding this matter. A copy of Mr. Welden's statement is attached and marked EXHIBIT "C".

It was noted by Mr. Welden that both states had ratified this compact in 1971. The purpose of this resolution is to get the compact ratified again and hopefully put pressure on the Federal Government to do the same.

Senator Getto pointed out to the committee that the time may be right to get this finalized as we now have a Senator in Washington 0013

who is sympathetic to this cause and yields a high degree of power. He stated, this issue is a very important one to the State of Nevada and the possibilities of positive action being taken by the Congress are stronger than ever before.

Next to testify in support of passage of AJR 6 was Mr. Jim Weishaupt, Manager of the Walker River Irrigation District and Chief Deputy Commissioner for the U.S. Board of Water Commissioners on the Walker River and Mr. Leroy Arrascada, attorney for the Walker River Irrigation District and the United States Board of Water Commissioners and the Pershing County Water Conservation District. Mr. Weishaupt read his testimony for the record, a copy of which is attached hereto and marked as EXHIBIT "A". After Mr. Weishaupt's testimony, Mr. Polish wanted to know how many reservoirs and construction dams were possible on the river system. Mr. Weishaupt stated that there were three to four reservoirs that had been considered in the past 7 or 8 years on the East Walker and the West Walker and there were several in California. Mr. Arrascada stated that one still under serious consideration was located near Topaz Lake. The compact has created a problem, as it has interfered with the district being able to go forward and construct that dam and use the water as they have been authorized to do so, by the State Engineers Office of the State of Nevada. However, he also stated that there are other sites for dams that had been considered. Mr. Redelsperger wanted to know what effect these dams on the Walker Lake itself. Mr. Arrascada state that he felt that there would not be any detrimental effect on Walker Lake, as he felt tht main theme was to simply take care of the water rights that are now in existence. By the construction of dams properly placed, the rights that the District already have, the storage and distribution of water would be perfected. After the water is used and redirected it would simply be re-routed and flow back down stream into the Walker Lake.

Mr. Bill Newman, State Engineer supplied the committee with some additional background information regarding the compact ratification. It is an agreement between the two states to divide the waters of three river basins and Lake Tahoe and then the water is distributed and administered under each state law. He added that Nevada had the largest share of the negotiations and if we had to negotiate for this same compact again Nevada might not end up so well. For this reason, he feels it is very important that Congress take action as soon as possible. Even though Federal officials were present at all negotiations over the years they had never voiced their objections to the ratification of this compact. Mr. Newman stated that in this compact they are referring to approximately one million acre feet of water effecting about one-third of the population of the State of Nevada, in the Northwest portion of Nevada. Mr. Newman stated that the State Engineer supports this resolution and urges passage of it. Mr. DuBois wanted to know if the revenue from possible hydro-powered generators would help defray the costs of any possible dams. Mr. Newman stated that he felt it definitely would be a possibility.

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With the new technology now available, dams the size of Hoover Dam are not necessary in many instances and dams like Lahontan and Rye Patch would be possible sites for hydro-powered generators. Mr. Newman stressed that increased demand on the water system because of increased population, manufacturing needs and developing were definitely putting a strain on the present system. There are new demands on the system that haven't even been addressed yet.

Mr. Matt Benson speaking as a rancher and water user on the Carson River stated that he now manages the property owned by former State Senator Fred Settlemyer, who was instrumental in the initial regarding the compact and has great desire to see this compact issue settled. Mr. Benson urged passage of this resolution in order to enhance ranching and make water management more possible. Mr. Roland Westergard stated that passage of this resolution would bring to the attention of the Congress of the United States and the Administrative Branch of the government that although this compact was ratified by the states of California and Nevada in 1971 it was still very much a critical issue to this state and in need of immediate Congressional action. Mr. Westergard stated that under the compact the proposed allocation as set forth in the compact, Nevada would get approximately 80% of the flow of the Carson River, about 90% of the flow of the Truckee River, about 75% of the total flow of the Walker River and about 1/3 of the flow of Lake Tahoe.

There being no further testimony on AJR 6 the public hearing on this matter was closed.

A.J.R. 7 Opposes designation of rivers in Nevada pursuant to Wild and Scenic Rivers Act.

Mr. Prengaman wondered what effect designation of a wild and scenic river would have on existing water rights. Mr. Welden answered this question stating that it was his understanding that it was his understanding that this designation does not effect existing water rights, but it does effect some of the tools that could be used to manage water system. For instance, designation as a wild and scenic river would mean that you could not build a dam upstream in any part that has been designated.

Chairman Jeffrey stated that his impression of the wild and scenic river act meant that if a river was so designated it was to remain in its natural state, with no structures built within sight of the river and generally very tight restrictions. It was decided in 1975, after lengthy discussion regarding the same matter that this wouldn't work because anything in Nevada that might be elligible to be so designated was already developed to the point that many structures would have to be torn down or otherwise destroyed .

A copy of Mr. Fred Welden's statement in support of AJR 7 is attached hereto and marked EXHIBIT "D".

Mr. Prengaman then wondered if there had been any moves to designate any rivers in Nevada as Wild and Scenic.

Mr. Weishaupt stated that December 4, 1973 twelve miles of the East Fork of the Walker was designated as Scenic or Recreational and at the present time BLM is exercising the authority to manage the river system.

Mr. Westergard testified that in the past several years, several Nevada Rivers and stream systems had been under consideration to be designated as Wild and Scenic. He said that at last count this inventory had been called off, at least for the time being, however, there is the possibility of this being reactivated and this possibility speaks to the appropriateness of this resolution.

Mr. Welden explained at this time that there are two ways a River can be put into the system, one is by act of Congress and the other is by act of the State Legislature.

Mr. Prengaman said at this time he would like to go on record as opposing this resolution. He feels that management also means multiple use and the designation of any of these water systems as Wild and Scenic would be an attempt to curtail multiple uses.

Mr. Leroy Arrascada, attorney for Walker River Irrigation District, was next to testify in support of AJR 7. His written testimony is attached hereto and marked EXHIBIT "B".

Mr. William Newman, State Engineer, stated that they opposed the designation of a Wild and Scenic River in Idaho on the Bruno River, first because of existing rights in Nevada that we may have to regulate, in order to maintain a minimum flow in Idaho, and that would mean that we couldn't administer our water law for our use in Nevada in order to maintain the stream in Idaho, and the second concern they would have is if there were a municipality above the designated stretch of river and the town was growing and they needed water supply, it would be difficult to grant them additional water supply and still maintain the flow in the designated area below as Wild and Scenic River. Once the river is designated as Wild and Scenic the Federal Government has almost complete control of the river.

There being no further testimony on AJR 7 Chairman Jeffrey closed the public hearing on this resolution.

A.J.R. 8

Commends United States Air Force for applying for water rights pursuant to state law and urges that only unappropriated water be acquired.

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Chairman Jeffrey stated that in the water report the Air Force made a commitment to the study committee, in fact the same commitment, was made several times at several hearings around the state, that they didn't plan on condemning water rights. They were exploring for water in the areas that are to be effected and that they don't plan on usurping the water rights, that are now in existence.

Mr. Dini stated that the Air Force position was outlined very well on lines 14 through 17 of the water study report. ... the Nevada Legislature urges the United States Air Force to restrict its use of water to that which is presently unappropriated and not to restrict or condemn any existing water rights. Assemblyman Dini stated that he wants to recognize the utmost cooperation of the Air Force with the State Government. Again he reiterated that the Air Force assured him that they would not do anything without making proper application with the state engineer.

Mr. Redelsperger expressed some concern that if the Air Force did not in fact need to use the water for the purpose for which they had applied for, could it be used for other purposes?

Mr. Newman replied that the permits were issued for specific purposes and could not be used for anything other than the purposes for which they had been issued.

Mr. Arrascada pointed out that there is within the water law a statute that does provide that if you do not continue to use your water for a five year period it is considered as abandoned and subject to further appropriation.

There being no further testimony on AJR 8 the public hearing on this resolution was closed.

COMMITTEE ACTION:

A.J.R. 3 - Mr. Dini moved for a DO PASS, the motion was seconded by Mr. Schofield. The motion carried unanimously with Mr. Rhoads absent from the voting.

A.J.R. 6 - Mr. Schofield moved for a DO PASS, the motion was seconded by Mr. Polish. The motion carried unanimously. Mr. Rhoads was absent from voting.

A.J.R. 7 - Mr. Dini moved for a DO PASS, the motion was seconded by Mr. Kovacs. The motion carried unanimously. Mr. Rhoads was absent from voting.

A.J.R. 8 - Mr. DuBois moved for a DO PASS, the motion was seconded by Mr. Redelsperger. The motion carried unanimously. Mr. Rhoads was absent from voting.

There being no further business to consider, Chairman Jeffrey adjourned the meeting at 4:15 P.M.



Respectfully submitted,

Judy Sappenfield
Judy Sappenfield
Secretary



HEARING ON AJR-6

FEBRUARY 2ND, 1981
ROOM 222
LEGISLATIVE BUILDING
CARSON CITY, NEVADA

THIS PAPER IS PREPARED FOR A HEARING OF ASSEMBLY JOINT RESOLUTION NUMBER 6, WHICH URGES CONGRESS OF THE UNITED STATES TO RATIFY THE CALIFORNIA-NEVADA INTERSTATE COMPACT.

TITLE: "THE CALIFORNIA-NEVADA INTERSTATE COMPACT" - WHAT DOES IT MEAN TO THE WALKER RIVER SYSTEM?

LADIES AND GENTLEMEN OF THE COMMITTEE: MY NAME IS JIM WEISHAUP AND I AM THE MANAGER OF THE WALKER RIVER IRRIGATION DISTRICT AND CHIEF DEPUTY COMMISSIONER FOR THE U. S. BOARD OF WATER COMMISSIONERS, WALKER RIVER.

IN ARTICLE ONE, OF THE CALIFORNIA-NEVADA INTERSTATE COMPACT IT STATES: "THE MAJOR PURPOSES OF THE COMPACT ARE TO PROVIDE FOR THE EQUITABLE APPORTIONMENT OF WATER BETWEEN THE TWO STATES; TO PROMOTE INTERSTATE UNITY AND TO FURTHER INTERGOVERNMENTAL COOPERATION; TO PROTECT AND ENHANCE EXISTING ECONOMIES; TO REMOVE CAUSES OF PRESENT AND FUTURE CONTROVERSIES; TO PERMIT THE ORDERLY INTEGRATED AND COMPREHENSIVE DEVELOPMENT, USE, CONSERVATION AND CONTROL OF THE WATER IN THE WALKER RIVER BASIN."

ACCORDING TO BOLTON MINISTER, LONG TIME RESPECTED MEMBER OF THE COMPACT AND ONE WHO WORKED MANY LONG HOURS ON ITS CREATION, THE COMPACT DID ACHIEVE WHAT IT WAS SET OUT TO DO.

THE COMPACT DOES THE FOLLOWING FOR THE WALKER RIVER SYSTEM:

IT RECOGNIZES AND CONFIRMS THE RIGHTS SET FORTH IN THE OPERATING DECREE FOR THE WALKER RIVER SYSTEM, WHICH WAS FINALIZED IN CASE OF UNITED STATES VS. WALKER RIVER IRRIGATION DISTRICT, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA, CASE IN EQUITY C-125;

IT RECOGNIZES AND REAFFIRMS THE STORAGE RIGHTS AND REFILL RIGHTS OF BRIDGEPORT AND TOPAZ RESERVOIRS;

EXHIBIT "A"

PRESENT RIGHTS AND USES ARE RECOGNIZED. EXISTING DIVERSIONS IN ADDITION TO THE C-125 DECREE WILL BE ALLOCATED. CALIFORNIA'S PRESENT USES WILL BE FURTHER CONFIRMED, DEFINED AND A PRIORITY GIVEN, BASED UPON THE INITIAL DATE OF DIVERSION. NEVADA'S PRESENT USES ALREADY DEFINED BY STATE PERMIT WILL ALSO RECEIVE AN ALLOCATION AND BE CONFIRMED BY THE COMPACT.

THE REMAINING UNUSED PORTION OF WATER WITHIN THE WALKER RIVER SYSTEM WILL BE ALLOCATED ON THE BASIS OF 65% FOR NEVADA AND 35% FOR CALIFORNIA;

THE COMPACT PROVIDES THAT EITHER STATE MAY PURSUE THE DEVELOPMENT OF MUCH NEEDED UPSTREAM STORAGE RESERVOIRS. PRESENTLY, ANY DISCUSSION HELD ON IMPROVEMENT OF UPSTREAM DAMS IS RESTRAINED BY CALIFORNIA STATE STATUTE, WHICH DIRECTS THE ATTORNEY GENERAL OF CALIFORNIA UPON CONSTRUCTION OF A RESERVOIR IN NEVADA, TO FILE A SUIT IN THE SUPREME COURT DEMANDING AN EQUITABLE APPORTIONMENT OF THE WATER OF THE WALKER RIVER. CLEARLY, THIS IS A STALEMATE THAT HAS HALTED CONSTRUCTION OF NEVADA PROJECTS UNTIL SUCH TIME THE COMPACT CAN BE RATIFIED;

THE COMPACT SUPPORTS THE RECOGNITION OF FISH, WILDERNESS AND RECREATION AS A BENEFICIAL USE;

TO ASSIST IN THE IMPROVEMENT OF THE ECONOMIES OF CALIFORNIA AND NEVADA, NON-CONSUMPTIVE USE RIGHTS ARE RECOGNIZED AS LONG AS THERE IS NO DISCERNIBLE REDUCTION IN FLOW. HYDRO POWER IS PRESENTLY BEING CONSIDERED BY IRRIGATION DISTRICTS AS A MEANS TO SUBSIDIZE THE COST OF THEIR WATER; THIS TYPE OF FINANCIAL SUPPORT IS MUCH NEEDED BY THE WALKER RIVER IRRIGATION DISTRICT AT THIS TIME. NEVADA AGRICULTURE HAS A DIFFICULT TIME IN DEVELOPING AND FINANCING WATER SAVING PROJECTS;

LASTLY, ALL PARTIES, INCLUDING THE UNITED STATES GOVERNMENT WILL BE BOUND BY THIS COMPACT AGREEMENT THUS FUTURE INTERVENTION OF SO-CALLED CLAIMS TO WALKER RIVER WATER, REGARDLESS OF WHO OR WHERE IT ORIGINATES, WILL NOT BE CAUSE TO UNDULY FILE SUIT IN THE COURTS OF THE UNITED STATES OF AMERICA.

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GENTLEMEN OF THE COMMITTEE ON ECONOMIC DEVELOPEMENT AND NATURAL RESOURCES, THE WALKER RIVER IRRIGATION DISTRICT STRONGLY ENCOURAGES YOU TO PASS ASSEMBLY JOINT RESOLUTION NUMBER 6 AND TO URGE ALL MEMBERS OF THE NEVADA CONGRESSIONAL DELEGATION TO DO WHATEVER IS NECESSARY TO URGE THE CONGRESS OF THE UNITED STATES TO RATIFY THE CALIFORNIA-NEVADA INTERSTATE COMPACT SO THAT WE CAN GET ON WITH WATER MANAGEMENT ON THE WALKER RIVER.

My name is LEROY ARRASCADA, with the law firm of ARRASCADA & HAWKINS, LTD., appearing here today on behalf of the Board of Directors and stockholders of the Walker River Irrigation District. My testimony will be directed to Assembly Joint Resolution No. 7 which opposes the designation of Rivers in Nevada, pursuant to the Wild and Scenic Rivers Act. (BDR 107)

The Walker River Irrigation District is vitally interested in this particular piece of legislation. Its adoption will help to insure that the District will be able to continue their program of maintenance and development of the Walker River Stream System.

The Walker River Irrigation District urges the adoption of Assembly Joint Resolution No. 7. The Board of Directors of the District distribute waters to their constituents from the Walker River. The River itself is used as a means of conveying water to the water users. Access to the River by motorized vehicle and equipment is vital to insuring that the River will be properly maintained. The designation of the Walker River as a Wild and Scenic River could preclude the use of mechanized equipment to clean canals and perform other necessary repairs. This could contribute greatly to the deterioration of the affected areas causing undo-hardship on down stream users.

The stream system itself has 6 diversionary dams for irrigation purposes. These diverted waters are used for agricultural purposes in Mason and Smith Valleys. These dams require continued maintenance and repair by motorized vehicles and equipment. Additionally, to fulfill the needs of the farmers that are served by the District the construction of additional storage and diversionary facilities is being planned.

The fears of the Directors of the District on the designation of any portion of their stream system as Wild and scenic could preclude the use of mechanized equipment to clear

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EXHIBIT "B"

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channels and perform other necessary repairs.

The Walker River Stream System is an inter-state waterway and as such is subject to inter-state and Federal regulation. The River has twice been the subject of Federal Court decrees allocating the use and control of water. The decrees are still operative and any attempted regulation would bring about Federal intervention as the U. S. Federal Court, in its decree, has retained jurisdiction over the control and use of the waters in the river.

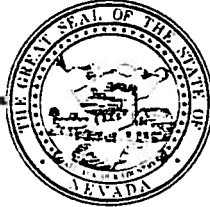
Some of the water rights, as decreed on the Walker River, have been vested for over 100 years. The adoption of AJ 7 would help to protect those water rights.

Our State is an extremely arid State. Our ranching and recreational communities depend upon every drop of water being utilized to a maximum by this State. The only way that this can be accomplished is by having complete access to the stream system by motorized equipment and personnel at all times. Our Attorney General has even recognized the need for complete access to a stream system for continued maintenance and repair in Opinion No. 80-11. In that Attorney General Opinion, the Attorney General of the State of Nevada has placed the responsibility for the continued repair and maintenance of a stream system directly upon the irrigation districts of the State of Nevada.

The Directors of the Walker River Irrigation District submit that AJR 7 would benefit all of the people of the State of Nevada, and strongly urge its adoption.

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February 2, 1981

M E M O R A N D U M

TO: Assemblyman Joseph E. Dini, Jr.

FROM: Fred W. Welden, Senior Research Analyst *FW*

SUBJECT: Statement on A.J.R. 6 and the California-Nevada
Interstate Compact

STATEMENT

A.J.R. 6 urges Congress to ratify the California-Nevada Interstate Compact. The expressed purpose of the compact is to provide for the equitable apportionment of the waters of Lake Tahoe, the Truckee River, the Carson River, and the Walker River between the two states.

Negotiations on this compact were initiated in 1955. Sixteen years later, in 1971, the states finally agreed upon what each considered to be fair and equitable terms. The two states passed identical measures which were to become effective upon ratification by Congress. The proposed compact is still on the books in California and Nevada, but Congress never has acted to ratify it.

The U.S. Department of the Interior has always been a stumbling block to obtaining ratification of the compact. The agencies within the Department of the Interior, specifically the Bureau of Indian Affairs, the Bureau of Reclamation and the Federal Fish and Wildlife Service, have bickered among themselves and with the states to the degree that the Department of the Interior has never been able to come up with a unified position concerning the compact.

EXHIBIT "C"

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February 2, 1981

M E M O R A N D U M

TO: Assemblyman Joseph E. Dini, *Jr.*

FROM: Fred W. Welden, Senior Research Analyst

SUBJECT: Statement in Support of A.J.R. 7 - Opposing Designation of Wild and Scenic Rivers in the State

STATEMENT

Water is almost certainly the most precious resource we have in Nevada--and usually the most scarce. The Federal Government claims ownership of 87 percent of our lands. They claim an inherent right to use our water for their "reserved" land uses. And they have even tried to establish a "non-reserved" water rights doctrine under which they would claim the automatic right to use the water that is on or under all of the public lands in the state.

Several court cases have confirmed Nevada's ownership of its waters. There is no reason that we should give up the management of any of these precious resources to the Federal Government.

Virtually all of Nevada's surface water rights are appropriated and used. We have several proposals to construct upstream reservoirs to better use our waters. Whether we actually build these reservoirs or not, we need to keep the management decisions in our own state's control.

Under the National Wild and Scenic Rivers Act, the Congress or a state's legislature may designate a river for inclusion in the wild and scenic rivers system. Designation definitely limits your flexibility for making management decisions. I believe the Nevada legislature should clearly state that we do not intend to designate any wild and scenic rivers in our state, and that we do not want Congress to designate any either.

And by the way, the members of the interim study of water problems in the state agree--they voted in favor of this position and had A.J.R. 7 drafted.

FWW/jld

EXHIBIT "D"

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