

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON FINANCE

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 18, 1981

The Senate Committee on Finance was called to order by Senator Floyd R. Lamb, Chairman, on Monday, May 18, 1981, in Room 231 of the Nevada State Legislature Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Floyd R. Lamb, Chairman
Senator James I. Gibson, Vice Chairman
Senator Eugene V. Echols
Senator Norman D. Glaser
Senator Lawrence E. Jacobsen
Senator Thomas R. C. Wilson
Senator Clifford E. McCorkle

COMMITTEE MEMBERS ABSENT:

(None)

STAFF MEMBERS PRESENT:

Ronald W. Sparks, Chief Fiscal Analyst
Dan Miles, Deputy Fiscal Analyst
Tracy L. Dukic, Secretary

OTHERS PRESENT:

(Please see Exhibit B)

The meeting of the Senate Committee on Finance was called to order by Senator Floyd R. Lamb, Chairman, at 8:00 a.m.

SENATE BILL 648

SENATOR JACOBSEN MOVED TO ADOPT THE AMENDMENTS
ON THIS BILL.

SENATOR ECHOLS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR JACOBSEN MOVED AMEND AND DO PASS.

SENATOR ECHOLS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATE CONCURRENT RESOLUTION 44

Mr. Donald Hataway, Carson City Manager, substituting for Mr. Bruce Greenhalch, Director of the Department of General Services.

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Mr. Hataway briefly stated his support of this proposed contract. He also indicated that there are a number of checks and balances; for example, the State will, in effect, be reserving its future water allocation as well as those who are being provided with water presently under Carson City's present contractual obligations.

Senator Wilson began to address some of the defects he has found in this proposed contract. He cited that one of the primary problems with this contract is that Carson City was to originally develop a plan for water storage, and that this contract is essentially reversing that provision. He said that now the State is being presented with a contract instead of a plan upon which to base an equitable agreement between the State and Carson City. He went on to further amplify that if he were to attempt to read between the lines, the City is planning on the Hobart Lake Water Storage Facility not becoming a reality, and that there is strong dependence upon this presumption throughout the contract.

Mr. Hataway responded by saying that the City would operate on the basis that the Marlette Lake Water System would be a permanent water supply system and that this has been suggested being accomplished by pumping the water overhill to Carson City. He said that they are now being approached with the idea of utilizing gravity pull to accomplish this same goal. Mr. Hataway said that the State is also requesting the City to spend a considerable amount of money in order to finalize the design of a water planning program, and he indicated that the City would be very reluctant to spend that kind of money without some guarantee, i.e., a firm contract in hand, from the State as to its intentions.

Senator Wilson said that the City should have a plan whether or not this plan is economically feasible to build the Hobart Reservoir, whether the City is prepared to fund this construction and their alternative financial plans for funding this construction and what will be the cost of water. Senator Wilson also indicated that one of the premises of this proposed contract is getting the State of Nevada to finance this project.

Mr. Hataway reiterated that the City would repay the State for its financial support one hundred percent.

Senator Wilson cited the total water allocation for the State's future growth needs is projected at 600 acre feet per year; that this is the tenants of a fifty-five-year contract, and that he has serious reservations as to whether or not 600 acre feet per year is an adequate allocation of water supply for this period as stated in the contract. He also said that in the event there are further problems with the water systems at Gene and Indian Springs, the State will have no other choice but to enlarge the water supply facilities here in Carson City in order to meet the ever burgeoning prison population.

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Senator Wilson then addressed the subject of prior water rights. He explained that the contract is, in this section, setting out the annual yield that this watershed will produce and likewise is prescribing the State's total future need on this water supply forever. He said that the difference between the potential water available and the size of the water supply is that the State will need and the prior water rights that exist represents the amount of water really at issue. He said that initially the absolute right to purchase during the term of the contract under certain conditions is on a first right of refusal basis.

Senator Wilson then surmized that if this contract fails because the Hobart Reservoir system is not developed, then the State is locked into certain provisions in the contract which survive its defects relating to water allocation. He indicated that the biggest defect, which directly affects the growth potential of the Capital, is that this then assumes that the State will never need any greater amount of water than 600 acre feet per year. He said that the surplus of water from the watershed is then "thrown up for grabs," and at the same time, this precludes the State from having any right to this excess water. He also indicated that this water would not be subject under the State's first right of refusal to be distributed to State-owned facilities, which, he cited, is not a bad provision in the contract for the City, although he said that he has serious reservations as to whether or not the State should accept such provisions as proposed in this contract.

Senator Wilson then directed the conversation to one of the more viable alternatives for managing the water, which is mentioned in the contract as being the contemplation of the ability to recharge groundwater basin in Eagle Valley. He said that that water supply is deliverable upon execution of this contract and upon the City's demand. He said that, thereby, Carson City does not have to wait until July of 1983 to demand water for the recharge of the basin; that the City can demand it now. He said that he presumed that the recharge of that groundwater basin brings the level of the water table up enabling the appropriation of water from existing wells for use of subdividing. He added that there is a significant danger in light of what the City's growth policy is, and he cited the possible disastrous ramifications of overplanning new construction with unsecured water supplies. He indicated that this may lead to suits for detrimental reliance which may involve the State as well as the City.

Senator Wilson also cited that the proposed contract is relying upon the following provisos: that the Hobart Water Storage facility will not be built, and that the City will then utilize the recharge from the groundwater basin in Eagle Valley, which is, in effect, saying that there will be no water storage provisions as requested by the State. He said that, notwithstanding the State's loss of right to control Hobart Reservoir, the only alternative which is recognized in this contract is the City's right to appropriate the recharge from the groundwater basin.

He further indicated that, in the event that the Hobart Reservoir is not constructed, there is no guarantee given the State that Carson City will develop any water storage facilities; thus, allowing Carson City to appropriate the unused portions of the groundwater without prior preference being given to the State and making this water available to downstream usage. Finally, that the State may be forever

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forfeiting its right to claim any unused portion of the ~~surplusage~~ of water.

Mr. Hataway responded that the original studies conducted on the Marlette Water System provided for a reservation for the State of 800 acre feet, total; but during the negotiation proceedings of this contract, it was the position of the Public Works Director that 800 acre feet should be 1,050 acre feet. The 300 acre feet is what is currently being consumed by the State through their own system, 150 acre feet of which is what the City is supplying to other State facilities that are being supplied by the City water system; thus reserving the 600 acre feet for growth. He said that this figure was not arrived at by the City; that that figure was derived from the State's Public Works Board. He indicated that the City will be more than happy to revise these figures and impute them into their contract to determine the financial feasibility of such.

Senator Wilson said that he was not under the impression that the City was trying to impose these figures upon the State.

Mr. Hataway replied that, taken a step further, he believes this 600 acre feet to be a high projection, in that in the present day, there is a great move toward conservation in spending and use of water, possibly effecting a savings of roughly 12 percent per year.

Senator Wilson cited that conservation of water presents a thin margin in terms of whether or not this figure will remain valid for the next 55 years.

Mr. Hataway replied that within their goal of improving sewer capacity, that 12 percent could be very valuable.

Senator Wilson commented that based upon the line items within the budgets, he feels it will be inequitable over a period of time; that the State will probably resort to State-owned buildings.

Mr. William Hancock, Manager of the Public Works Board, said that the 600 acre feet proposed for the State's share of the water allocation would realize roughly 1,400,000 square feet of new building area or 2,100 and some odd inmates in addition to what is currently on the rolls in the Carson City area.

Senator Lamb said that that did not sound as though that is an exorbitant amount of water to be allocated.

Mr. Hancock replied that the current usage is 340 gallons of water per year per square foot, which computes out at an allocation of 600 acre feet providing 400,000 gallons per year. He said that they are utilizing 250 gallons of water per inmate, which would compute out to 2,100 units.

Senator Wilson cited the population projections, when applied to this figure, for prison population will probably place a far greater demand on the system than the allocation could supply.

Mr. Hataway said that the projected water allocation is based upon a population in Carson City of 70,000 people by the year 2,000; that the Marlette Lake Water System will only supply enough water to take Carson City and surrounding areas a third of the way to

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to supporting these unincorporated areas and a projected population of 70,000 people. He said that one of the alternatives they are looking into is a cooperative effort between Carson City and the State, and specifically, the State Prison Farm on the south side of the City, and utilizing that resource on that ground in exchange for the 2,000 or 3,000 acre feet that is coming from Clear Creek. He said that if Carson City does not continue to grow, he is uncertain as to whether or not the State itself will continue to grow. He also indicated that if the State continues to grow, Carson City must further support more life.

Mr. Hataway said that the City is interested in developing and maximizing the water from the Hobart system at the lowest possible cost. Mr. Hataway further indicated that one of the viable alternatives is the recharge of the groundwater basin, using the groundwater basin as the reservoir. He said that this has been proposed to the State many times; that they have inquired of the State Engineer whether or not this would be a feasible alternative.

Senator Lamb asked why the City is telling the State what role it should play in this contractual problem as opposed to the State telling the City what it should do.

Mr. Hataway replied that the contract as proposed commits the City to a contract with Marlette Lake. It does, however, provide the City with a way out if it is found that this plan is not economically feasible if the State does not approve this plan and does not provide some sort of alternative. He stated that he does not believe that the problem is one-sided; that the State does not have a superior position in its role as instigator or decision-maker above the City's role.

Senator Lamb said that he resisted that statement.

Mr. Hataway also indicated that the option of implementing a moratorium on building if the State feels that the capacity for new construction is not there. He said that this is a matter of City ordinance, an ordinance which restricts the continued development of construction beyond the supply of natural resources. Mr. Hataway said that the City had wanted to hire a competent hydrologist to help make the decision of what the water supply really amounts to.

Senator Wilson said that whoever drew up the contract did a very competent and able job, but that this contract, as proposed, will benefit only the City and really usurps whatever rights the State will have for the next 55 years.

Mr. Hataway replied that what may not be economically feasible today may be in the very near future, i.e., that the cost of delivering this water today may be offset by the price of water in the very near future. Mr. Hataway also indicated that the system being proposed in this contract will not be enough to meet the demands of what has been projected by the City for its development by the year 2,000.

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Mr. Jack Warnicke, Supervisor, Carson City, addressed the Committee by saying that if the Committee is saying that the 600 acre feet is not sufficient for the State's growth pattern, then consider that the City will have to be able to supply the housing and other resources for the people who will staff these State offices; that they are desperately searching for a water supply that will be sufficient enough for them to do this.

Mr. Hataway expressed the desire, on behalf of the City, that if the State were able to bond for this construction through their resources, then the City would repay the bonding debt. He added that if the State were able to bond for this project, that would probably save the City a point or two on the interest rate. He also said that the capacity to bond for this improvement would be outside the State's 1 percent bonding capacity, according to what he has learned.

Senator Lamb asked if the language on page 4, Subsection C, places the State in a compromising position.

Mr. Daykin replied that one of the primary features that troubles him is the recitation concerning cooperation between the State and the City, although he indicated that he is under the impression that this is not a legally binding commitment, it does place the State in the position that by signing this contract the State has acquiesced its rights.

Mr. Hataway said that that provision must be stated as it has been; that they must have the signature of the State Engineer in order to develop more water from the system prior to the City's decision as to where that water is being allocated.

Senator Wilson cited that the terms of this contract are so fruitful for interpretation that it promotes confusion and could very well lead to litigation if things were to fall apart and recriminations were to begin.

Mr. Hataway replied by disclaiming any responsibility for the actual language of the contract; that this language was provided by the Public Works Board and the Legislative Counsel Bureau.

Senator Lamb asked Mr. Daykin to address the premise of this contract.

Mr. Daykin gave a brief recital of the history leading up to this contract and specifically directed his dialogue to the problems with this contract. He said that this contract is providing for the survival of a fixed water supply to the State.

Senator Lamb said that he would like to see a conference on this problem between Mr. Daykin, Senator Wilson and the City of Carson so that they can resolve their differences and come up with something that both the State and the City can live with. Senator Lamb stated that the biggest defect in this contract is the recharge provision in this contract.

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Mr. Daykin went on to give the Committee an explanation of "excess water"; that water which is generated in excess of the present contractual commitments and the present actual use by the State, which means it would be all of the water not excluding that 600 acre feet preserved for the future use of the State, and that is what is troubling both Senator Wilson and him; that that water is going to be going into the aquifer, knowing full well what the proposed growth policies of the State are.

Mr. Hataway said that if he were to assume the position of the State Engineer, theoretically, then he would not allow any more subdivisions to be assigned until he was assured that the necessary resources were going to be there.

Senator Wilson said that the position of the State Engineer, according to the terms of this contract, would be hindered by the fact that he is an agent of a sovereign, in this case, the State itself, and could not act as an independent entity in determining whether or not a specified amount of water would constitute an excess; that he would have a vested interest in the outcome of this decision by way of his employment with the State of Nevada.

Mr. Hataway interjected a comment that he is not certain that there is a way by which one could perfect this contract and hold the State completely harmless.

Senator Wilson asked Mr. Hataway what he would like to see proposed in the way of the best water storage facility.

Mr. Hataway responded that he would propose that the Hobart Reservoir be built; that they would be privy to how much water the State Engineer is proposing to sign off. He said that an alternative plan to this proposal would be groundwater basin recharge and the possible shutting down of all other facilities for water storage and rechanneling that water into this groundwater basin.

Senator Wilson stressed that it is necessary to have a hydrologically feasible plan for water storage in order to properly perfect this contract.

Mr. Daykin reminded the Committee that the original enabling legislation behind this contract provided for Interim Finance approval. He also suggested that the State might do well to preserve its hold on enough water resources for the growth of the capital.

Senator McCorkle asked Mr. Hataway what the State's incentive would be for entering into this contract with the City of Carson.

Mr. Hataway responded that if the State is not willing to enter into some kind of agreement with the City of Carson, then they had better be prepared to move the capital; that they are tied into an antigrowth policy.

Senator Lamb stated that he felt that statement was silly.

Senator Jacobsen added that another alternative proposed was

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to sell the water to each entity on a daily basis as it became available.

Senator Lamb asked Mr. William Hancock, Manager of the Public Works Board, if 600 acre feet is an adequate projection for State usage.

Mr. Hancock replied that the 600 acre feet is his best guess, based upon the expansion programs currently being proposed.

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SENATE BILL 685

Mr. William Hancock presented this bill to the Committee, briefly explaining the objectives to be accomplished by this appropriation.

Senator Lamb asked Mr. Hancock to give the Committee an update on the water problems at the Jean Prison facility.

Mr. Hancock that they have found the records on the Childes Well in the State Engineer's Office in Las Vegas, showing it to be a 350 foot well with a water level of approximately 200 feet with an eight-inch casing. He indicated that this well has not been drilled in a number of years, and it was originally found in 1952. He said that they are not sure about the well's capacity or the quality of water it produces, but they are trying to determine this. Mr. Jim Avance indicated that the water quality was satisfactory; that the Health Department had originally sanctioned the well's soundness in 1952.

Senator Lamb asked Mr. Hancock if he had investigated the possibility of expanding the well and making it larger.

Mr. Hancock said that he had investigated two possibilities: the test-pumping of the existing well for quality and capacity, and the possibility of a joint venture between the State and the Avance family as far as drilling a bigger well. Mr. Avance replied that that was a possibility, although they are not interested in selling the actual real estate, only the water; that they are not interested in selling the well.

Senator Lamb expressed his dissatisfaction with a deal whereby the State has to purchase its water.

Mr. Hancock indicated that the only real solution to the Jean water problem is to find a substantial water supply in the quantities that they need. He said that Mr. Simon, owner of the Jean water facility, indicated that they are producing slightly over 92,000 gallons per day, which is right at his limit for treating water, with only 468 inmates. He said that as he approaches 100,000 gallons per day, the water quality reverses.

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Mr. Hancock then addressed the Committee about a letter he had sent regarding the Governor's recommended Capitol Improvement Program and the proposed Housing Unit #6 at the Medium Security Prison in Carson City which would accomodate 102 inmates. He said that due to problems with providing adequate sewage for a facility such as this, they are requesting the leeway to place this facility at Indian Springs, if it becomes necessary. He said that Assembly Ways and Means indicated that they favor its construction in Indian Springs, although Chuck Wolff, Director of the Department of Prisons, indicated that if at all possible, this facility should be constructed in Carson City. He indicated that it would cost the State roughly \$120,000 dollars to provide their own treatment facility if they chose to go ahead with this project; that this would hopefully be a shortrange measure.

Mr. Hancock said that the ponds that were being used at the Medium Prison facility are no longer being used but could be reinstituted if need be. He said that these ponds have to be 100 percent evaporation presently, and to do this, it takes nine acres, which would cost the State \$140,000 dollars to do, although they could put in a package plant for \$120,000 dollars.

Senator Jacobsen asked if that water could be reused for farm irrigation.

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BILL DRAFT REQUEST ON EDUCATION

SENATOR WILSON MOVED TO INTRODUCE THIS LEGISLATION.

SENATOR JACOBSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATE BILL 685

SENATOR GIBSON MOVED DO PASS.

SENATOR JACOBSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATE BILL 589

SENATOR MCCORKLE MOVED INDEFINITE POSTPONEMENT.

SENATOR WILSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senator Lamb suggested that the Committee approve a Senate Resolution to have an Interim Study done on the water problem in Carson City, with one of its primary

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goals making this project a joint venture between the State, Carson City and the County in trying to find alternative funding resources.

SENATOR WILSON MOVED TO DRAFT THE RESOLUTION.

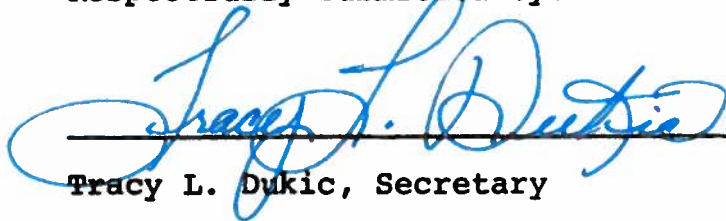
SENATOR GLASER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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There being no further business, the meeting was adjourned at 9:34 a.m.

Respectfully submitted by:



Tracy L. Dukic, Secretary

APPROVED BY:

Senator Floyd R. Lamb, Chairman

DATED: _____

Exhibit A

**THIS EXHIBIT IS MISSING FROM BOTH THE ORIGINAL
MINUTES AND THE MICROFICHE.**

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MARLETTE LAKE WATER SYSTEM CONTRACT

This is a contract made and entered the date last appearing, by and between the STATE OF NEVADA, acting through its Department of General Services (hereinafter called "STATE") and CARSON CITY, a consolidated municipality of the State of Nevada.

RECITALS:

1. STATE owns rights to water generated in the Marlette Lake, Hobart Reservoir and East Slope drainage areas and the appurtenances necessary to collect, transmit, store, treat and distribute such waters, all of which has been defined by the Legislature as the Marlette Lake Water System.

2. From this source, STATE is obligated to provide water for the present and future needs of State of Nevada buildings and grounds and, under contract, to deliver certain quantities of water to Storey County and other entities.

3. State of Nevada also maintains a trout brood stock and spawn taking facility in Marlette Lake and administers watershed lands of significant natural and cultural value.

4. CARSON CITY suffers a severe and critical shortage of water which vitally affects the welfare of all residents in the area.

5. Water from the System, as it now exists and as it may be improved, can be made available to CARSON CITY without detriment to prior rights and obligations.

6. Both STATE and CARSON CITY maintain water distribution systems within Carson City which are frequently parallel and cross connected and which could be consolidated into a single system with gains in efficiency, economy and security.

7. The execution of a contract by the parties for the supplying of water to CARSON CITY by STATE from the Marlette Lake

1 Water System and the supplying of water to State of Nevada build-
2 ings and grounds by CARSON CITY from all sources is necessary and
3 will be beneficial to both parties.

4 W I T N E S S E T H:

5 NOW, THEREFORE, in light of the foregoing recitals and
6 in consideration of the mutual undertakings set forth below, the
7 parties agree as follows:

8 I. BASIC CONSIDERATIONS:

9 A. STATE is the owner of record of permits, claims of
10 vested rights, and decreed rights relating to waters of the
11 Marlette Lake Water System which are filed with the Office of the
12 Nevada State Engineer under the following numbers:

13 02419, 24876, 24877, 30895, 30896 and 15973.

14 B. From a series of studies of the Marlette Lake Water
15 System submitted in November, 1974, February, 1979, May, 1979,
16 and February, 1980 by Wateresource Consulting Engineers and
17 Montgomery Engineers, the parties adopt as a preliminary inventor
18 the following quantities of water potentially available:

- 19 1. Hobart Drainage - 2660 acre feet annual yield.
- 20 2. East Slope Drainage - 320 acre feet annual yield.
- 21 3. Marlette Lake - 2570 acre feet annual yield
- 22 available for transfers from the Lake without
- 23 interference to trout brood and spawn.

24 C. The present water requirements of State of Nevada for
25 its own consumption in buildings and grounds in Carson City and
26 as a reserve for future growth reflect a total of 1050 acre feet
27 annually as follows:

- 28 1. Consumption from the Marlette Lake System: 300
- 29 acre feet per year;
- 30 2. Consumption from Carson City resources: 150 acre
- 31 feet per year;
- 32 3. Reserve for growth from the System: 600 acre feet

1 per year.

2 D. The acquisition of water outside of the Marlette Lake
3 Water System by either party shall not diminish or otherwise
4 affect the reserve designated above.

5 E. The parties acknowledge that STATE is obligated by
6 contract or otherwise to deliver a maximum of 823.41 acre feet
7 per year of water from the System to the following entities:

- 8 1. Storey County: 500,000 gpd (560.07 ac.ft. annually)
- 9 2. Lakeview Water Co.: 55,500 gpd (62.16 ac.ft.
10 annually)
- 11 3. Laxalt Estate: 1.5 mgpy (4.6 ac.ft. annually)
- 12 4. Grant Weise: 175,500 gpd (196.58 ac.ft. annually)

13 F. Nothing in this Contract is intended to supersede or
14 affect these or any other pre-existing obligations.

15 G. Nothing in this Contract shall supersede, subordinate or
16 otherwise diminish the responsibility of the State Engineer in
17 determining water rights for the Marlette Lake Water System
18 according to law.

19 H. The parties acknowledge the decision of the Nevada
20 Supreme Court in Franktown vs. Marlette, 77 Nev. 348, 364 P.2d
21 1069 (1961); nothing in this contract is intended to derogate the
22 law of that case.

23 I. The parties recognize the direction of the Legislature
24 (Chapter 532, Statutes of Nevada, 1977) as expressed in the "Marle
25 Hobart Management Plan".

26 J. In this Contract the parties endeavor to give force and
27 effect to the expression of the legislation in Chapter 681,
28 Statutes of Nevada, 1975, and Chapter 604, Statutes of Nevada,
29 1979. Questions of construction should be resolved in light of
30 those enactments.

31 II. IMPROVEMENTS:

32 A. For CARSON CITY to realize long term benefits from this

1 Contract, it is necessary that the collection, storage and trans-
2 mission capabilities of the Marlette Lake Water System be signifi-
3 cantly improved. In this regard, the parties recognize the
4 choice of the Legislature expressed as the "Hobart Alternative",
5 which includes a significant enlargement of the existing storage
6 capacity of the reservoir on Hobart Creek.

7 B. Upon execution of this Contract, CARSON CITY shall begin
8 preparation of a comprehensive plan of improvements. Components
9 of the plan shall include engineering design and specifications,
10 a construction timetable, costs, hydrological and environmental
11 data, and the manner and feasibility of financing, including
12 financing through the State of Nevada and reimbursement by CARSON
13 CITY. The plan shall also include criteria for the operation and
14 maintenance of the System after improvements called for in the
15 plan are made.

16 C. It is understood by the parties that the plan must be
17 reviewed by the Marlette Lake Water System Advisory Committee and
18 approved by STATE, State Public Works Board, Interim Finance
19 Committee or the Legislature itself, the Governor, and, if State
20 of Nevada issued bonds are to be approved, by the State Board of
21 Examiners before construction can begin. It is therefore essential
22 that all affected agencies of the State of Nevada, including the
23 State Engineer, cooperate with CARSON CITY in formulating a
24 feasible plan.

25 D. It is the intent of the parties that construction of
26 improvements of the "Hobart Alternative" shall begin on or before
27 June 30, 1983.

28 III. SYSTEM RESPONSIBILITIES UPON EXECUTION

29 A. Upon execution of this Contract, the parties will retain
30 such proprietary and operational responsibilities as presently
31 exist with STATE maintaining the Marlette Lake Water System and
32 making deliveries of water as it deems proper.

1 B. Upon execution, STATE shall supply CARSON CITY 150 acre
2 feet of potable water per annum from the Marlette Lake Water
3 System, this quantity being equal to the quantity now supplied by
4 CARSON CITY from other sources to buildings and grounds owned by
5 the State of Nevada.

6 C. Upon execution, STATE shall further supply all water
7 available in the Marlette Lake Water System to CARSON CITY as
8 CARSON CITY may, from time to time, request and which STATE
9 reasonably determines, from time to time, is in excess of that
10 necessary for STATE to fulfill water commitments pre-dating this
11 Contract. Delivery of water under this provision will occur only
12 after CARSON CITY has received the 150 acre feet provided above.

13 D. It is expressly understood that aside from the 150
14 feet per annum, STATE is not obligated to supply CARSON CITY with
15 any fixed amount of water or any water at all if STATE determines
16 that excess water is not reasonably available.

17 E. Diversions from the Marlette Lake Water System to CARSON
18 CITY shall be made at a place or places mutually convenient to the
19 parties but STATE shall have final responsibility for determining
20 reasonable locations and means.

21 F. CARSON CITY shall provide, place or construct any means
22 of diversion or shall pay STATE to accomplish diversions as STATE
23 determines; CARSON CITY shall further provide and place or pay
24 STATE to provide and place such meters as are reasonably necessary
25 to monitor flows of water supplied CARSON CITY.

26 G. Deliveries of water are contemplated by the parties at
27 some point after treatment of the water at the STATE facility in
28 Ash Canyon and, additionally, at some point before treatment
29 which may be useful to CARSON CITY in determining the feasibility
30 of, and accomplishing recharge of, the underground water basin of
31 the Eagle Valley.

32 H. At anytime CARSON CITY requests delivery of water for

1 purposes of recharge of the underground water basin, CARSON CITY
2 shall indemnify and hold the State of Nevada free of harm or
3 liability which may arise from any delivery accomplished by STATE
4 in response to that request.

5 I. Deliveries of water shall be accomplished at reasonable
6 times and rates requested by CARSON CITY and the parties shall
7 endeavor to establish a system of communication in this regard
8 which will best serve the changing needs of CARSON CITY without
9 undue hardship on STATE.

10 J. STATE shall not commit to supply any other persons or
11 entities with water from the Marlette Lake Water System for any
12 significant term without first offering such a commitment to
13 CARSON CITY on similar terms; in the event, however, flowage in
14 the System exceeds both the needs of STATE and of CARSON CITY at
15 any given time, STATE may temporarily divert such flowage to any
16 other use.

17 K. STATE shall, when it deems practical and upon request of
18 CARSON CITY, cause the transfer of water by pump or other means
19 from Marlette Lake to the eastern slope portion of the System,
20 but it is understood that no such transfers shall occur under
21 circumstances which may disrupt the spawning activities of trout
22 brood stock or cause the surface level of the Lake to fall more
23 than three (3) feet below the top of the spillway of the existing
24 dam.

25 L. CARSON CITY shall pay STATE for water in a manner
26 convenient to STATE and at the following rates:

- 27 1. for treated water: \$0.30 per 1,000 gallons
- 28 2. for raw water diverted at the specific request
29 of CARSON CITY: \$0.16 per 1,000 gallons
- 30 3. As a surcharge to the prices stated above, for
31 water transferred from Marlette Lake to the eastern
32 slope of the System at the request of CARSON CITY:

1
2 the actual cost of transfer calculated on a unit
3 basis per 1,000 gallons.

4 M. The prices recited above are recognized by the parties
5 as a reasonable reflection of the present costs of System main-
6 tenance and water delivery. However, upon service of 30-day
7 written notice to CARSON CITY, STATE may reasonably change price
8 to reflect changes in cost.

9 IV. LONG-TERM SYSTEM RESPONSIBILITY

10 A. No existing ownership interests in real property or in
11 water rights are affected by this Contract.

12 B. Upon the initiation of construction, STATE shall retain
13 full proprietary and operational responsibility of the System as
14 it presently exists and as it may be modified in furtherance of
15 this Contract, from the inlet of the raw water storage reservoir
16 at the treatment plant in Ash Canyon and above. If diversions
17 from the System to CARSON CITY above the treatment plant appear
18 useful, STATE may grant operational responsibility to CARSON CITY
19 at or near such diversions.

20 C. CARSON CITY shall retain full proprietary and opera-
21 tional responsibility for its existing water rights, works and
22 systems and those it might hereafter acquire or develop outside
23 of the Marlette Lake Water System.

24 D. Upon initiation of construction, CARSON CITY shall
25 assume operational but not proprietary responsibility for the
26 Marlette Lake Water System at the inlet of raw water storage at
27 the treatment plant in Ash Canyon.

28 E. Upon initiation of construction, CARSON CITY shall
29 assume full responsibility for the delivery of potable water to
30 all State of Nevada consumers presently served by the Marlette
31 Lake Water System at or below the treatment plant. CARSON CITY
32 shall also serve new State of Nevada consumers to the extent of
STATE's reserve provided all costs directly attributable to

1 connecting service shall be borne by The State of Nevada.

2 F. Upon assuming responsibility for delivery, it is ex-
3 pressly understood that at CARSON CITY's option, exercised from
4 time-to-time, all or any part of the existing STATE distribution
5 system below the treatment plant may be utilized and maintained,
6 or that all or any part of the system may be removed, modified or
7 abandoned. Upon termination of this Contract, CARSON CITY shall
8 warrant continued delivery of water to then existing State of
9 Nevada consumers and to new State of Nevada consumers provided:

10 1. STATE shall supply water of adequate quantity and
11 quality to the delivery system.

12 2. State of Nevada pays reasonable rates for operation
13 and maintenance.

14 3. The cost of labor and materials solely and directly
15 attributable to serving new State of Nevada consumers is borne by
16 the State of Nevada.

17 G. Each party grants to the other party, upon prior notice
18 and consent, which shall not be unreasonably withheld, license to
19 go upon the land of the other party to conduct inspections, sur-
20 veys, construction, maintenance, repair or other work necessary
21 to accomplish the sense of this Contract.

22 H. Routine maintenance and repair shall be accomplished by
23 the party holding operational responsibility for the affected
24 portion. Ultimate final control and approval of any improvement,
25 construction or modification, except as provided in subparagraph
26 F, shall rest in the party holding proprietary responsibility for
27 the affected portion.

28 V. WATER TREATMENT

29 A. The water treatment facility completed by STATE in Ash
30 Canyon in December, 1979, at a cost of \$958,077, was designed and
31 built with an enlarged capacity in anticipation of this Contract.
32 Upon assuming operational responsibility for the treatment plant,

1 CARSON CITY shall become indebted to STATE in the amount of
2 \$360,495 less that amount, ascertained using standard accounting
3 principles, paid by CARSON CITY to STATE (for water sold by STATE
4 to CARSON CITY) intended to amortize the Water Treatment Plant in
5 Ash Canyon which represents CARSON CITY's share of the enlarge-
6 ment over and above STATE's predicted needs.

7 B. In retirement of this sum CARSON CITY shall pay STATE:

8 1. Interest on the outstanding balance at the rate of
9 seven percent (7%) per annum, which shall begin to accrue upon
10 assumption of operational responsibility.

11 2. The entire sum of principal and interest outstand-
12 ing in a single payment upon the issuance of a bond, or bonds,
13 for that purpose, or at an annual rate calculated to retire the
14 principal and interest within 20 years.

15 C. Further, each year for forty (40) years following the
16 assumption of operational responsibility, CARSON CITY shall pay
17 STATE a sum calculated to retire all or part of the additional
18 amount of \$597,582 plus interest if CARSON CITY shall actually
19 treat more than CARSON CITY's share of 490,100 gallons of water
20 per day in addition to that amount of treated water supplied to
21 STATE. The additional amount owed each year shall be calculated
22 over the course of the year at .05 dollars per thousand gallons.

23 D. CARSON CITY, upon assumption of operational responsi-
24 bility, may process water from sources other than the Marlette
25 Lake Water System through the treatment plant so long as capacity
26 is available without loss or reasonable potential for loss of
27 System water.

28 E. CARSON CITY may expand treatment capacity on the pre-
29 sent facility site, as it deems necessary, after assuming opera-
30 tional responsibility, provided STATE retains the right of design
31 approval, construction oversight and water treatment plant usage
32 allocation of such expanded capacity, and STATE may, at its sole

1 option, participate. STATE and CARSON CITY shall have, respec-
2 tively, the same rights of expansion and participation.

3 VI. WATER DELIVERY

4 A. Upon initiation of construction, CARSON CITY will
5 assume responsibility for the delivery of potable water as pro-
6 vided in paragraphs IV (E) and (F).

7 B. Upon initiation of construction and after receipt of
8 reasonable notice, STATE shall deliver to CARSON CITY at the
9 inlet of the raw water storage reservoir above the treatment plant
10 and such other places as the parties may agree, all water avail-
11 able in the System that CARSON CITY may, from time to time,
12 request. "All water available" shall be defined as all waters
13 naturally collected, diverted and transported in the existing
14 System or as it may be improved in furtherance of this Contract,
15 diminished in the amount necessary for delivery under prior con-
16 tracts and for the maintenance of the trout brood stock and spawn
17 taking facility. It is expressly agreed that water may not be
18 withdrawn or removed from Marlette Lake itself, whenever the
19 level of the Lake is at or below an elevation three (3) feet
20 below the top of the spillway of the existing dam.

21 C. Failures of delivery by either party due to accident,
22 disaster or otherwise are forgiven provided all reasonable steps
23 are taken to restore services as soon as possible.

24 VII. PAYMENT FOR WATER

25 A. After CARSON CITY assumes responsibility for all such
26 deliveries, STATE shall pay CARSON CITY for all water delivered
27 to State of Nevada buildings and grounds at the lowest rate
28 charged by CARSON CITY to any water consumer in Carson City, less
29 that portion of the rate charged which amortizes CARSON CITY's
30 cost of fulfilling the obligations of this Contract.

31 B. After assuming operational responsibility for the treat-
32 ment plant, CARSON CITY shall pay STATE for all water delivered

1 at the inlet of the raw water storage reservoir or elsewhere at
2 the same rate provided in paragraphs III(L) and (M) or that rate
3 charged other entities buying water from the System save and
4 except that the rate charged CARSON CITY may be increased by
5 STATE in an amount calculated to offset the additional expenses
6 incurred by STATE in operating and maintaining the System which
7 are directly attributable to the improvements to the System as a
8 result of this Contract. CARSON CITY shall be obligated to pay
9 STATE annually for a minimum amount of water equal to the amount
10 actually used by the State of Nevada buildings and grounds during
11 the same period plus 40,000,000 gallons whether or not that
12 amount is actually accepted or used by CARSON CITY.

13 C. The rate paid by CARSON CITY together with income realized
14 by STATE from other entities buying water from the System, is
15 intended to defray the costs of water collection and transmission
16 experienced by STATE in managing the System.

17 D. Meters and comprehensive records of water flow shall be
18 maintained at all appropriate points along the System.

19 E. Timing and place of submission for billings shall be
20 established for mutual convenience.

21 VIII. TERM

22 A. This Contract shall remain in full force and effect for
23 a term of fifty-five (55) years.

24 B. It is acknowledged by the parties that CARSON CITY, upon
25 completion of its comprehensive plan for improvements, may conclude
26 that construction of all components of the "Hobart Alternative"
27 including the significant enlargement of a Hobart Creek storage
28 reservoir, cannot or should not be accomplished or that the
29 authorized limit for bonding is insufficient. In such case, it
30 is the intent of CARSON CITY to seek appropriate change from the
31 Legislature during the session scheduled to begin in January,
32 1983, or before. With this in mind the parties agree that if

1 construction pursuant to an approved plan, or legislative change,
2 does not occur prior to July 1, 1983, this Contract shall become
3 null and void except as provided immediately below.

4 C. In the event the contract fails as provided immediately
5 above, the provisions found in paragraphs III(B), (E), (F), (G),
6 (H) (I), (K), (L) and (M), relating to the delivery by STATE of
7 150 acre feet of water to Carson City, shall survive such termina-
8 tion and have force and effect for a term of fifty-five (55)
9 years.

10 D. Upon expiration of this Contract or upon termination for
11 reason other than a substantial default by CARSON CITY or for
12 reason other than an expiration in accordance with Paragraph VIII
13 (B), STATE grants to CARSON CITY the right of first refusal to
14 purchase water from the System at the same price and upon the
15 same terms as STATE may offer some other purchaser.

16 IX. MISCELLANEOUS

17 A. Upon initiation of construction, the parties shall seek
18 legislative expansion of the Marlette Lake Water System Advisory
19 Committee from seven to nine members to include one member each
20 from Carson City and Storey County.

21 B. The parties shall investigate the practicality of generat-
22 ing power through a hydroelectric project on the Marlette Lake
23 Water System, subject to the following conditions:

- 24 1. Costs and benefits will be shared;
- 25 2. Water will not be diverted to produce power which
26 will reduce water deliveries from the System.

27 C. Except for lands purchased under the Federal Land and
28 Water Conservation Fund Program, recreational or other use of the
29 lands of the Marlette Lake Water System land shall remain subor-
30 dinate to its primary function as watershed as provided in the
31 "Marlette-Hobart Management Plan" developed in accordance with
32 Chapter 532, Statutes of Nevada, 1977.

1 D. The provisions of this Contract shall be binding on the
2 successors or assigns of the parties.

3 E. Nothing in this Contract shall be construed to preclude
4 future renegotiations of any or all provisions.

5 IN WITNESS, the parties and the participating and
6 reviewing authorities affix their signatures as follows:

7 FOR CARSON CITY:

8 Approved for form:

9 _____
10 David B. Small
11 District Attorney

CARSON CITY BOARD OF SUPERVISORS

11 Attest:

By _____
12 Harold J. Jacobsen
13 Mayor

13 Ted P. Thornton, Clerk

14 FOR STATE OF NEVADA:

15 Approved for form:

STATE OF NEVADA
DEPARTMENT OF GENERAL SERVICES

16 RICHARD H. BRYAN
17 Attorney General

By _____
18 Bruce Greenhalgh
19 Director

20 By _____
21 Robert H. Ulrich
22 Deputy Attorney General

23 APPROVED AND MADE EFFECTIVE

24 THIS _____ day of _____, 1981

25 _____
26 Robert List
27 Governor