MINUTES OF THE MEETING OF THE SENATE COMMITTEE ON NATURAL RESOURCES

SIXTY-FIRST SESSION NEVADA STATE LEGISLATURE February 25, 1981

The Senate Committee on Natural Resources was called to order by Chairman Norman D. Glaser, at 1:30 p.m. on Wednesday, February 25, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Attendance Roster. Exhibit B is the Senate Agenda.

COMMITTEE MEMBERS PRESENT:

Senator Norman D. Glaser, Chairman
Senator Wilbur Faiss, Vice Chairman
Senator James H. Bilbray
Senator Joe Neal
Senator Lawrence E. Jacobsen

COMMITTEE MEMBERS ABSENT:

Senator Floyd R. Lamb (Excused)

STAFF MEMBERS PRESENT:

Azalea Reynolds, Committee Secretary
Robert E. Erickson, Senior Research Analyst
Samuel F. Hohmann, Senior Research Analyst, Science and Technology

Senator Glaser stated there were two bills to be heard, SENATE BILL NO. 164, which relates to the development of geothermal resources, and SENATE BILL NO. 178, which requires permits for domestic wells within designated basins.

SENATE BILL NO. 164

Senator Jacobsen spoke briefly on the bill. Senator Jacobsen served on the National Conference of State Legislatures which joined with a Nevada Legislative Interim Committee working on matters of mutual concern. It was felt the geothermal issue was one needing attention in Nevada.

With the assistance of Mr. Noel A. Clark, and Mr. Kelly Jackson, both of the Department of Energy, together with some staff members from the Department of Water Resources, specific steps were taken to locate potential sources of geothermal energy in the State.

Senator Jacobsen stated Mr. Samuel F. Hohmann of the Research Division of the Legislative Council Bureau, could elaborate on these results.

Mr. Samuel Hohmann stated he would review briefly the Committee's recommendations, and SENATE BILL NO. 164 was the result of those recommendations.

Mr. Noel A. Clark, Nevada Department of Energy, stated Nevada is a very poor state in the sense of what is produced in the way of energy to be consumed, and for that reason the Department had taken particular interest in geothermal development. He distributed copies to the Committee of a memorandum which he and Mr. Kelly Jackson had developed. (See Exhibit C).

At the request of the Chairman, Mr. Clark then discussed each section in detail.

Mr. Kelly Jackson stated that the Department of Energy could not support sections 2 and 5 as they were presently drafted. In regard to the present definition of alternative wells, if that definition were extended to include geothermal wells, it would allow individuals to use geothermal resources without having to expend funds for an appropriation process which they really did not believe is of much value.

Chairman Glaser stated that the application of geothermal energy seems so obvious that he wondered why such application had not been previously utilized.

Mr. Heber Hardy, Chairman of the Public Services Commission, then testified. He said he could support almost one hundred per cent of the recommendations of the Department of Energy, but would recommend clarification of the exemptions on page 3 of the bill.

The Chairman asked Mr. Hardy if the Commission had sufficient staff capability to administer any ramifications of the bill.

Mr. Hardy replied that such was the case and he believed his staff could adequately cope at the present time.

Mr. John W. Arlidge, Manager Special Projects of Nevada Power Company, read from a prepared speech (See Exhibit D) and asked that it be part of the record.

Mr. Max Jones, Senior Vice President and Mr. Dick Richards, both of Sierra Pacific Power Company then testified.

Mr. Jones stated they support the position taken by the Department of Energy which was certainly in line with their policy. The Sierra Pacific Power Company would prefer a mandate or action that would provide it with a sense of security and consistency in dealing with these matters over a period of time.

Mr. Richards said they concur in the uses as set forth in the bill, and added that Sierra Pacific Power Company would be conducting active on-site testing of equipment which had been developed in their experimental special projects shop.

Mr. George L. Vargas, Legal Counsel for Union Oil and Chevron, U.S.A., then gave a brief review on how the geothermal bill and the laws pertaining to its development had evolved.

He objected to some of the language contained in the bill as being too restrictive and said it should be eliminated. Mr. Vargas further stated that a depletion allowance should be granted to the oil companies, much in the manner as is now allowed for oil, as an incentive for further exploration in the geothermal field.

Mr. William J. Newman, State Engineer, and Mr. Kelly Jackson of the Department of Energy, suggested changes in the language of sections 1, 4 and 5. A general discussion ensued on these sections.

Mr. Randolph S. Carlson, President of Nevada Hydro Corporation, expressed concern over some aspects of the legislation, stating that it appeared to be complicated and contained legal infringements, in respect to the Public Services Commission being able to set rates for the purchase of geothermal energy from sub-agents.

Mr. William Bradley, a private citizen, expressed an interest which most individual homeowners have in this bill. He felt there should be an effort to utilize this type of energy; however, homeowners should be granted some type of tax exemption if they take advantage of this energy source.

Chairman Glaser stated that Mr. Bradley's points are well taken and shall be considered by the Committee.

Chairman Glaser commented that he feels Nevada is a geothermal test site and that some extensive action should and can be taken in this area.

Mr. Andrew L. Barbano, representing the Coalition for Affordable Energy, then spoke on the various aspects of the bill. He applauded the efforts of those concerned in bringing the bill for legislation, but was concerned that it be properly regulated and not be allowed to degenerate into a medium for excess profits by utility companies at the expense of taxpayers and homeowners.

Mr. Barbano said that as presently drafted, the bill would appear to give a built-in fluctuation factor, similar to that of the "OPEC" prices under the deregulation system now in effect. His concern was that several Nevada utilities are currently involved with other utilities and oil companies in the development of consortiums. A provision should be written into the bill that a utility company may not sell energy to itself from a consortium subsidiary at a profit.

The Coalition opposed the language of section 17 which would make the public 100% liable for geothermal development.

Chairman Glaser, in addressing Mr. Barbano, said some points he had raised were relatively new, but that the Chairman's main concern is that an investor received a fair rate of return on his capital investment, a point that Mr. Barbano had brought out in his review of the bill.

This testimony concluded the hearings on SENATE BILL NO. 164, and the Chairman called for a short recess at 3:35 p.m.

SENATE COMMITTEE MEETING ON NATURAL RESOURCES
February 25, 1981

Chairman Glaser reconvened the meeting at 3:50 p.m. He stated that although there was not a quorum at the present time, testimony would be taken on SENATE BILL NO. 178.

SENATE BILL NO. 178

Mr. William A. Newman, State Engineer, said there was no objection with the minor changes on page 1 of the bill, but that the following changes should be made:

(1) To the bracketing on page two, line one through two, which changes the identity of perculating waters;

(2) On lines 3 and 4 the brackets here remove the exclusion of the domestic level from compliance of the water level;

(3) The italics on line 4 state no permit required, which was in conflict with line 22 which states a permit is required;

(4) Brackets on line 3 should be deleted and the addition of the new language should be omitted;

(5) Line 23 merely changed one end of the existing statute to the other end of the statute.

Mr. Newman pointed out that the crux of the bill was in section 2, i.e. the objective was to grant a permit for domestic wells in a designated basin, subject to revocation by the State Engineer when water services became available from an entity serving water.

In an area such as Las Vegas, owners with domestic wells enjoyed all the benefits of fire protection where water lines adjoined their property, while still continuing to use their domestic wells, and this situation is also applicable to other areas such as Carson City, and Truckee Meadows.

Mr. Newman stated if conditions warranted, the State Engineer could issue permits by use of a simple form without having to comply with any of the ramifications of the statutes and such permits would be recorded and could later be revoked when alternative water service became available.

Mr. Newman further stated that line 32 of subsection 2 should have been excluded and rewording of this would be necessary. Another exclusion was the requirement for publication. To simplify the procedure a set fee of $35.00 should be charged if publication was required, and $25.00 if it was not, with a minimum fee of $10.00 for any permit.

Senator Bilbray asked if revoking permits would be retroactive prior to this act becoming effective.

Mr. Newman replied it would not, unless the statute specifically required registration of all wells within a five-year period.

Mr. Donald L. Paff, General Manager and Secretary of Las Vegas Valley Water District, requested support and affirmative action on SENATE BILL NO. 178, and concurred with the technical amendments being proposed.

Mr. Paff passed a copy of his testimony to all members of the Committee. (See Exhibit E). He stated that support of the bill was not to deny property owners available water, but to eliminate the exemption from the permit process for appropriation of such ground water, allowing management of domestic and other wells to be handled by the Water District.

He further stated that the Committee should provide the necessary financial support for the State Engineer's office to enable it to properly administer the provisions of the bill. The subject of legislation had previously been proposed, i.e. SENATE BILL NO. 519 in 1977, and attention was drawn to the 1980 report of the Governor's Commission, which included a recommendation requiring a permit for all domestic wells in designated groundwater basins.

Senator Bilbray inquired whether it was now the policy of the Water District to take over a central water system if requested to do so by a group or company.

Mr. Paff replied that on request of residents of an area, assessment districts could be formed to finance improvements and water supplies, but that taking over, per se, of a water company had not been the intent of the legislation, but rather the acceptance of responsibility to serve the area by the residents carrying its proportionate costs of such a system.

Specifically, the legislature, by its quick passage of ASSEMBLY BILL NO. 163, recently allowed the water district to finance above the limit of nine per cent assessment district. It would not thereby take water rights away only to resupply the same water, but rather to reduce the overdraft in groundwater basins.

The Chairman asked if this ill would permit a domestic well in a designated basin, and if applicable beyond the extension lines.

Mr. Paff replied there must be an entity serving water, physically, with lines in front of the property to be served to allow line extensions; further, that a permit would be granted, subject to revocation when lines became available at a minimum hook-up fee.

Mr. Paff referred to a map, which could be made available on request, which showed the lines built by the water districts through extensions that had been paid for by its customers. However, it was pointed out that fire hydrants set in front of the properties had been paid for by property owners to comply with Fire Marshall regulations. Those having domestic wells were still obtaining water at a lower cost, but were not paying any part of the fire protection. The bill would not revoke this but could possibly do so in the future.

Mr. Bob Sullivan, Carson River Basin Counsel for the Counties of Douglas, Carson City and Churchill, stated that the difficulties of development in the rural areas could not presently be controlled either at the local or state levels. Reference was made to the fairly large densities of population, all residing off the wells in designated basins and these individuals ended up competing with their neighbors for water, which was unsatisfactory. This condition involved considerable usage and wastage of water resources, which was difficult to manage without the necessary tools to implement control.

Mr. Gene Milligan, Nevada Association of Realtors Representative, stated that at the last session of the legislature, ASSEMBLY CONCURRENT RESOLUTION NO. 46 was passed to study water problems in Nevada. An interim sub-committee was appointed and in-depth hearings were held, resulting in ASSEMBLY BILL NO. 16, which was presently in that house for consideration.

Mr. Milligan presented a letter, with attachments, to the Committee and stated his association supported registering new domestic wells, but not existing wells, and strongly opposed State regulation of all domestic wells. (See Exhibit F)

Senator Faiss asked if there had been any problems where water districts had run low on water and could not provide it when needed.

Mr. Milligan clarified this point by explaining that there had been a problem, however, it was due to the system and not because of shortage of water. Some homeowners would not put in water extension lines to their property, but after the problem was understood by the people concerned, the matter had been resolved.

Senator Bilbray inquired if the wording on a permit was changed from "may" to "shall" if it would make a difference.

Mr. Milligan stated that "may" typically has no bearing in the minds of the government agency, and the word would automatically become "shall" in any case.

Senator Bilbray expressed some concern regarding population growth, particularly in Clark County. The present rate was 40,000 people a year and this could possibly increase to 70,000 if the MX system came into being. This, together with increased subdivision of properties and the necessity for more sewer and water lines, could result in ground collapse. He felt that some protection would have to be provided to prevent this.

Mr. Milligan said that as more water was introduced by the Colorado River Project there was no danger of ground collapse.

Mr. Roy Earl, a private citizen from Las Vegas, suggested that subsequent to July 16, 1981, domestic wells be capped by the State Engineer if there is a public water system and this provision should be included in the bill under discussion. He maintained that it was not a domestic well issue, but rather the problem of having to go through the motions of obtaining a permit that could later be revoked and possibly a meter zone system could be set up. He was certain that no person having a domestic well would know that after July 1, 1981, it would be necessary to be included in a public water system.

Mr. Earl stated that his thinking was a registration that could be revoked, was the same as a permit process and if this was the case, then it was necessary to provide alternative sources of water, and the State Engineer would have to implement the registration.

He also pointed out that people who drilled wells should know of the permit system and possible revocation, as well as any successive buyers of the well-site, so that there would be no misunderstanding or hardship created at a later date.

Ms. Deanna Dought, representative of Builders Association of Northern Nevada, concurred that record-keeping of the wells was definitely important. She expressed opposition if the permit system were adopted and taken over by the State and not by local jurisdiction. The delays under State control would undoubtedly increase the costs of a home, and it was unnecessary to add to these spiraling costs.

Mr. Newman wished to make it clear that a permit could only be revoked if and only if an alternative water supply were available. If there was an already existing alternative water supply, then a permit for a new well would be denied on these grounds.

He further stated there was already a very simple process for obtaining a permit, a minimum fee would be charged and this would then be recorded on an Assessor's parcel number. The permit would then be revoked when the water line hook-ups were in operation.

Mr. Roy Earl mentioned that if ASSEMBLY BILL NO. 16 passes it will have the provision that if there is public water, owners of the well could not use the domestic well, although it could be used for drinking if necessary.

Mr. Milligan wanted to have language inserted to the effect that this permit system be operative at a local level and not at state level. He felt, however, that it would not be necessary to set up a system if the language were properly inserted into the bill.

SENATE COMMITTEE MEETING ON NATURAL RESOURCES
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Senator Glaser said this concluded the hearing on SENATE BILL NO. 178, and thanked all concerned for their testimonies.

The Chairman said that there were a number of items on the Agenda that had not been covered as there had not been a quorom present. He instructed the Secretary to move the remaining items over to next Monday's meeting.

There being no further business, the meeting was adjourned at 4:45 p.m.

Respectfully submitted by:

Azalea Reynolds, Secretary

APPROVED BY:

Senator Norman D. Glaser, Chairman

DATE: March 12, 1981

EXHIBIT A

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Natural Resources, Room 323.

Day Wednesday, Date February 25, Time 1:30 P. M.

S. B. No. 164--Relates to the development of geothermal resources; provides for administration and utilization.

S. B. No. 178--Requires permits for domestic wells within designated basins.

FINAL ACTION:

S. B. No. 14--Revises certain provisions relating to irrigation districts. Amendment.

S. J. R. No. 19--Urges Congress of United States to use Nevada Test Site for development of renewable sources of energy. Amendment.

A. J. R. No. 6--Urges Congress of United States to ratify California-Nevada Interstate Compact. Amendment.

CONSIDERATION FOR COMMITTEE INTRODUCTION:

BDR 22-368--Corrects errors made in amendment of Tahoe Regional Planning Compact.

BDR 48-896--Directs submission of bond issue to finance certain projects for development of water resources.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON NATURAL RESOURCES

EXHIBIT B

DATE: February 25, 1981

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
D.L. PAFF	LAS VEGAS VALLEY WATER DIST. 3702 W Charleston Blvd LV 89153	870-2011
JOHN W. ARLIDGE	NEVADA POWER CO PO #230 LAS VEGAS NEV 89151	385-5804
K[illegible] Jackson	Nevada [illegible]	885-5[illegible]7
[illegible] Hall	Nevada Department of Energy	885-5257
Max L. Jones	Sierra Pacific Power Co	789-4600
R.G. Richards	" " " "	789-4321
R.S. CARLSON	NEVADA HYDRO CORP	714 690 9912
[illegible]		
[illegible]		
[illegible]	COALITION FOR AFFORDABLE ENERGY	786.1057
William S. Newman	State Engineer	885-4380
[illegible]	LCB	5627
[illegible]	[illegible]	882-1871
[illegible]	[illegible]	
[illegible]	Nevada Assoc of Realtors	972-0213
[illegible]	New Assoc of Realtors	882-7733
[illegible]	913 E. Charleston L.V.	384 6740
Deanna Doughty	Builders Assoc. of No. Nev.	329-4611

NEVADA DEPARTMENT OF ENERGY

MEMORANDUM

EXHIBIT C

February 25, 1981

To: Senate Natural Resources Committee

From: Noel A. Clark

Subject: SB 164

The NDOE has reviewed SB 164 and herewith submits its comments regarding that legislation. I strongly feel that legislation is needed to simplify and clarify several issues surrounding geothermal development. SB 164 is an excellent step in that direction. However, some of the changes that are proposed need to be refined and others need to be deferred until the next session of the legislature.

Following hereinafter are the NDOE's comments on each section of SB 164:

Section 1 - This section will give non-diversionary water users the right to protect their interests. I believe this is a clarification of the law that is needed. It will afford parties using downhole heat exhangers a way to protect their interests.

Section 2 - This section would require the filing of "development plans" for geothermal resources. The legislation does not indicate what types of developments would be subject to this section - residential? commercial? electrical? big? small? all?

Though the NDOE agrees with the concept of requiring development plans, the language is too inclusive and leaves too many questions unanswered. This is the type of requirement that should be applied to large developers. At this time it appears such action could effectively prohibit individual residential customers from using geothermal.

For the foregoing reason the NDOE cannot support this section as it is presently drafted. Furthermore, I do not believe it is possible to prepare an appropriate alterntative during this session.

Section 3 - The NDOE agrees that a change needs to be made. However, I believe that the change should include the amended language that was included in the interim committee's final report. The resulting definition would read as follows:

"The natural heat of the earth and the energy associated with such natural heat and pressure, and all dissolved or entrained minerals that may be obtained from the medium used to transfer that heat, but excluding hydrocarbon and helium."

Section 4 - The NDOE does not believe this provision is essential at this time.

Section 5 - This section would change the procedures for appropriating water resources associated with geothermal energy. Though this issue needs to be addressed particularly vis a vis large scale developers, I do not believe this section clarifies things enough for it to be adopted.

Section 6 - Same comment as Section 3.

Sections 7, 8, 9, 10 - There are several other pieces of legislation which address these issues. I believe these sections should be stricken from the bill in order to avoid complicating the sections which are directed at more substantive geothermal issues.

Section 11 - Same comment as Section 3.

Section 12 - The NDOE supports the section. It provides needed clarification in the law.

Sections 13, 14, 15 - I believe these sections should be omitted. Several other bills address these issues. If the sections are retained the wording must be redefined to avoid some potentially negative results.

Section 16 - Adoption of this section should be given priority. Without some immediate regulatory changes, development of district space heating systems may well be delayed. However, I would like to suggest the following amended language:

704.685 (New Section)

1. Every corporation, partnership, sole proprietorship or association of natural persons that sells geothermal energy to the public with the exception of those entities specified in 704.030(6) is hereby declared to be affected with a public interest, to be a public utility and to be subject to the jurisdiction, control and regulation of the commission as more fully set forth hereinafter. The authority of the commission shall be limited to the jurisdication, control and regulation which is included in this section and Section 704.033.

2. The commission must establish just and reasonable regulations governing the sale of energy from geothermal resources to the public. The regulations must provide for a system of operating permits which:

   a. May not be denied because the area which the applicant proposes to serve is already being served by a gas or electric utility.

   b. May not convey an exclusive right to supply geothermal energy in the area which the applicant proposes to serve.

   c. Specifies the geographic area in which the applicant can reasonably provide the services which are authorized in the operating permit.

   d. Requires the applicant to enter into a contract with each customer that is served by the utility. The form and scope of such contract shall be subject to review and approval by the commission. At a minimum such contracts must specify:

      1. The period of time during which service will be provided. Unless, expressly waived by the customer the contract must provide that the utility will provide service for a period of at least three (3) years.

      2. The rates or the formula for determining rates to be charged during the term of the contract.

      3. That the utility will submit to binding arbitration in matters relating to damages suffered by the customer as a result of the utility's failure or inability to provide service due to the failure of the geothermal resource, or the production or distribution system.

3. Prior to issuing an operating permit the commission must find that:

   a. The applicant is fit, willing and able to provide such services.

   b. The applicant has tested the geothermal reservoir to determine whether it appears to be capable of providing sufficient energy to supply the intended uses.

   c. The system which the applicant intends to use to produce and distribute the heat meets appropriate standards.

4. The commission shall have continuing authority to regulate such utilities to insure that the utility adheres to the conditions set forth in the operating permit and that the utility provides adequate service.

Section 17 - This section provides a policy statement that will help resolve several questions regarding the Legislature's position on geothermal development. Therefore, the [illegible] supports this section.

Section 18 - I believe this section should only exempt from regulation those entities that are in the "wholesale" business. We do not regulate coal or oil dealers as public utilities and I see no valid public interest in regulating companies who sell to public utilities or other retailers.

"7. Corporations, partnerships, sole proprietorships, or associations of natural persons engaged in the production and sale of geothermal energy to public utilities, cities, counties or other entities that are reselling such energy to the public."

Section 19 - I feel that the nuclear references should be stricken from the language in (e).

Before Senate Natural Resource Committee EXHIBIT D

2/25/81

Nevada Power Co. - John W. Arlidge

We wish to thank you for this opportunity to comment on SB 164 and also for the opportunity to participate in the past Legislative Committee review of geothermal development in Nevada.

In way of background, I have been a power utility engineer for approximately 20 years. Since the mid-1960's I have been active in geothermal development both from the regulatory and development viewpoint. I am presently on the Board of the Geothermal Resources Council. I do not have to tell this committee the problems encountered by the geothermal industry due to both federal and state regulations and lack of regulations for this energy development. Industry, however, now can see the "light at the end of the tunnel" and geothermal development is starting to respond to a favorable regulatory climate.

We believe SB 164 is a step in the direction towards increased geothermal development in Nevada. However, we have some suggested changes.

(1) Section 2 (NRS 534A-1) "The state engineer shall require the filing of a plan of development..."

This amendment could be interpreted to require plans for the "ultimate" development. A similar provision in federal regulations has caused delays in planned exploration and development. We suggest that the requirement be limited to the immediate development.

(2) Section 5 (NRS 534A.040-1) The section requires the "person owning the land" file an application to drill with the state engineer.

This section should require the holder of the geothermal right to file. If the concern is the land owner's approval, that can be a required documentation for filing.

(3) Section 17 (NRS 704) provides that the (Public Service) Commission may authorize recovery of undepreciated cost if the useful life is inadequate.

If the purpose of SB 164 is to encourage development of "alternative energy sources" the authorization should be mandatory based on the specified findings presently in the act. Thus "may" should read "shall." In addition, this section should include the costs of disposal and retirement of such facilities.

(4) Section 19 (NRS 704,807 (e)) requires a summary of the examination of conservation measures and alternative sources of energy which was made before construction of a facility using fossil fuel or nuclear energy.

This requirement is similar to but is an addition to other federal and state reviews now required. This provision, because of the additional reviews required, could present even further delays in the regulatory review of fossil fueled facilities. I do not have to remind

this committee of the increasing costs of energy due to the prolonged regulatory reviews of new utility facilities. Our Company has and will continue to work towards energy conservation and use of "alternative energy sources". In conservation, our customers lead the nation in per customer reduction of energy use dropping from a per customer use of almost 19,000 KWH in the early 1970's to about 14,000 KWH in 1980. We expect conservation to continue to reduce that per customer use figure because of Company and customer efforts. This subsection (e) will cause delays in energy development, will increase the cost of energy facilities and thus customer rates, and will have little, if any, impact on existing conservation efforts. We, therefore, suggest that the section be deleted.

1981 REGULAR SESSION (61st) EXHIBIT D

ASSEMBLY ACTION		SENATE ACTION	
Adopted	☐	Adopted	☐
Lost	☐	Lost	☐
Date:		Date:	
Initial:		Initial:	
Concurred in	☐	Concurred in	☐
Not concurred in	☐	Not concurred in	☐
Date:		Date:	
Initial:		Initial:	

Assembly AMENDMENT BLANK

AMENDMENTS to Senate

Bill No. 164 ~~Joint Resolution No.~~

BDR 48-156

Proposed by Committee on Economic Development and Natural Resources

Amendment Nº 628

Amend the bill as a whole by renumbering sections 3 through 9 as sections 4 through 10 and adding a new section designated as section 3, following section 2, to read as follows:

"Sec. 3. NRS 534.050 is hereby amended to read as follows:

534.050 1. Except as provided in subsection 2, every person desiring to sink or bore a well in any basin or portion therein in the state designated by the state engineer, as provided for in this chapter, shall first make application to and obtain from the state engineer a permit to appropriate [such] the water, in accordance with the provisions of chapter 533 of NRS relating to the appropriation of the public waters, before performing any work in connection with the boring or sinking of the well.

2. Upon written application and a showing of good cause, the state engineer may issue a written waiver of the requirements of subsection 1 for exploratory wells to be drilled to determine the availability of water or the quality of available water.

3. In other basins or portions [therein] of basins which have not been designated by the state engineer no application or permit to appropriate water is necessary until after the well is sunk or bored and water developed. Before any [legal] diversion of water [can] may be made from the well, the appropriator must make application to and obtain from the state engineer, in accordance with the provisions of chapter 533 of NRS, a permit to appropriate the water.

To: E & E
LCB File
Journal
Engrossment
Bill

Drafted by ..... Date .....

4. Upon written application and a showing of good cause, the state engineer may issue a written waiver of the requirements of subsection 3, to allow use of water in [constructing a highway.] construction and in drilling wells for gas, oil or geothermal steam or hot water.

5. Any person using water after a permit has been withdrawn, denied, canceled, revoked or forfeited is guilty of a misdemeanor. Each day of violation of this subsection constitutes a separate offense and is separately punishable."

EXHIBIT E

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT

S. B. 164

SENATE BILL NO. 164—SENATORS JACOBSEN AND GETTO

FEBRUARY 2, 1981

Referred to Committee on Natural Resources

SUMMARY—Relates to the development of geothermal resources; provides for administration and utilization. (BDR 48-136)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to the development of geothermal resources; providing for their administration and utilization; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. NRS 533.030 is hereby amended to read as follows:

533.030 1. Subject to existing rights, all such water may be appropriated for beneficial use as provided in this chapter and not otherwise.

2. The use of water, from any stream system as provided in this chapter and from underground water as provided in NRS 534.080, for any recreational purpose, is hereby declared to be a beneficial use.

3. The use of groundwater for its energy, including heat and pressure, is a beneficial use of the groundwater, whether it is accomplished through an actual diversion, for which a water right must be obtained, or a process which is not diversionary but extracts heat, for which a water right may be obtained to protect utilization of the energy produced by groundwater.

SEC. 2. NRS 534.010 is hereby amended to read as follows:

534.010 1. As used in this chapter:

(a) "Aquifer" means a geological formation or structure that transmits water.

(b) "Artesian well" means a well tapping an aquifer underlying an impervious material in which the static water level in the well stands above where it is first encountered in the aquifer.

(c) "Domestic use" extends to culinary and household purposes, in a single-family dwelling, the watering of a family garden, lawn, and the watering of domestic animals. *The term also includes the use of geothermal resources for domestic heating purposes.*

EXHIBIT E

TESTIMONY OF DONALD L. PAFF
BEFORE THE SENATE COMMITTEE ON NATURAL RESOURCES
ON SENATE BILL 178
FEBRUARY 25, 1981

My name is Donald L. Paff. I am the General Manager and Secretary of the Las Vegas Valley Water District. I am here today to request your support and affirmative action on Senate Bill 178.

SB 178 allows the State Engineer to institute additional management practices in the already overdrafted groundwater basin in Las Vegas. It is our opinion to continue the exemption of domestic wells in the Las Vegas Valley from any management practices is not consistent with proper water management and the use of the first and second stage of the Southern Nevada Water System. This system was predicated on providing a supplemental source of water from the Colorado River and to allow proper management of the groundwater basin since it would provide the alternate water supply to those holding temporary well permits.

Our rough calculations indicate that approximately 10,000 acre feet per year could be pumped from the existing domestic wells in the Las Vegas groundwater basin. If this pumpage estimate is realized and more were to be allowed without any management system, the domestic wells could account for approximately 1/3 or more of the estimated 25,000 to 35,000 acre feet per year of safe yield from the basin. Currently these domestic wells are not subject to permit or revocation pursuant to Chapter 534, and thus the current management is solely one when the well system fails and the property owner seeks a municipal source.

OUR SUPPORT OF SB 178 IS NOT THAT PROPERTY BE DENIED AVAILABLE WATER RESOURCES. OUR SUPPORT TO THE BILL IS TO ELIMINATE THE EXEMPTION FROM THE PERMIT PROCESS FOR THE APPROPRIATION OF SUCH GROUNDWATER, ALLOWING A MANAGEMENT PROCESS TO PROCEED IN AN ORDERLY MANNER SO THAT BOTH THE DOMESTIC AND OTHER WELLS BE HANDLED IN A SIMILAR FASHION.

TO ACHIEVE A CAPABILITY OF SUPPLYING WATER TO PROPERTIES WITHIN THE LAS VEGAS VALLEY, SENATE BILL 178 PROVIDES A JOINT EFFORT BY THE MUNICIPALITY SERVICING WATER IN THAT AREA AND THE STATE ENGINEER TO SEEK THE MOST EFFICIENT AND OPTIMUM MANAGEMENT PRACTICES ON WATER SUPPLY.

IN ADOPTING SB 178, WE URGE THE COMMITTEE TO CONCERN THEMSELVES WITH THE NECESSARY FINANCIAL SUPPORT TO THE STATE ENGINEER'S OFFICE SO THAT HE MAY PROPERLY ADMINISTER THE PROVISIONS INCLUDED IN SB 178. TO DO LESS, WE BELIEVE, WOULD BE TO NOT PROPERLY IMPLEMENT THE LEGISLATION.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THIS IS NOT THE FIRST TIME THE SUBJECT OF LEGISLATION DEALING WITH DOMESTIC WELLS HAS COME BEFORE THE LEGISLATURE, OR HAS BEEN A CONCERN OF THE LAS VEGAS VALLEY WATER DISTRICT AND THE STATE OF NEVADA. PREVIOUS LEGISLATION HAS BEEN PROPOSED WHICH WAS NOT ADOPTED, AND FURTHER, I WOULD DIRECT YOUR ATTENTION TO THE 1980 REPORT OF THE GOVERNOR'S COMMISSION ON THE FUTURE OF NEVADA, WHICH INCLUDES A RECOMMENDATION ON PAGE 54, C. "REQUIRE PERMITS FOR ALL DOMESTIC WELLS IN DESIGNATED GROUNDWATER BASINS." THIS RECOMMENDATION WAS INCLUDED IN THE CONTEXT OF

REDUCING THE OVERDRAFTING OF THE GROUNDWATERS AND THE ASSURANCE OF PROPER AND ADEQUATE WATER QUANTITY AND QUALITY FOR LONG TERM AVAILABILITY. WE SUPPORT THIS CONCEPT THROUGH THE PROVISIONS OF SB 178.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

REQUESTED AFTER DEADLINE

EXHIBIT F

SUMMARY--Urges United States Government to supply imported water to Nevada to compensate for taking land for "MX" missile system. (BDR 1870)
Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

SENATE JOINT RESOLUTION--Urging the United States Government to supply water from the Pacific Northwest to Nevada in return for taking land and water for the "MX" missile system.

WHEREAS, Relatively few sources of water are available to the people of Nevada and many of these sources are now largely depleted or fully appropriated for existing uses; and

WHEREAS, The northern part of Nevada is already experiencing serious shortages of water, caused in part by policies of the Federal Government in allocating water to various uses; and

WHEREAS, Whether or not the largest public works project in the history of the world, the "MX" missile system, is constructed in Nevada, the southern part of the state will experience shortages of water during the early part of the 21st century; and

WHEREAS, The behemoth "MX" project will use massive quantities of water, and deplete any supplies which remain for allocation and use in Nevada; and

WHEREAS, The Pacific Northwest is a wet region of the nation, having one of North America's mightiest rivers, the Columbia, which carries immense quantities of water into the Pacific Ocean each day, where it is wasted; and

WHEREAS, If a small portion of the water of the Pacific Northwest were diverted from the Columbia river basin, or another area of that region, into Nevada to replace water taken from the state by the "MX" project, the diverted water would provide some compensation to the people of the state for the vast areas of land which will be made useless for recreation, agriculture, mining and other productive purposes; and

WHEREAS, The cost of a system to bring water from the Pacific Northwest to Nevada would be only a small fraction of the cost of the "MX" system; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That we call upon the Government of the United States to begin a project to bring part of the excess water in the Pacific Northwest to meet the needs of the people of Nevada and of the "MX" missile project; and be it further

RESOLVED, That the legislative counsel is directed to transmit copies of this resolution to the President of the United States, the Secretary of Defense, the Secretary of the Interior, the head of the Bureau of Reclamation in the Department of the Interior, and to each member of the Nevada congressional delegation; and be it further

RESOLVED, That this resolution shall become effective upon passage and approval.

NEVADA ASSOCIATION OF REALTORS®

REALTOR®

William E. Cozart, CAE
Executive Vice President
Corporate Secretary

EXHIBIT F

1135 TERMINAL WAY, SUITE 201 / POST OFFICE BOX 7338 / RENO, NEVADA 89510 / (702) 329-6648

February 25, 1981

TO: SENATE COMMITTEE ON NATURAL RESOURCES

RE: S.B. 178

Dear Senators,

During the 1979 Legislative Session A.C.R. 46 was passed to study the water problems in Nevada and report back to this Session.

Assemblyman Joe Dini chaired an Interim Sub-committee to "Study Water Problems and Priorities for Usage in the State of Nevada."

Many hearings were held and an extensive report was developed. Out of that report came A.B. 16.

During the hearings, the question of requiring a formal application to drill a domestic well for a single family residence was discussed at great length. The Las Vegas Valley Water District was also heard at length. The Sub-committee elected to require registration of domestic water wells. This procedure is included in the above referenced bill.

The Nevada Association of REALTORS strongly opposes requiring full application as required by S.B. 178.

It is very misleading to say that they will be required only in "designated basins" because virtually all inhabitable residential lots are located in designated basins. Please refer to paragraph IV,B, page 3 and the conclusion on page four of the attached testimony concerning this question. This testimony was presented to the Interim Sub-committee.

We respectfully request that you review the written testimony, and we will be happy to answer any questions you may have.

Sincerely,

Gene Milligan

Gene Milligan, Chairman
Legislative Committee

E 151

To

THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE

TO STUDY WATER PROBLEMS AND PRIORITIES FOR

WATER USUAGE IN THE STATE OF NEVADA ACR 46

By

THE NEVADA ASSOCIATION OF REALTORS

GENE MILLIGAN

CHAIRMAN, NAR LEGISLATIVE COMMITTEE

The Nevada Association of Realtors supports the concept of registering domestic water wells in Nevada. We strongly oppose legislation which would establish regulatory authorityover domestic wells by the State Water Engineer through a permit system, either in part or in the whole of the state.

The following statements are hereby submitted in support of the above position:

1. DEFINITION: Domestic well does not get across the real meaning of it. Adomestic well serves a family residence, a home.

11. IS THE PROBLEM REALLY AS SERIOUS AS PORTRAYED?

A) Where can a domestic water well be drilled currently?

1. Not in any city.
2. Not in any governmental districts such as Improvement Districts, etc.
3. Residential subdivisions in outlying areas must apply for and receive water permits from the State Engineer.
4. Not on lots that do not receive Health Department approval for water quality.
5. Not on lots that require a septic system which are less than one acre in size after street dedications are deducted. This wipes out many lots.
6. Federal Agency Requirements: Because of many governmental requirements from various different agencies, many lots are not developable, or are seriously restricted in the options available for development. For example, the entire Carson Valley (thousands of lots) is restricted from FHA loans because of chemicals in the water. The Veteran's Administration will not make VA loans in areaswhere the streets are not dedicated to and maintained by the county. There are numerous other examples.
7. Not where there is no power available. Today, it costs about $8.00 per lin al foot to put in electric power. A little figuring and it becomes readily apparent that the costs involved would make it completely unfeasible to develop many lots. Effectively, residential lot development is limited to the service areas of power companies.
8. Not on lots zoned for other than residential development.
9. Of course, the lot must be in an area that is liveable.

CONCLUSION: The potential number of lots that are liveable and developable is significantly less than described by those persons who would regulate residential wells in outlying areas.

III. ECONOMICS INVOLVED FOR THE AVERAGE CITIZEN

A)High Costs Force Nevadans to Seek Housing in Outlying Areas.

As an example, governmental residential building moratoriums and other economic factors have caused housing costs to nearly triple in Carson City, including residential building lots which now range in cost from $25,000 to $75,000. Hook-up fees for utility service have increased enormously, also. One can install a septic system in an outlying area for what it costs to hook up to a swere system in some cities. Generally, the entire state has seen significantly increased housing costs. (Yerington is a noteworthy exception.)

Therefore, the average citizen cannot seriously consider buying a home in urban areas. He is forced to seek housing farther and farther from towns and cities. One important alternative for them is to buy a lot in the country and put in their own well and septic system for their home. This is not conjecture. It is sad economic reality. There are no water companies in such areas, and in most of them, there never will be. If you foreclose development of domestic wells in outer areas, then you foreclose the last area of escape available to the individual citizen. I say forclosed because once the pwer to restrict development is in place, development will be restricted.

B) REDUCED PROPERTY VALUES AND CLOUDING OF TITLES.

1. The idea that domestic wells be denied in certain areas because "someday" a water company may extend water service lines there has very serious ramifications. The lots involved would become undevelopable, and therefore, lose there value. This would place the existing owners in the position of not being able to develop their lots, nor could they sell them. Something reminiscent of the situation at Lake Tahoe. Who would buy one? Such lots would be effectively condemned. Further, this would give private water companies(and public) an unwarranted power and control over the rights of the property owners.

2. The proposal to mandate that existing domestic well owners shall apply for a water permit within a certain time limit Would have a very serious detrimental affect on property values and their marketability. Such owners acquired their wells in good faith and within the laws of the state. This should be treated as a right that they own, and should not be acted against lightly in order to meet the needs of the state or some water district or company. America is great because its citizens are able to own property, and the law protects the homes of the citizens.

3.The recommendation to register existing well also is not very feasible. The reasons for doing so are apparent: 1.to obtain a measure of water usuage, and 2. develop a lever to aid in passing legislation to regulate domestic wells in the future. We agree with the first, but not the second. There are problems. Many citizens would refuse to register, and

therefore, be committing a misdemeanor crime simply because they developed and own a domestic well for their home. Getting the word out in the first place would be very difficult. Further, most owners today are second, third, fourth owners in the chain of title who know nothing about the technical data of the well that would be needed by the government, gallons per minute, etc. The whole idea behind registration is to determine usuage. To register for any other reason would be a costly bureaucratic expense and excercise. It would likely develop nearly as much heat as requiring owners of existing wells to apply for a permit. When you fiddle with a man's water rights, as you know, you are touching on a very, very sensitive issue.

IV. EXISTING CONTROLS

A) Local control is already in place in most areas. For example, in Carson City (35,000 population), neither a well nor a septic system can be installed within a certain distance from a water or sewer line. The owner is required to hook on to the existing water or sewer system.

When the water company wanted to extend service into an area already served by wells, the company negotiated with the owners and an agreement was reached. It is not always possible to reach complete agreement. But this is the way it should be. The negotiation process has occurred in Carson City. It caused some hoopla and meetings in the neighborhoods, but in the end water lines were extended. People are not blind to the fact that water & sewer systems are more efficient and certainly increase property values in the area.

B) Designated Basins: Proponents of a permit system are misleading when they say regulation would only be in designated basins, implying they exist on a limited basis. They omit the fact that 99% of the population resides in Designated Basins. Therefore, the permit system, in effect, would regulate and control virtually all of the liveable areas in the state. Experience has shown that when the power to restrict development exists, it will be utilized to its fullest. For example, subdivision development and irrigation development in Designated areas is almost non-existent. These two types of development are both regulated in Designated Basins.

V. ADMINISTRATION: The proposed increase in funds to the State Engineer's office is a good idea which we have supported for several sessions. However, it was not contemplated that these funds would be used for a massive program to regulate domestic water wells. The proponents claim the money is there for such a program and it would not work any additional burden on existing funding requests that are proposed. We totally disagree. There are very serious problems in processing the existing applications and workload in the Engineer's office. Applications take months and months to process. It would be worthwhile clearing up existing problems without adding domestic well regulation.

One of the reasons local water districts are trying to shift the responsibilit to the state is to avoid the huge administrative headache and the very negative political reaction of the people at the local level which would certainly happen.

CONCLUSION: We support registering new domestic wells. We do not think requiring registration of existing wells is workable, and therefore, the time, money and effort should not be wasted trying to do so. Lastly, we strongly oppose state regulation of domestic wells.