

## DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

R. MICHAEL TURNIPSEED, P.E., Director  
FREEMAN K. JOHNSON, Assistant Director

KENNY C. GUINN  
Governor



Address Reply to:  
State of Nevada  
Department of Conservation and Natural Resources  
Office of the Director  
123 W. Nye Lane, Room No. 230  
Carson City, Nevada 89706-0818  
Telephone (775) 687-4360  
Facsimile (775) 687-6122

DIVISIONS  
Conservation Districts  
Environmental Protection  
Forestry  
Natural Heritage Program  
State Lands  
State Parks  
Water Planning  
Water Resources  
Wildlife

COMMISSIONS  
State Conservation Commission  
State Environmental Commission  
State Wild Horse Commission  
State Wildlife Commission

STATE OF NEVADA


## Department of Conservation and Natural Resources

OFFICE OF THE DIRECTOR

May 9, 2003

### MEMORANDUM

TO: Legislative Team

FROM: R. Michael Turnipseed, P.E., Director 

SUBJECT: ACR 21

Good Morning Mr. Chairman and members of the committee, my name is Mike Turnipseed. I am the Director of the Department of Conservation and Natural Resources and also the team leader for the Nevada team in the Walker River Negotiations.

First let me provide a little history on the Walker River and the Walker Lake. Litigation has been going on over the Walker River for many decades. The first decree in the Federal Court divided up the water of the Walker River system amongst all of the various users in 1919. Later litigation resulted in decree in equity number C-125, which adjudicated not only the waters of the main stem of the East Walker River and West Walker River, but of all of the tributaries both in Nevada and California.

Irrigation began in the Walker River basin before the turn of the century in order to feed the miners that worked in Bodi, Aurora, and perhaps even the Comstock. There was little regard given to the terminus to the Walker River system, that being Walker Lake. A substantial irrigation based economy has developed in Smith and Mason Valleys in Nevada, as well as Antelope and Bridgeport Valleys in California over the last 150 years.

K104  
ASSEMBLY ELECTIONS, PROCEDURES, & ETHICS  
DATE: 5/13/03 ROOM: 3138 EXHIBIT K  
SUBMITTED BY: Mike Turnipseed

In the late 1980's during the last big drought, Bridgeport Reservoir was drained which stimulated another round of litigation on the Walker River system. In 1992, the state of Nevada through the Division of Wildlife intervened by stipulation in the Walker River litigation in order to protect not only the water rights at the Mason Valley Wildlife Management Area but also the permitted water rights of the Division of Wildlife for the benefit of Walker Lake.

The litigation that stemmed from the drought of the late 1980's also caused the Walker River Tribe and the United States to assert additional claims to surface water (presumably for irrigation) from the Walker River, groundwater in and around the reservation at Schurz, groundwater for the colony at Yerington, groundwater for the colony at Bridgeport, groundwater for the Army Depot at Hawthorne, groundwater for the Mountain Warfare Training Center on the West Walker River, and various instream flow and public water reserves. After nearly a decade of not being able to complete the service process, the litigation has stalled.

Shortly after I became Director in 2000, there was a status conference in Magistrate McQuaid's court, and I asked if there was a room that we could begin talking settlement, and the magistrate obliged. It seemed like there was a possibility to settle, and we began that process.

I requested the construction of a Federal Negotiating Team, which took about one year to complete but was assembled in July of 2002. In the meantime, we sent out proposals for a mediator, selected a mediator, and began negotiations in January 2003. The mediation team is made up of representatives of the United States, the Tribe, and a team from Nevada, a team from California, representatives from Lyon and Mineral Counties in Nevada, as well as Mono County, California, and the Walker River Irrigation District. Our first task was to explore a multitude of possibilities to get additional water to Walker Lake. Our long-term tasks will be to evaluate the various claims and reach settlement with the United States and Tribe as well as Mineral County and the Walker Lake Working Group. So you can see that this mediation/negotiation process is in

K2014

its infancy, and we are just now beginning to build trust amongst each other and evaluating various options to keep the Walker Lake ecosystem viable. In a broad sense I'm not sure this resolution is going to further that effort. I ask that you let that process proceed without interference. In a more narrow sense, there are some misleading or incorrect statements in the whereas clauses, and I have some real problems with the language in the resolved section.

In the eighth whereas from the top that reads "Without an immediate influx of fresh water, the food chain and ecosystem of Walker Lake could be lost in the very near future." Amongst the many options that the mediation group is exploring, are options that deal directly with the lake. The term immediate is a bit of a misnomer. I should add that all of the negotiations are and all of the negotiators are bound by a confidentiality agreement; therefore, I cannot tell you what all the options are, but I can tell you that we are serious about saving the Walker River/Walker Lake system.

The next whereas which states "Without such an influx of fresh water, Walker Lake will be converted into a salt water lake requiring either years to stabilize a new ecosystem or extensive scientific research and huge sums of money to restore a fresh water ecosystem supporting Lahontan Cutthroat Trout ." That is simply not true in the near term.

The next whereas discusses an environmental impact statement (EIS) prepared by the Bureau of Land Management to assess the feasibility of acquiring additional fresh water to Walker Lake. That EIS is not a public document. It was a draft circulated amongst the cooperators. Another draft was prepared for public comment but has not been released.

The next whereas which speaks about Public Law 107-171 and the 200 million dollars is also misleading. There is not 200 million dollars available at this time and it is not necessarily directed toward providing water and assistance to Walker Lake.

K3014

Now to the resolve portion, the first resolution that "The Nevada Legislature hereby declares that the preservation of Walker Lake's fresh water ecosystem, which supports Lahontan Cutthroat Trout is in the public interest", is bothersome to me. There are three criteria in the statutes that the State Engineer administers in NRS 533.370 when evaluating an application to appropriate water and two of them apply to an application to change. One of them is whether the appropriation or change application threatens to prove detrimental to public interest. The Nevada Legislature has attempted many times to define public interest but has failed to do so. If the public interest statement were amended so as not to be identical to the criteria the State Engineer uses in evaluating applications, then I would not have any problem. Additionally, the Division of Wildlife has a permit, which the State Engineer granted more than 20 years ago; therefore, he has already made the determination that the water in the Walker Lake is in the public interest.

The next resolve states that "The Nevada Legislature finds and declares that conservation is a reasonable means of acquiring water for Walker Lake and that any acquisition of water or water rights for transfer to Walker Lake should be implemented through an agreement between willing buyer and willing seller", and these two options, conservation and acquisition, are too narrow. If there are to be acquisitions, I agree that it should be from willing sellers; however, there are many more options being discussed by the mediation group that will supply additional water to Walker Lake. The 200 million dollars cannot be used for acquisition or lease by the very federal law that created it. We would not want to be constrained to these two options. In addition, any transfer of water to Walker Lake needs to be accomplished through applicable state laws and follow the decree of the federal court.

I have handed out copies of two letters from the Governor to water users in the Walker Lake system.

With that Mr. Chairman, I will conclude my remarks and ask if there are any questions.

K404