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April 10, 2001

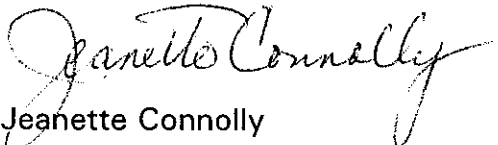
Mr. David Parks, Chairman
Taxation Committee
Nevada Assembly

RE: A.B. 229

Dear Mr. Parks & Committee Members:

Assemblyman Pete Goicoechea has requested I advise you that, as the sponsor of A. B. 229, he concurs with the Southern Nevada Water Authority's amendments to his bill.

Sincerely,



Jeanette Connolly
Attache to Assemblyman Goicoechea

ASSEMBLY TAXATION
DATE: 4/10/03 ROOM: 4100 EXHIBIT 4
SUBMITTED BY: Assm Pete Goicoechea

Amendments to AB 229

4/8/03

- Line 1-2 Revise as follows: ~~8~~
 “[tax] fee of [\$60] ~~up to \$50~~ per acre-foot per year on the transfer.”
- Line 1-8 Revise as follows:
 “2. A county of origin shall not impose a [tax] fee pursuant to”
- Line 1-11 Revise as follows:
 “intent to impose the [tax] fee. The State Engineer shall review the notice”
- Line 1-12 Revise as follows:
 “of intent to impose the [tax] fee to determine:”
- Line 2-2 Revise as follows:
 “(1) Subject to the proposed [tax] fee because of that transfer and”
- Line 2-4 Revise as follows:
 “(2) Not subject to the proposed [tax] fee pursuant to subsection 4.”
- Line 2-8 Revise as follows:
 “the [tax] fee, the State Engineer shall send a written notice to the county”
- Line 2-12 Revise as follows:
 “subject to the proposed [tax] fee. The county may, upon such a”
- Line 2-13 Revise as follows:
 “determination, impose the [tax] fee on the transfer.”
- Line 2-14 Revise as follows:
 “4. A [tax] fee may not be imposed pursuant to this section on water”
- Line 2-21 Revise as follows:
 “5. All money collected from a [tax] fee imposed pursuant to this”

Rationale for Amendments

1. Changing tax to fee – The intent of NRS 533.348 is to provide a mechanism for a county of origin to seek mitigation of lost economic opportunity associated with the interbasin transfer of groundwater. As such the tax was envisioned as mitigation for impacts. Other provisions of NRS allow for counties to impose impact fees which typically can only be used to mitigate the consequences of the impacting action. Taxes on the other hand are levied to support the general provision of services and are not typically restricted in their use by counties. In addition, certain limitations on allowable tax revenues exist for counties and it is not the intent of NRS 533.348 that revenues derived under this section be considered for limitation. Finally, certain entities are exempt from taxation (i.e. units of local government) and it is not the intent of NRS 533.348 to exempt any entity from the mitigation available to counties of origin pursuant to NRS 533.348.

2. Including “up to” as basis for establishing fee – All parties testifying on AB 229 have indicated their desire that NRS 533.348 promote negotiations to mitigate impacts between counties of origin and entities proposing to undertake interbasin transfers of groundwater. Inclusion of “up to” will enable for the county of origin to impose differential fees which reflect the outcome of said negotiations. Proponents of interbasin transfers of groundwater which offer the county of origin other non-fee forms of mitigation of value to the county may expect imposition of a fee which has been discounted to reflect the value of such other forms of non-fee mitigation. The potential for discounting of mitigation fees will encourage negotiations in good faith between the county of origin and proponents of interbasin transfers of groundwater.

3. Reducing the fee from \$60 to \$50 per acre-foot per year – There was disagreement among parties testifying on AB 229 as to the appropriate level of the fee contained in Section 1. However, all parties agreed that the \$6 contained in NRS 533.348 was an arbitrary figure when first enacted into law. The Humboldt River Basin Water Authority offered testimony which cited examples of fees assessed in other locations and presented an example whereby application of Nevada ad valorem tax guidelines to the value of water yielded taxes which approached \$60 per acre-foot. Other parties suggested that the \$60 per acre-foot proposed in AB 229 was also arbitrary and suggested that the examples and analysis presented by the Humboldt River Basin Authority did not adequately reflect the capital costs of putting interbasin transfers of groundwater to beneficial use. The amendment to reduce the per acre-foot fee from \$60 to \$50, when coupled with inclusion of the “up to” language enables the county of origin and the proponent of the interbasin transfer of groundwater to negotiate a fee ranging between \$0 and \$50 per acre-foot per year. Where no other non-fee forms of mitigation are offered by proponents of the interbasin transfer of groundwater, the \$50 fee represents an equitable basis of compensating the county of origin of lost economic opportunity. Establishment of a fee below \$50 may encourage proponents of the interbasin transfer of groundwater from entering into negotiation for non-fee forms of mitigation, opting instead to simply pay the mitigation fee.