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WORK SESSION
SENATE COMMITTEE ON NATURAL RESOURCES

April 2, 2003

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The following measure will be considered for action by the Senate Committee on Natural Resources during the work session:

SENATE BILL 336 (SENATOR HARDY)

Directs the State Engineer to quantify older water rights in the Las Vegas Valley Groundwater Basin and so notify the holder of the right and the county recorder.

A few older water rights express the amount of the appropriation only in cubic feet per second which can be a somewhat misleading term if not accompanied by a quantification in acre-feet per year. Senate Bill 336 directs the State Engineer to quantify these rights in the Las Vegas Valley Groundwater Basin and so notify the holders of these rights and the county recorder.

Proposed Amendments

Senator Hardy submitted the attached proposed amendment to the general statutes requiring that the State Engineer notify the person who submits a report of conveyance of a water right when the State Engineer's office has confirmed that conveyance. The amendment also specifies that the notification must include language explaining the limitations associated with this confirmation.

The Southern Nevada Water Authority proposed a second attached amendment which: (1) allows the State Engineer to postpone action on applications to appropriate water for municipal use; (2) preserves the status of applications for which the State Engineer has not acted within the 1-year timeframe provided by statute ensuring that these applications are not deemed approved or denied because of the State Engineer's inaction; and (3) ensures that the State Engineer must consider senior/existing applications, as well as existing certificates of water rights, when reviewing new applications.

The State Engineer testified in support of these proposed amendments.

PROPOSED AMENDMENT FOR

SENATE BILL 336

SENATOR WARREN B. HARDY

Amend NRS 533.386 to require that, when the State Engineer makes the confirmation required in subsection 1, he must so notify the person who submitted the report of conveyance. Further require that this notice must include a statement indicating in substance that the confirmation of the conveyance does not guarantee, nor does the listing of an amount of water on the report of conveyance guarantee, that:

- The water right is in good standing in the office of the State Engineer; or
- The amount of water referenced in the letter is the actual amount of water that the holder of the certificate is entitled to use.

W32952-2

SB 336 Proposed Amendment

Description. AN ACT relating to water; amending the deadlines by which the state engineer must act on certain applications; clarifying the priority of senior applications; and providing for other matters properly relating thereto.

Section 1. NRS 533.370 is hereby amended to read as follows:

NRS 533.370

1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and
- (c) The applicant provides proof satisfactory to the state engineer of:
 - (1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and
 - (2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection 6, the state engineer shall approve or reject each application within 1 year after the final date for filing a protest. However:

- (a) Action may be postponed by the state engineer:
 - (1) Upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant; or
 - (2) *In the case of applications for municipal use.*
- (b) In areas where studies of water supplies have been determined to be necessary by the state engineer pursuant to NRS 533.368 or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

(c) If the state engineer does not act on an application or has not acted on a presently pending application within 1 year after the final date for filing a protest, the application remains active until acted upon by the state engineer. This section shall apply to all applications filed after its effective date and to all applications previously filed that are pending on or after the effective date.

3. Except as otherwise provided in subsection 6, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, *senior applications to divert water from the same source*, or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

4. In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this section, the state engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the state engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the state engineer determines to be relevant.

5. If a hearing is held regarding an application, the decision of the state engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 7, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

6. The provisions of subsections 1 to 4, inclusive, do not apply to an application for an environmental permit.

7. The provisions of subsection 5 do not authorize the recipient of an approved application to use any state land administered by the division of state lands of the state department of conservation and natural resources without the appropriate authorization for that use from the state land registrar.

8. As used in this section, "interbasin transfer of ground water" means a transfer of ground water for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

Sec. 2. This act becomes effective on July 1, 2003.