

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-ninth Session
March 23, 2017**

The Senate Committee on Natural Resources was called to order by Chair Yvanna D. Cancela at 1:47 p.m. on Thursday, March 23, 2017, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada and to Room 102, McMullen Hall, Great Basin College, 1500 College Parkway, Elko, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Yvanna D. Cancela, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator James A. Settelmeyer
Senator Pete Goicoechea

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Erin Roohan, Counsel
Gayle Farley, Committee Secretary

OTHERS PRESENT:

George A. Ross, Chair, Board to Review Claims, State Environmental Commission, Division of Environmental Protection, Department of Conservation and Natural Resources
Greg Lovato, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources
David Gaskin, P.E., Deputy Director, Stormwater Management Program, Nevada Department of Transportation
Larry Johnson, President, Coalition for Nevada's Wildlife
Connie Howard, Nevada Wildlife Alliance
Tyler Turnipseed, Chief Game Warden, Department of Wildlife
Stacey Shinn, Policy Director, Progressive Leadership Alliance of Nevada

Senate Committee on Natural Resources
March 23, 2017
Page 2

John Hadder, Director, Great Basin Resource Watch
Jason King, P.E., State Engineer, Administrator, Division of Water Resources,
State Department of Conservation and Natural Resources
Bennie B. Hodges, Manager, Pershing County Water Conservation District
Kyle Davis, Nevada Conservation League
Laurel Saito, Nevada Water Program Director, The Nature Conservancy
Mike Baughman, Executive Director, Humboldt River Basin Water Authority
Anne Macquarie, Toiyabe Chapter, Sierra Club
Erika Castro, Progressive Leadership Alliance of Nevada
Dylan Shaver, Vice President, Nevada Mining Association
Allen Biaggi, Nevada Mining Association
Omar Saucedo, Southern Nevada Water Authority

CHAIR CANCELA:

We have a bill draft request (BDR) to introduce that deals with urban agriculture.
I would entertain a motion to introduce BDR 22-1078.

SENATOR RATTI MOVED TO INTRODUCE BDR 22-1078.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

Senator Goicoechea is going to introduce Senate Bill (S.B.) 251.

SENATE BILL 251: Requires the Board to Review Claims to adopt regulations for the administration of a grant program to assist certain operators of petroleum storage tanks. (BDR 40-942)

SENATOR PETE GOICOECHEA (Senatorial District No. 19):

We have a number of small gas station operators located in rural areas throughout the State. A number of these small operators are struggling to maintain their stations and keep their storage systems running properly. The purpose of this bill is to establish a fund to help these burdened gas station operators. We also have an amendment to this bill ([Exhibit C](#)).

GEORGE ROSS (Chair, Board to Review Claims, State Environmental Commission, Division of Environmental Protection, Department of Conservation and Natural Resources):

In 1989, in compliance with federal law, a few of us were given the task of designing a program to comply with a federal mandate directed to underground storage tanks. We developed a set of regulations, *Nevada Revised Statutes* (NRS) 445C.290 through 445C.410, for the cleanup of spills from underground petroleum storage tanks and created the Fund for Cleaning Up Discharges of Petroleum. Each station operator put in \$100 per tank as insurance in the Petroleum Fund in the event of a petroleum storage tank spill. In addition, a .75-cent fee was levied on each gallon of fuel purchased at the gas station. This money also goes into the fund. Since that time, we have expended approximately \$205 million to clean up petroleum storage tank spills in over 1,100 gas stations.

The Board to Review Claims of the State Environmental Commission would approve the reimbursements for those cleanups. We pay 60 percent to 90 percent of the cleanup with the deductible. This has been a highly successful program, but unfortunately, approximately 250 of those leaks actually got into the water table. When fuel gets into the water table, the average cleanup cost is approximately \$658,000. I would also note that if a station operator ignores the regulations, did not install proper equipment, or does not perform proper checks on their systems, they are penalized.

Last year, the federal government enacted new regulations designed to further prevent petroleum storage tank leaks. They go into effect in October 2018. This will cost the average gas station operator between \$38,000 and \$90,000 to comply. As Senator Goicoechea stated earlier, there are many small station operators in rural areas that are barely managing today. To have to spend this much money to comply with these regulations may be the straw that breaks the camel's back for these station operators. It is imperative that we have stations throughout those areas because of the long distances between them.

During the midst of the recession, S.B. No. 5 of the 26th Special Session in 2010 was passed. This bill enacted legislation to transfer any money in excess of \$7.5 million from the Petroleum Fund to the Nevada Department of Transportation (NDOT) for maintenance and construction of highways. Approximately \$4 million a year gets transferred to NDOT. Senate Bill 251 would create a grant to fund a program using a portion of the revenue that is

paid to NDOT from the Petroleum Fund. The funds from this grant are specifically to assist struggling station operators to comply with the new federal regulations by October 2018.

Nevada's Division of Environmental Protection (NDEP) would staff the program and draft the regulations and our Board would approve it. The amount of money that would be used from this grant, in the very worst case scenario, would be approximately \$7 million. This is well worth the investment when you think about the cost of a petroleum leak that could get into the water table.

We expect to get this program running within a few months and have most stations implementing this program within a 2- to 3-year period. The proposed amendment, [Exhibit C](#), clearly defines our purpose and the criteria for station operators to access the grant money. Obviously, a station that is owned by a multi-millionaire does not need help, but a station operator who depends on his station as the only means of support for his family is a different story.

GREG LOVATO (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

We are in support of S.B. 251 with the proposed amendment. As Mr. Ross testified, although the equipment upgrades to comply with these new regulations can be costly, the costs would pale in comparison to total costs realized without this grant money by the station operators with leaking tank systems. We are talking about turbine sumps, double containment on certain aspects under the dispensers and replacement of spill buckets to comply with new regulations. The cost may be higher for a rural facility, depending on the location.

To understand what the demand may be for the financial assistance proposed by S.B. 251, and the availability of funds to meet that demand, NDEP analyzed the underground storage tank facility (UST) population in the State and the recent history of the petroleum fund revenues. They prepared an analysis, which determined that of the 1,262 UST facilities in Nevada, 83 have 4 or fewer facilities within a 15-mile radius. Accounting for financial need considerations, we anticipate the program would be offered to a fraction of those 83 facilities. The \$7.2 million for stations cleanup that Mr. Ross mentioned, was assuming that we had 80 facilities at a cost of \$90,000. We anticipate the final amount will be a fraction of that. The NDEP reviewed available revenue since the Special Legislative Session of 2010; the fund has transferred funds that exceed

\$7.5 million as of June 30 each year to the State Highway Fund. Over the past six years, the fund has transferred an average of \$4.16 million with a low of \$2.76 million and a high of \$5.5 million. The Division estimates the fund could provide approximately \$2 million per year on average to fund the highest ranked UST facilities which would pay for equipment replacement for 20 to 40 facilities per year. This would be completed in three to four years. Because the UST regulations go into effect in October 2018, the NDEP will need to adopt the grant program regulations and obtain budget authority in 2017. We have performed an initial review of similar grant programs administered in Utah and California and anticipate that lessons learned in those programs and others such as the state of Washington will benefit Nevada's program. The NDEP believes that S.B. 251 will bring benefits to the State, UST operators and the environment. I also have a letter of support ([Exhibit D](#)) that I would like to be a part of the record from the Washoe County Health District.

DAVID GASKIN, P.E., Deputy Director, Stormwater Management Program, Nevada Department of Transportation):

I am here to testify in support of S.B. 251. We believe this is in the best interest of the State. The total amount of Petroleum Fund money available for NDOT use is a small percentage of our total capital project expenditures. This would not jeopardize our ability to deliver future highway projects.

SENATOR GOICOECHEA:

I think this bill provides a mechanism to support a funded program, and it will be of great assistance across the State, especially for the rural station operators who otherwise could not afford to comply. I appreciate NDOT's support, but then again, highways do not do us any good if you do not have the gas to fill up the cars to drive on them.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 251 WITH PROPOSED AMENDMENT 3224.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

We will close the hearing on S.B. 251. Senator Goicoechea will introduce S.B. 370.

SENATE BILL 370: Revises provisions governing the transportation of game, hunters and hunting equipment. (BDR 45-206)

SENATOR GOICOECHEA (Senatorial District No. 19):

Senate Bill 370 came out of an event that occurred in Elko County a year ago. Elko County had granted some heliport sites in the Ruby Mountains Wilderness for heli-skiing and camping. Later, it became apparent to us that there is no law that prohibited a heliport from being created by a local government entity. In this particular case, the U.S. Forest Service and Elko County negotiated in an agreement with the applicant that he would not carry hunters and transport game in and out of the area. Following this event, it became apparent to the Department of Wildlife and other State agencies that there was no law to stop anyone from building a heliport anywhere they want. This bill would stop anyone from constructing a heliport that cannot be accessed by a public road. It would also make it unlawful to carry hunters, game or equipment in a helicopter where the helipad cannot be accessed by a public road.

LARRY JOHNSON (President, Coalition for Nevada's Wildlife):

We support this bill. It came to our attention a couple of years ago when a heli-skiing company proposed to expand their business year-round and start catering to hunters in the Ruby Mountains. Sportsmen and sportswomen are very concerned with ethical, fair-chase methodologies. Other countries use aircraft to transport hunters, haze game and shoot animals out of helicopters. We self-police ourselves to ensure that we are abiding by certain ethics and requirements to maintain a fair chase.

SENATOR MANENDO:

What is your definition of fair chase?

MR. JOHNSON:

It comes down to individual ethics. I do not think you can legislate or regulate ethics—doing the right thing when nobody is looking. The Ruby Mountains which we revere, are accessible by horseback, by foot and backpack. Having carried many mule deer on my back off the tops of the Ruby Mountains, the thought of all of a sudden someone ferrying hunters to the top of the mountain

by helicopters, even though it is already illegal, to scout animals from aircraft, violates something we hold dear.

SENATOR MANENDO:
Does this give an unfair advantage?

MR. JOHNSON:
Yes, there is an unfair advantage that is difficult to describe because of the individual ethics of fair chase. This past year, there have been regulations written to prevent electronic sighting and triggering mechanisms used for hunting rifles of the types used in the military for sniping that would essentially guarantee a shot every time. It removes the human skill element.

SENATOR MANENDO:
Would hunting with hounds be the same thing because you are chasing the animal up the tree, and then you go to the tree and shoot the animal down?

Mr. Johnson:
I have spent 14- and 16-hour days chasing dogs in deep snow; it is anything but a gimme.

CONNIE HOWARD (Nevada Wildlife Alliance):
We support this bill.

TYLER TURNIPSEED (Chief Game Warden, Department of Wildlife):
We support this bill. We have relied on NRS 503.010 that states if anyone is to transport hunters with a helicopter, it would have to take off and land at a government designated heliport. This was never an issue with the law until about a year ago when Elko County designated a few heliports on top of the Ruby Mountains. Several concerned sportsmen and sportswomen called me and asked if it was legal to take hunters and their equipment up there. They wanted to know how to stop it, and this is how we ended up here today. The helicopter provides an advantage in flying people into places where other people cannot get to and creates a wildlife disturbance. This bill eliminates that advantage.

SENATOR RATTI:
Does this bill prohibit the use of these helipads to other types of recreational users?

SENATOR GOICOECHEA:

The heliport owners that were approved to build in the Ruby Mountains were said to be in an agreement with Elko County. They said they would not transport hunters. It soon became apparent to us that they did not have to abide by that agreement. This is the reason for this legislation. Heli-skiers and other types of recreational enthusiasts can continue to be transported by helicopter. Hunters and their equipment or game that are being transported by helicopter must be transported to and from a publicly accessed helipad.

SENATOR RATTI:

Do sportsmen and sportswomen have concerns about creating additional access to some of these far-reaching wilderness areas?

SENATOR GOICOECHEA:

Their issue is creating a heliport where it is not accessible by a public access road. This is what the testimony heard today exhibits. I have not heard anyone oppose the bill.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 370.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

We will now hear testimony with regard to our Committee bill, S.B. 231.

SENATE BILL 231: Revises provisions relating to water. (BDR 48-736)

STACEY SHINN (Policy Director, Progressive Leadership Alliance of Nevada):

The Progressive Leadership Alliance of Nevada brought S.B. 231 forward in order to restore our basins to a healthy state. Senate Bill 231 requires the State Engineer to prepare a water budget and inventory of every basin in Nevada to include total appropriations, estimated domestic use and available groundwater. All appropriations, including those that are temporary in nature would be included in the budget, including amounts consumed in mining projects and

returned to the basins, and that information must be posted by the State Engineer.

JOHN HADDER (Director, Great Basin Resource Watch):

I will go through our proposed amendment ([Exhibit E](#)) from my written testimony ([Exhibit F](#)). The motivation behind S.B. 231 comes from a water management view. There are a number of permits with very large volumes of water that are issued for mining, which, by definition are called temporary in nature, but are not included in the basin budgets. I would like to go through our proposed amendment from my written testimony. After reviewing the bill again and our proposed amendment, [Exhibit E](#), we added another proposed amendment ([Exhibit G](#)). In the additional proposed amendment, [Exhibit G](#), I noted that Senator Goicoechea thought this may be in line with Senator Settelmeyer's concerns on unlimited extensions.

SENATOR SETTELMEYER:

I need to correct something for the record. This notation on your additional amendment, [Exhibit G](#), implies that I was concerned about unlimited extensions in previous testimony on another bill. To be clear, my concern is the inequity between rules for an individual versus a municipal water system. The concept of unlimited extensions was not my concern. I can see situations for individuals that need extensions over a period of time, not unlimited, but not limited to the provisions that you are discussing. I want to make this clear for the record.

SENATOR GOICOECHEA:

Mr. Hadder, are you saying that after five years of extensions, the entities would have to reapply for a new permit?

MR. HADDER:

Correct. My understanding of the law is that under the permitting process, the permittee has five years to prove the construction works, and then the clock starts and they have five years to prove beneficial use. What we are saying, is that by limiting it to five years of extensions, the permittee would have ten years to prove beneficial use.

JASON KING, P.E. (State Engineer, Administrator, Division of Water Resources, State Department of Conservation and Natural Resources):

We are in support of S. B. 231; however, we are also offering a friendly amendment ([Exhibit H](#)) which refers to section 2 of the bill, which I think should be memorialized as policy.

SENATOR SETTELMAYER:

Mr. King, do you feel that these entities under section 3 are not giving enough information or not disclosing the amount of water they are using consumptively?

MR. KING:

No, this is actually information that we already ask for. I would say that the lion's share of information we already have in our records. This is only ensuring that this is done by placing it into NRS. I will add that if this bill passes, we would probably change our application form so when we get an application for mining and milling, we would specifically ask how much water they expect to consumptively use and how much would go to recharge the basin. That way we can call out that information right at the application. Again, this is information we currently have on the form.

SENATOR SETTELMAYER:

Will you give me your thoughts on the amendment regarding the limit of five years for the proof of beneficial use. I know there are situations, and I have one of them, where water has not been beneficially used and the land was taken by eminent domain. There was never an opportunity to find a way or place to transfer it. I would like to hear your opinion on that.

MR. KING:

There are a number of extenuating circumstances for applicants who may need extensions beyond five years. While I appreciate the effort, I cannot support the type of language where an entity gets five years and that is it. This does not make sense to me.

SENATOR GOICOECHEA:

Are you supporting the bill, but not the amendment?

MR. KING:

Yes, that is true.

BENNIE B. HODGES (Manager, Pershing County Water Conservation District):
The Pershing County Water Conservation District supports S.B. 231. We are located in Lovelock. The District is the single largest surface water user in the Humboldt River Basin stream system and we have Rye Patch Reservoir for our storage. Our irrigation district is about 40,000 acres in size, and the main products produced are alfalfa, grains and cattle. Our resource water is through the stream system as surface water. We do not have the luxury of supplemental wells like many people in Nevada do because the groundwater quality in our basin is very poor. The quantity is high, but the quality is too poor to use for irrigation. We have to rely strictly on surface water. The most water we can use annually is three acre-feet per acre. That is very low, but we do very well with that. We use that for gauging what we might have as an allotment for the coming season. We use the snow pack and stream flow forecast to gauge and anticipate what we are going to receive. We started noticing when we were using these numbers, we were coming up short. We attributed that to groundwater over-pumping that was affecting surface flows in the Humboldt River Basin. The Humboldt River Basin is a very large basin of 15,000 to 17,000 square miles. In that basin, 21 or 22 of about 34 individual stream basins are over-appropriated. Three basins are very close together, the Winnemucca Basin, Paradise Valley Basin and the Grass Valley Basin. Those three basins together are over-appropriated by 150,000 acre-feet annually.

We think that the State Engineer needs to get all these over-appropriated basins back in equilibrium. This can be accomplished by preparing a water budget and maintaining an active inventory of each basin. I think temporary water permits need to be factored into the water basin budget. There are temporary water permits that can last for 40 to 60 years. I think S.B. 231 would be beneficial to all surface water users on the Humboldt River System, not just the constituents of the Pershing County Water District because over pumping will continue to affect base flows on the Humboldt River.

SENATOR GOICOECHEA:

I want to make sure everyone knows that the Grass Valley just mentioned by the last speaker is not the same one that was talked about earlier. The temporary permits he was speaking about are not the same temporary permits that were discussed last week in S.B. 47.

SENATE BILL 47: Makes various changes relating to the appropriation of water.
(BDR 48-499)

Is there a fiscal note on S.B. 231?

MR. KING:

No, not at this time.

SENATOR SETTELMAYER:

You commented that there is no fiscal note, as submitted. Is that going to be in a proposed amendment?

MR. KING:

I have not had a chance to analyze the bill, so I cannot comment on that.

KYLE DAVIS (Nevada Conservation League):

We support the bill and the State Engineer's proposed amendment. We feel that keeping a good handle on where our water budgets are, especially because we have so many basins that are over-appropriated, makes sense. We have not had a good look at the other amendments yet.

LAUREL SAITO (Nevada Water Program Director, The Nature Conservancy):

The Nature Conservancy supports S.B. 231 and the State Engineer's proposed amendment. I have submitted our written testimony ([Exhibit I](#)).

SENATOR GOICOECHEA:

Mr. King, we have temporary permits in place in the mining industry. Typically, those temporary permits need to be permitted because they are actually part of mining, especially dewatering as they mine. What actually is temporary about it is the point of diversion. Am I correct?

MR. KING:

Actually, it would be the manner of use. You really have to drill down into the specifics of an application. When someone tries to change a mining and milling application to, for example, municipal use, we really scrutinize that application. We want to see where it is in the basin and what is happening with water that is already committed in the basin. We may deny it because it has to stay at mining and milling.

SENATOR GOICOECHEA:

In a lot of these cases where temporary permits were in place because they were mining through the well as they were dewatering, in those cases the permits were temporary in nature because the points of diversion would change as they mined through. They would move it to another site. Maybe I am going back too many years, but that is how it used to be.

MR. KING:

Senator Goicoechea, I have never heard that about "temporary in nature." To me, it was just more the mining and milling operation itself was a temporary project.

SENATOR GOICOECHEA:

Those wells were temporarily put in place, and they mined through them and then relocated them as the mine expanded and went down. I know some of those were temporary permits.

MR. KING:

There is no argument from me that they mine through their points of diversion and have to move them, and then have to file temporary permits. We have something we call the super permit now.

SENATOR SETTELMAYER:

This raises questions about dewatering in the form of gravel pits. When they dig down and there is a rain event, do they need a temporary dewatering permit for that or do they usually already have one?

MR. KING:

For gravel pits, we issue mining and milling water rights. On occasion, we may have classified it as an industrial permit. This does not affect them, in my mind.

MIKE BAUGHMAN (Executive Director, Humboldt River Basin Water Authority):

We are in support of S.B. 231 and the State Engineer's proposed amendment. You will hear opposition to this bill, and there will be some issues. We encourage this Committee to include this proposed amendment to give us some direction in Nevada.

ANNE MACQUARIE (Toiyabe Chapter, Sierra Club):

We are in support S.B. 231; however, we do have a proposed amendment ([Exhibit J](#)).

MR. KING:

I have a very short statement of support to read into the record:

Our office, Office of the State Engineer, is testifying for support of S.B. 231. Most of what is being required in section 1 of the bill is information that our office already has or collects. We agree with section 2's recognition of the importance of maintaining all basins in a healthy state. As far as the amended language in sections 3 and 4, our office will be able to satisfy those requirements with no fiscal impact.

I feel compelled to put it on the record that our office is not reading that policy as mandating our office not to issue temporary nature rights that may exceed the water availability in a basin. It is saying we should account for it, as we already do. If you were to look at our water rights database and you wanted to see what was committed in a basin by manner of use, all of those temporary nature permits are already there. When we looked at long-term decisions on how much water is available versus what is committed, yes, in many instances where we have issued temporary nature permits, we back those out of the calculation. They are accounted for, but they are accounted for whether they are long- or short-term. I want to get it on the record that our office is not reading that legislative policy as any mandate that our office cannot issue temporary nature rights.

SENATOR RATTI:

So, you are saying in an over-appropriated basin where you have done the calculations and you know that the temporary permit is going to exceed the appropriation budget in that basin, you would still issue that permit?

MR. KING:

It is specific to the circumstances in that basin. In some basins, the State Engineer's Office has allowed the appropriation of water to exceed what the perennial yield of what that basin is. This was based on the fact that a mining and milling operation is temporary in nature and has a life of maybe 15 years. The idea of allowing that water to be pumped in excess of the perennial for that

short term is okay. We would not issue any temporary permit in nature rights if a basin was significantly over-appropriated with water levels declining and there were conflicts occurring.

Your question to me, was in an over-appropriated basin, if it is already significantly over-appropriated, and water levels are declining, and we are seeing conflicts occur, then we are probably not going to issue any temporary in nature rights. Therefore, it is fact specific to the basin.

CHAIR CANCELA:

I have a question around the words "healthy state." Is that a term of art used by your office or is there a better way to capture what that means?

MR. KING:

It is not a term of art in our office. I can opine what that might mean and we could work on some language that might be a better fit, but I do not have a quick answer to what is healthy other than you ultimately want to match long-term consumptive use with supply.

SENATOR GOICOECHEA:

Balance may be more appropriate there, because I think that is what we are looking for.

MR. KING:

I like the word "balance", and I think that it could be a good word in the definition, but I think there is more to it when discussing conjunctive water use.

CHAIR CANCELA:

Just to be clear, I know this is not your language. It came from the bill sponsor. If you would be comfortable with coming up with a more robust definition of the word "healthy", I think that would be helpful.

ERIKA CASTRO (Progressive Leadership Alliance of Nevada):

We support S.B. 231 in order to restore our basins to a healthy state and ensure the responsible management of our water resources for this and future generations. We believe this bill is one more way to improve water management and provide more certainty in knowing the amount of water that is actually available.

DYLAN SHAVER (Vice President, Nevada Mining Association):

This is not a serious water bill and has nothing to do with the discussions about water that were held in the 2015-2016 Interim. Most of the provisions in this bill were not even brought up in these discussions. Serious changes to the water law achieve broad goals. When we talk about the bulk of this bill, it is targeted against one industry, mining. It is not looking for a broad goal. You heard the State Engineer say we are disclosing these things on the permits already and that dewatering is already used in basin budgets. It was said that many communities thrive on the Humboldt River, but this is about groundwater, and the Humboldt River is a surface feature. The bill cannot achieve what the proponents want by targeting one industry. When it is said that everyone has to disclose this, but only miners have to put it on the Website. What goal does that serve for the public? We do not understand this. When we apply for water we are applying for what we can use. We do not know what the amount used is until we use it. Sections 1, 3 and 4 contemplate water returned to the ground or used consumptively. These are not the only options the State Engineer has. Water can be substituted for an existing right. Water can be returned under a permit from the NDEP to a surface feature. We do not want language that would accidentally lock the State Engineer into only two options.

SENATOR GOICOECHEA:

If you would look at section 4, subsection 12 of the bill, you will see that refers only to mining projects. I think most of us were under the impression that those numbers would be across all industries. Assuming we establish a budget for every basin would that be placed on the Internet?

MR. SHAVER:

Senator Goicoechea, that may have been your understanding, but unfortunately I have at my disposal the option to testify on the bill as we see it.

ALLEN BIAGGI (Nevada Mining Association):

I would like to put some of this information in context. As a bit of background, dewatering at mines is needed because the mining often extends below the groundwater table. In order to reach the orebody, they have to pump water. Sometimes that can be a significant amount of water. When the regulations were established and modern mining came into play in the late 1980s and 1990s, the State Engineer wisely outlined three things that mining activities could do with the water from dewatering. They could return it to the aquifer, they could substitute it for other rights, which would preclude the need for

those rights to be pumped, or with a permit from NDEP they could surface discharge it. All three of those activities have been used over the last 30 or 40 years, and right now, the vast majority of water that is pumped out of mines is returned back to the aquifer. To put this into context, the statewide use of mining in terms of the overall water budget of the State, mining is about 10 percent of our water use. That is about the same as municipal use, which is about 9.7 percent. This information was derived from the State Engineer's Office in 2013. There has been a lot of discussion about whether or not temporary rights are considered by the State Engineer. You have heard Mr. King testify that temporary rights are considered in the water budget of the basins and consequently, the information contained, or requirement contained, within the bill is actually something that is already being done. Similarly, every mining company provides information on a regular basis to the State Engineer and also meets face-to-face with the State Engineer or his staff on the consumptive use of that water, how much is substituted, how much is returned and how much is discharged. That information is public record and is available for anyone at any time to review.

I would like to address Mr. Hodges' testimony. Mining has been found to have little impact on the Humboldt River Basin. There is groundwater pumping from other sources that is of greater concern to the Humboldt River Basin and which the State Engineer is addressing through his capture study efforts. I am not sure about Mr. Hadder's proposed amendment with regard to the five years of extensions. The proposed amendment pertains to municipal and quasi-municipal waters. We are concerned about this because we think they may be going after extensions of temporary water rights for mining activities. If that were the case, it would be a concern for us as we have invested billions of dollars in this State for mining, and it could have a chilling effect on future investment in mining in Nevada.

OMAR SAUCEDO (Southern Nevada Water Authority):

Southern Nevada Water Authority is neutral on this bill, as introduced, as well as the proposed amendment submitted by the State Engineer. However, we have not had a lot of time to digest the proposed amendment that was presented regarding the five-year extensions. As described, we are opposed to that amendment, and we would like the opportunity to continue to discuss and work on that amendment as it goes forward.

We wanted to point out that there was another bill that was heard before this Committee, Senate Bill 74, that had language stricken but then put back in, that referred to commitments of water. It may be a good idea to put the temporary permit language in that bill.

SENATE BILL 74: Revises provisions relating to water. (BDR 48-178)

MR. HADDER:

This bill is not designed to target the mining industry. This issue of budget management came up because of the specific permits for mining and milling. They have this temporary nature and they are not necessarily included in the basin budgets. We are also not implying that the State Engineer's Office does not have records of this. This just closes the legal hole in terms of our laws so that the processes of the State Engineer can move forward. We are willing to work with the Nevada Mining Association on some of the technical issues that they mentioned. We feel this is an important issue that needs to be addressed.

SENATOR SETTELMAYER:

Do you know of any others that use dewatering?

MR. HADDER:

Beside gravel pits and hard rock mining?

SENATOR SETTELMAYER:

Correct.

MR. HADDER:

Not that I can think of, but anyone that needs to do a deep excavation would have to dewater.

Senate Committee on Natural Resources
March 23, 2017
Page 19

CHAIR CANCELA:

There being no further comment, we will adjourn the meeting at 3:11 p.m.

RESPECTFULLY SUBMITTED:

Gayle Farley,
Committee Secretary

APPROVED BY:

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	8		Attendance Roster
S.B. 251	C	3	Senator Pete Goicoechea	Proposed Amendment No. 3224
S.B. 251	D	1	Greg Lovato / State Department of Conservation and Natural Resources	Letter of Support from Washoe County Health District
S.B. 231	E	4	John Hadder / Great Basin Resource Watch	Proposed Amendment
S.B. 231	F	3	John Hadder / Great Basin Resource Watch	Written Testimony
S.B. 231	G	2	John Hadder / Great Basin Resource Watch	Proposed Amendment
S.B. 231	H	1	Jason King / Division of Water Resources	Proposed Amendment
S.B. 231	I	1	Laurel Saito / The Nature Conservancy	Written Testimony
S.B. 231	J	1	Anne Macquarie / Toiyabe Chapter, Sierra Club	Proposed Amendment