

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

**Eighty-second Session  
February 16, 2023**

The Senate Committee on Natural Resources was called to order by Chair Julie Pazina at 3:30 p.m. on Thursday, February 16, 2023, in Room 2144 of the Legislative Building, Carson City, 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 Julie Pazina, Chair  
Senator Edgar Flores  
Senator Pete Goicoechea  
Senator Ira Hansen

**COMMITTEE MEMBERS ABSENT:**

Senator Melanie Scheible, Vice Chair (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Howard Watts, Assembly District No. 15

**STAFF MEMBERS PRESENT:**

Alysa Keller, Policy Analyst  
Erin Sturdivant, Counsel  
Cherie Dittler, Committee Secretary

**OTHERS PRESENT:**

Patrick Donnelly, Director, Center for Biological Diversity  
Warren Hardy, Nevada Conservation League; The Humane Society of the United States  
Annette Magnus, Executive Director, Battle Born Progress  
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada

Senate Committee on Natural Resources  
February 16, 2023  
Page 2

James Settelmeyer, Director, Nevada State Department of Conservation and Natural Resources

Ashley Jeppson, Administrator, Division of Plant Health and Compliance, Nevada Department of Agriculture

Adam Sullivan, State Engineer, Division of Water Resources, Nevada State Department of Conservation and Natural Resources

Micheline Nadeau Fairbank, Deputy Administrator, Division of Water Resources, Nevada State Department of Conservation and Natural Resources

CHAIR PAZINA:

The Senate Committee on Natural Resources will now come to order. I will open the hearing on Senate Bill (S.B.) 88.

**SENATE BILL 88**: Requires the Joint Interim Committee on Natural Resources to conduct an interim study of certain state agencies. (BDR S-345)

ASSEMBLYMAN HOWARD WATTS (Assembly District No. 15):

I chaired the Joint Interim Standing Committee on Natural Resources during the 2020-2022 Interim. Senate Bill 88 requires an interim study of certain state agencies. For background, during the last Interim, several stakeholders expressed interest in adjusting the makeup or mission of multiple entities that regulate various natural resources.

The 2021 Legislature undertook a reform of the Board of Agriculture but made minimal progress in addressing many other concerns. Presenting a separate proposal on each concern is not the best way to move forward; we accomplished nothing with this method. The best way of addressing concerns is to conduct a study in the Interim where all issues can be fully vetted.

Senate Bill 88 identifies the entities that have been discussed: the Nevada Board of Wildlife Commissioners, Nevada State Department of Wildlife, the Commission on Mineral Resources, the Nevada State Department of Conservation and Natural Resources, and the Nevada State Environmental Commission. The bill would set aside time and meeting space so issues can be adequately researched and discussed. During the study, stakeholders can present proposals to legislators which are best suited for the Interim. The Sunset Subcommittee of the Legislative Commission is not the proper avenue for addressing the issues and conflicts that currently exist. The study would consider the mission statements of the entities under review, the current

processes and determine alternate ways to include the voice of stakeholders. I believe this was passed unanimously by the Joint Interim Standing Committee on Natural Resources during its work session.

SENATOR GOICOECHEA:

The bill states the Committee shall examine, without limitation; four of the departments to be included in the study. Within the four departments are numerous agencies. Will the study include all those agencies?

ASSEMBLYMAN WATTS:

The verbiage "without limitation" allows for the study of other entities. I do not anticipate every division being evaluated in the study. The departments identified in the bill were included to give some framework for S.B. 88 but allows other entities to be studied.

SENATOR GOICOECHEA:

How many meetings do you think will be scheduled?

ASSEMBLYMAN WATTS:

The purpose of S.B. 88 is to ensure that a study is on the agenda for the next Interim. The chair will decide how many meetings are necessary and how to structure the meetings. At a minimum, I anticipate at least one long day of meetings.

SENATOR GOICOECHEA:

There will be great interest in the meetings.

SENATOR FLORES:

Could a study on the issues be done if this bill was not passed, and what are the practical benefits of passing this legislation? For example, would the study allow the involvement of Legislative Counsel Bureau (LCB) staff or other resources that would not normally be available if the bill was not passed?

ASSEMBLYMAN WATTS:

If this measure is not passed, the issues could still be addressed in the next Interim. The bill ensures the issues will be addressed by the interim committee. It also raises the importance of the issues because the study will be mandatory. The Legislature recently restructured the availability of resources during the Interim, so the availability of LCB resources is not a concern.

SENATOR HANSEN:

There has been an ongoing presumption that mining, wildlife and agriculture have not been thoroughly vetted for years. I have been in this building lobbying on these exact issues for 30 years. The presumption is somewhat insulting. Do stakeholders raising these issues want to remake and redo everything that has already been decided over the past 30 years? Any study should include discussions that have taken place in the past.

ASSEMBLYMAN WATTS:

I agree that these conversations have taken place in the past. The difference is that previously, a legislator would bring forward a proposal likely brought to them by a constituent or stakeholder with a vested interest. The proposals were then addressed on a piecemeal basis. The study aims to step back from the singular issues and take a wider view so many perspectives can be considered. Hopefully, there can be more productive discussions than in the past.

SENATOR HANSEN:

My biggest concern is that three of the industries singled out in the bill involve economic issues that are critical to rural parts of the State. The rural areas are already overwhelmed by the complete dominance of Clark County in the vetting process. When a committee is comprised of Nevadans who have no vested interest in mining, wildlife or agriculture, it becomes a red flag.

There are 3 million people in Nevada; 2.5 million of them live in Clark County. If the process to select Nevadans for regulatory boards and commissions change, rural Nevadans would have a dagger at their throats by Clark County Nevadans. Instead of having Nevadans making decisions who are economically invested in the outcome, there would instead be a big, broad discussion of how these processes should work. Clark County Nevadans would have a disproportionate influence when making decisions on regulatory agencies. I am concerned with the concept of "let's just bring in all the stakeholders," as the bulk of stakeholders are rural Nevadans.

ASSEMBLYMAN WATTS:

I am open to any ideas on changing language in the bill to address your concerns. We can both agree that any evaluation of natural resources and regulations are going to be of importance to rural communities, but I respectfully disagree with your assertion that rural Nevadans do not have a voice.

You and Senator Goicoechea served as alternates for joint interim standing committee meetings and subcommittees on public lands, so there is representation for rural Nevadans. This bill will create a forum where differing voices can be heard. We have become an urbanized State where most of the population and legislative representatives are in Clark County, and that is not going to change.

CHAIR PAZINA:

Is there anyone who would like to testify in support of S.B. 88?

PATRICK DONNELLY (Director, Center for Biological Diversity):

The Great Basin Center for Biological Diversity supports this bill. We have concerns about the composition of commissions in this State. We should not make decisions on the issues unilaterally; the Center believes a variety of perspectives will give stakeholders a better sense of where Nevadans stand on issues. Decision making should be a collaborative effort. We support this bill and ask that our perspective be considered in the Interim.

WARREN HARDY (Nevada Conservation League; The Humane Society of the United States):

I represent the Nevada Conservation League and The Humane Society of the United States, and they support this bill. The last time the revenue structure in Nevada was reviewed was in 1991. Senate Bill 88 is an opportunity for different agencies to review revenue infrastructure, ensure agency missions are clear and better coordinate agency functions. This is a good opportunity to ensure the agencies are working together and their mission statements are clear. I have a letter from The Humane Society Director, Rebecca Goff, confirming support of the bill ([Exhibit C](#)).

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

We support S.B. 88. Nevada's natural resources, open spaces and State treasures are essential and critical for current and future generations of Nevadans. Therefore, we need to ensure our agencies and commissions are equipped with the right resources and that various informed Nevadans are involved in decision making. The proposed study will help address the repetitive and unresolved issues the industry has been experiencing. We ask that you support the bill.

CHRISTINE SAUNDERS (Policy Director, Progressive Leadership Alliance of Nevada): We are in support of S.B. 88. The Progressive Leadership Alliance of Nevada takes a holistic look at how natural resources are managed and regulated in Nevada. As the driest state in the Nation, it is important for Nevada to protect our limited water supply. We must ensure people on the planet are considered first in these decisions rather than corporations. We urge your support of this bill and look forward to engaging in productive conversations over the next Interim.

ASSEMBLYMAN WATTS:

I appreciate the questions and conversations generated through the presentation of this bill. It speaks to the importance of voting for the study. It is beneficial to create a framework that is more neutral and holistic. We can gather more ideas, have better discussions and make changes more productively with the process envisioned in the bill.

CHAIR PAZINA:

I will close the hearing on S.B. 88 and move to a presentation by the Nevada State Department of Conservation and Natural Resources.

JAMES SETTELMAYER (Director, Nevada State Department of Conservation and Natural Resources):

I have prepared a visual presentation ([Exhibit D](#) contains copyrighted material. Original is available upon request of the Research Library.) The Nevada State Department of Conservation and Natural Resources (DCNR) is committed to conserving the environment, including the air, land, water and native ecosystems. The DCNR supports preserving natural, cultural and recreational resources for future generations. In addition, we support enhancing the quality of life by protecting public health, advancing sustainable recreation responsibility and managing limited water resources.

The Department seeks to protect life and safety by creating fire-resilient communities and landscapes and supporting wildfire and natural disaster responses to ensure dam safety. Nevada has had good and bad years with water issues. Fire issues have been bad nearly every year. The DCNR also provides community outreach education support in every Nevada county.

The DCNR consists of 8 divisions, 4 programs, 15 boards and commissions and 37 grant and loan programs housed at 59 duty locations. The Department's

mission statement is to conserve, protect, manage and enhance Nevada's natural, cultural and recreational resources. The Divisions and their functions are set forth on Slides 4 and 5 of [Exhibit D](#).

The Division of Natural Heritage administers four stand-alone programs, and their respective functions are set forth on Slide 6 of [Exhibit D](#).

Commissions under the DCNR and their duties include the State Environmental Commission, the Commission for Cultural Centers and the Comstock Historic District Commission. Preservation and Historical District Commission and the Commission for Cultural Centers. Boards under the DCNR include the Historical Preservation Board, Board for Financing Water Projects, the Nevada Tahoe Regional Planning Agency Board, the Well Driller's Advisory Board and the Board to Review Petroleum Claims. Included under the Department's purview are the State Land Use Planning Advisory Council, and the Nevada Drought Forum.

Programs under the Department include Sagebrush Ecosystem Program, Conservation Districts Program, Nevada Off Highway Vehicles Program, Nevada Recycling Program and Conserve Nevada Program.

The Department has divided the State into 28 individual districts receiving services which have key focus issues. Its primary focus is on wildfires. The DCNR must always be vigilant on spotting wildfires and addressing them quickly. In a dry year, we tend to have more beetle infestations, increased vegetation and drier trees that burn faster and hotter. The fire season seems to be extending in length and severity. Along with curtailing wildfires we must also protect Nevada's water resources.

The Department manages Nevada's limited water resources and ensuing drought conditions, including the declining river flow in Clark County. The DCNR services the Colorado River, which provides water to 2.3 million Nevadans and visitors in the Clark County basin. Over 19 percent of the State remains at an extreme drought level, D3, as designated by the U.S. Drought Monitor. In the last six months, Nevada has not experienced extreme drought conditions. Compare this designation to a year ago, when Nevada was at the D4 level. Even though Nevada has received a significant amount of water this year, we are not completely out of the woods. We still need to balance sustainable Nevada lands whether they are municipal, agricultural or down to the trails.

I would like to highlight our successes. Nevada has a shared stewardship agreement with federal partners, including the United States Forest Service (USFS). The USFS, together with the Division of Forestry, recently secured \$47 million in federal funds to implement cross-jurisdictional landscape wildfire mitigation. This has allowed the Department to treat 47 percent more acreage for fire retardation than the previous year.

The Department recently secured 250,000 acres for the Santa Rosa-Paradise landscape in Humboldt County. We are also collaborating with NV Energy, who received a \$5 million grant, examining critical utility corridors to ensure electricity will be available if an extreme wildfire event occurs. This collaboration protected 4,857 electric poles from fire damage, allowed NV Energy to respond to 50 wildfires and allowed us to implement 849 fuel breaks.

The State Conservation Commission programs have done a great job managing the sagebrush ecosystems to increase the habitat for sage grouse. We have a program which leverages bond proceeds to enhance Nevada's natural, cultural and recreational resources. The Division of Forestry also uses the Bureau of Land Management as their primary real estate agent to help secure properties and facilitate land exchanges.

The new Spooner Lake Visitors Center opened to the public last November. In 2023, DCNR is seeking to establish an aquatic invasive species center nearby. This center would assist boat inspectors stationed at Lake Tahoe and provide a parking system to help reduce traffic in the Lake Tahoe basin.

The Department applied for a \$750,000 grant and plans to use the funds to expand the Nevada Off Highway Vehicles Program. The grant will be divided among several projects, including off-highway trail improvements: mapping, signage, law enforcement, education, safety training, restoration and resource conservation.

The Division of State Parks (DSP) is developing a digital reservation system. In an average year, Lake Tahoe's Sand Harbor has over a million visitors. The Valley of Fire State Park in southern Nevada has 750,000 visitors and the Spring Mountain Ranch State Park has 300,000 visitors. When you add in visits to other State parks, there are over 3.6 million visitors to our parks every year. A digital reservation system is key to coordinating park visitors. The DSP is also developing a GPS-mapping app so an individual can visually access all trails on



State property. If the app saves even one person from getting lost and dying, it is worth the cost of the app.

The Division of Outdoor Recreation has secured over \$3.5 million in federal funding for outdoor recreational projects across Nevada. We anticipate that additional financial resources will become available for the purpose of outdoor recreational education. The Legislature will make the ultimate decision on how the funding is spent, but it will be our job to implement their decisions.

The Nevada Supreme Court has created the Commission to Study the Adjudication of Water Law Cases and is considering training several judges on Nevada water law, which is a wise decision. However, I hope the Commission considers appointing mainly traveling judges. If the Commission appoints standing judges, they may be wary of making changes that could put them at risk of losing their next election. A traveling judge can just look at the facts and apply the law without being concerned with reelection.

The State Historic Preservation Office awards grants to strengthen local historic programs, including historic buildings that have fallen into disrepair. The Department is responsible for conserving Nevada's rare and unique ecosystems. The Division of Natural Heritage has a full-time Nevada wetland program coordinator. Even though Nevada is the driest state, we still have wetlands, made even more important by the limited number located in the State. The wetlands are catalogued and monitored so they can be preserved.

The Nevada Division of Natural Heritage Program preserves endangered species including the yellow-billed cuckoo, western ridged mussel, Steamboat buckwheat and other at-risk taxonomy. The DCNR works hard to preserve endangered species with funding through the Division of Environmental Protection.

Last year, the DCNR through the Division of Environmental Protection initiated a drinking water lead-testing program for childcare centers. As we are a newer State, there are not many lead pipes in the public water system. We did run into problems with private water conduits that connected to the public water system and will be requesting additional federal grant assistance to do more lead pipe remediation work.

The wildfire seasons have become longer and more severe, and the public is requesting more information from the Nevada Department of Transportation (NDOT) air-quality programs on smoke conditions, particularly in rural areas. Nevada has had some of the worst air quality in the United States. Last year in northern Nevada, there were days when streetlights automatically turned on at 3:00 p.m. because the wildfires created a dark, black sky and the automatic streetlight sensors activated believing that it was nighttime.

The DCNR is preparing for the Anaconda Mine site cleanup in Yerington. The first and second phases should be completed by 2025. Completion of all phases is targeted for 2029.

There has been much discussion on the importance of inter-agency coordination. For example, the prior administration expressed concern that the Division of State Parks did not have the financial capability to maintain signage and was allotted \$45,000 to contract out the project. When no bids were submitted, NDOT graciously provided funding to maintain the signage and has assisted the Division of State Parks with replacement and repair.

The DCNR utilizes scientific data to make decisions on future budgetary items. For example, the federal government is reviewing precipitation studies with plans to develop new standards for collection. If they do implement a new standard, the money spent by the Department on the most recent study would be useless. Due to the importance of having accurate data, we recently implemented a water conservation infrastructure initiative and \$100 million was given to the Department to gather more precise scientific data. The DCNR has been developing criteria for the project and just had their first meeting with the Technical Advisory Committee on January 17, 2023.

The Conservation Camp Program under the Division of Forestry is under review. With the number of inmates available for the Program, the Nevada Department of Corrections is considering eliminating the Program. There are significant consequences to communities when these camps fold. The State is left with buildings to raze and infrastructure to remove with no funds to pay for demolition. When buildings are razed, water pipes need to be removed from the main water system. Without the Conservation Camp Program, our Department does not have the funds or manpower to do the work. The State Lands Division is addressing many of these infrastructure concerns.

With high vacancy rates and employee turnover at the State, many people are searching for jobs, but Nevada needs to pay better than similar employment elsewhere. For example, State employees could work for Washoe County and earn 15 percent more yearly, or for Clark County and earn \$30,000 to \$40,000 more a year. As a result, recruitment has become very difficult.

SENATOR HANSEN:

For the record, I am delighted to see Mr. Settelmeyer as the Director of the Department. It gives me confidence for the future of the Department, and I know he is going to do a fantastic job. I look forward to seeing him and his personnel frequently before this Committee. Good job, Director.

MR. SETTELMEYER:

Yes, it has not been lost on my former constituents that I am now a State employee and Attorney General Aaron Ford is my attorney.

SENATOR GOICOECHEA:

You indicated you received a \$100 million federal grant for the water initiative. Where is that money going and are decisions on distribution required to follow treasury guidelines?

MR. SETTELMEYER:

There is some flexibility in how the money is spent. In general, the grant is geared toward water and sewer infrastructure, based upon the concept that sewer leaks contaminate the groundwater and create problematic nitrate concerns. There is pending legislation on where the funds should be distributed in Nevada, and the Technical Advisory Committee is involved in the process. Nine known agencies and entities are interested in the grant funds, including the Truckee Meadows, Southern Nevada and Humboldt Water Authorities and The Nature Conservancy. The DCNR and aligned stakeholders want the grant funds to go where they will provide the most benefit and are developing criteria to meet that goal. By spring 2023, the Department should be able to accept applications, and score them using the criteria scale developed. The grant funds must be distributed quickly, as we have less than two years for implementation and three years to complete the improvements.

SENATOR GOICOECHEA:

I think some grant funds should be used to reestablish scientific data in Nevada, and I am concerned that, if we apply the funds only to infrastructure, the DCNR

will not be able to update their scientific database. The scientific database update should take priority to ensure information gathered is accurate.

CHAIR PAZINA:

Senator Hansen and I attended a Senate Committee on Growth and Infrastructure meeting yesterday, which included a presentation from NDOT. They were creating a workforce development program to address the high employment vacancy rates and turnover their Department is experiencing. It involved working with students on a part-time schedule, who could then transition into a full-time role with the Department. It might be something worth looking into, as I look forward to all State agencies being fully staffed.

MR. SETTELMAYER:

We have also discussed creating a six-month internship program at Nevada schools. The program would give young Nevadans the opportunity to work for the Department for six months, and gain skills and knowledge with the option of working for the State full-time. It would benefit everyone. We would have bright young minds assisting the Department, and even if they applied and were hired elsewhere, both the State and the intern would benefit from skills learned and applied during the partnership.

CHAIR PAZINA:

I will now open the hearing on Senate Bill 13.

**SENATE BILL 13**: Revises provisions governing pest control. (BDR 49-234)

ASHLEY JEPPSON (Administrator, Division of Plant Health and Compliance, Nevada State Department of Agriculture):

The statutory language changes proposed by the Division of Plant Health and Compliance are minor and make our responsibilities more transparent to federal partners. The changes also clarify that the Division has primary regulatory authority over the Environmental Protection Agency (EPA).

The Nevada Department of Agriculture operates under a cooperative agreement with the EPA to oversee statutes that address chemicals, including the application of pesticides, licensing and worker protection standards. The Division of Plant Health and Compliance must demonstrate to the EPA that our oversight meets minimum federal standards. To gain approval, we present our statutes and regulations to the EPA yearly, along with a state plan explaining

how the provisions will be enforced. Some of the proposed statutory language changes were suggested by the EPA after reviewing our state plan.

The bill adds language to the definition of pest control and government applicators. This is not a new provision. It clarifies that pest control statutes apply to businesses and government agencies and that registration and certification are mandatory.

Throughout the bill, the Division is replacing the language "Federal Environmental Pesticide Control Act of 1972" with "Federal Insecticide, Fungicide and Rodenticide Act." The Act being replaced is outdated and inaccurate, and we have been operating under the newer Act for years.

Other proposed language changes are to *Nevada Revised Statutes* (NRS) 555 and NRS 586. The statutes are similar, except that NRS 586 regulates the distribution and retail sale of pesticides. We changed language to clarify that records must be maintained for the sale and distribution of restricted use pesticides, and the records must be maintained by each qualified business location, not just at corporate headquarters. I have provided Speaking Points ([Exhibit E](#)) that explain the purpose of the bill.

CHAIR PAZINA:

I will close the hearing on S.B. 13. A presentation by the Division of Water Resources follows.

ADAM SULLIVAN (State Engineer, Division of Water Resources, Nevada State Department of Conservation and Natural Resources):

I have prepared a visual presentation ([Exhibit F](#) contains copyrighted material. Original is available upon request of the Research Library.) The Division of Water Resources (DWR) falls under the DCNR. We have broad authority over all ground and surface water belonging to the State, excluding the Colorado River. Our mission is to responsibly manage Nevada's limited water resources in accordance with State law and best available science. We manage water quantity, rather than water quality, which is managed by the Division of Environmental Protection, our sister agency.

Water management includes the administration of water rights, determination of water availability and the potential for water use without conflicting with other users. The Division also has regulatory authority over the distribution of water

under State decrees for rivers, streams, well drilling and dam safety. Water belongs to the public, and all water use, whether a new appropriation or a change in an existing water right, is processed through the DWR and reviewed under statutory criteria.

There is a well-developed, specific procedure for establishing and quantifying a water right, to keep it in good standing or transfer ownership. Existing water law defines much of what the DWR does. There are tens of thousands of active water right permits throughout the State. Every year, we process approximately 1,000 new applications, 1,000 changes in ownership, and 6,000 extensions of time on existing permits. These extensions allow applicants additional time to either prove beneficial use or prevent forfeiture. We have staff to process these applications. Increasingly, the challenges we face involve managing existing water rights when there are assertions or concerns about the availability of water.

Nevadans expect the DWR to handle these disputes; complicated by the fact that, although water is a public resource, water rights are a protected private interest. This ongoing contradiction is not well suited to managing Nevada water interests.

The average rainfall across the State was about ten inches this year, which exceeds the average across most of the State. In recent years, we have maintained a much lower rainfall average, usually at drought levels with an occasional big rainfall year. From a water management standpoint, I consider Nevada to always be in a drought. The administratively designated basins are the framework for groundwater across the State.

The basic rules of water rights and prior appropriation were developed in the early part of the 20th century, when the water supply was accessed almost exclusively from surface water rivers and streams used for irrigation. The technology to drill deeper wells to reliably access and pump groundwater was developed later in the 20th century. Groundwater law in Nevada was established in 1939 and was considered progressive among the western states at the time.

Our predecessors were able to adapt existing water law to the modern challenges of administering groundwater as a resource for surface water supplies. One issue resolved early was determining the amount of groundwater

available to develop. Although you can visually see water in a river basin, you cannot easily quantify groundwater.

The process developed by the DWR in the middle of the 20th century was to identify administrative basins, compartmentalize valleys with no concentrated irrigation and develop a water budget for that basin. This process allowed the Division to determine how much water would be available in the long term. The budget was developed by topographically identifying mountain ranges and valleys within each basin.

By the 1970s, the DWR determined water level estimates through reconnaissance across these basins. Even then, the existing commitments exceeded the estimated natural water budget. Today, about half of the basins exceed the estimated natural water budget. To determine the extent of water shortage, localized conditions are considered. In some locations, the pumping exceeds the water supply resulting in a chronic drawdown. There are similar issues with water supply in other areas that need to be resolved.

At current pumping levels, it could take centuries to determine the accuracy of the water supply. This situation is based on generations of development. How will the State manage water within our means and water budget? How can we protect senior water rights while supporting the interests of all Nevadans? Now, and going forward, the State is focused on economic diversification and environmental protection. The DWR must then weigh senior water rights with the needs of the State. The DWR was not initially created for this purpose, nor are they staffed, funded or explicitly guided by the NRS on how to resolve water conflicts of this nature.

Litigating water rights is frustratingly slow for Nevadans who are affected by ongoing disputes. The adage "crossing the river by feeling the stones" applies to water rights in Nevada, as we have no clear statute to guide the DWR through the dispute process. The DWR is making some progress towards streamlining the dispute processes, but progress has been slow.

The more data we gather through well drilling and analyzing water methodology through groundwater development and hydrologic studies, the more accurately the Division can determine long-term water availability.

Aquifer types are identified by rock or film material that have different permeability, and storage capacity and connectivity within the surrounding area. Analyzing aquifer types is a way of visualizing groundwater occurrence and movement, beyond just considering topographic basins and perennial yield. The Division must start considering regional groundwater flow systems when making water estimates. In some locations, deep wells or substantial concentrated pumping can change the hydrology and alter water availability. There may also be long-term effects of these methods we do not yet understand that can affect future water availability.

The Division operates within the straightforward concept of basins and perennial yields, which are good conceptual starting points. This concept can be inaccurate and misleading when applied to complex water management problems anticipated in the future.

MICHELINE NADEAU FAIRBANK (Deputy Administrator, Division of Water Resources, Nevada State Department of Conservation and Natural Resources):

There is confusion about the State's authority in reducing commitments and managing shortages and current statutory guidance is limited. The Division is constrained on their ability to manage cancellation, forfeiture and abandonment of water rights, all of which come with unique challenges. We have a State policy that addresses the beneficial use of water, and State law provides time allowances so Nevadans can try to prove up their water rights for beneficial use. We also encounter challenges when determining if a water right is for beneficial use.

Forfeiture of water rights are another challenge. Under NRS, there is a presumption that after five years of non-use, a water right is forfeited. The DWR must follow a significant number of administrative processes, including conducting an intensive investigative review to determine that the non-use finding is accurate. The noticing provisions are complex, and the time expended by the DWR, and staff to accomplish these tasks are substantial.

Abandonment of water rights raises additional challenges. The Division must conduct studies and research to establish a finding that water rights have been abandoned. Again, our responsibilities involve a significant amount of staff time and resources to determine the history and original use of the water. The Division must also prove that the intent of the water user was to abandon his or her water rights. The "intent" is very difficult for the Division to determine.



In places where there are insufficient water resources to meet needs and demands, the Division prioritizes who receives water and how much they receive. There are conflicts with Nevadans who have been accessing a certain amount of water for years and have become accustomed to that amount. Disputes arise when the priority is changed based on available water supply, and other Nevadans who may have rights to the same water source and want more of the water.

Groundwater usage, availability and curtailment are also challenging. They become even more complex when water availability decreases. Although the Division designates critical management areas, that designation triggers a statutory time clock. The community then has ten years to develop a plan to remove the conditions that warranted identifying the community as a critical management area in the first place.

If the affected community submits a plan that is not approved, the Division is then obligated to manage or regulate by priority. Management of water resources on a Statewide level is a partnership with our local stakeholders, and actions at the local level make a significant difference. What has made a big difference in water allocation is when local governments and regulatory agencies have established conservation measures within their municipalities.

For example, the Southern Nevada Water Authority is considered the national and world leader in terms of identifying and developing water conservation measures. Conservation measures made locally are only beneficial for one area of the State and one community. The municipal water supplier may not be able to translate the conservation measures adopted by one community to other municipalities and regions.

Local ordinances created by communities are also effective in reclaiming and managing limited water resources. The basin has a very high dedication rate for residential developments, an effective and useful tool throughout the State. Nevada agricultural producers have been working toward developing solutions to limited water availability by voluntarily reducing irrigation use by intermittently changing crops or implementing deficit irrigation. Working with agricultural producers on water conservation is effective and makes a difference. The DWR, communities and stakeholders must comply with Nevada water law, so we can preserve and maximize this diminishing resource.

The core function of the Division is to build a stronger foundation to protect water. Therefore, we thoroughly review water rights filings to confirm the application conforms with existing law. We review extension of time applications to determine whether the applicant has fulfilled the statutory obligation of good faith-reasonable diligence. And we demonstrate steady progress toward perfection of the water right and who is using the water or making diligent efforts to do so.

The Division is updating and revising the State Water Plan, which has not been updated since 1999. This update is long overdue and necessary so that the DWR can collaborate with local communities.

We are using a \$6.4 million award to update the baseline science utilized to develop water budgets based on water availability. The Division is also modernizing its processes and records through the digitization initiative. This project is extremely important, and although the funding is being passed to the U.S. Department of the Interior and the U.S. Geological Survey (USGS), the Division is doing the work.

About 65 percent of surface water is used for irrigation purposes, with another 15 percent used for municipal wildlife and recreation. Stream flows comprise another 18 percent and less than 1 percent is for other uses. The average annual surface water usage is approximately 4 million Acre feet annually. Our groundwater usage is similar, but more diversified: 67 percent is used for irrigation, 9.4 percent for municipal purposes, while mining uses 10 percent. Other manners of use make up the remaining percentages.

SENATOR HANSEN:

The Humboldt River is in my district. There is concern that when the DWR measures the river flow and connecting river path, no water is left by the time the water flows to Winnemucca. The Lovelock farmers have senior water rights and are concerned about an accurate accounting of water flow. Is the Humboldt River drainage being studied? Will farmers in Lovelock with senior water rights receive enough water to support their crops?

MR. SULLIVAN:

The Humboldt River water flow is just one of the challenges the DWR faces with water management. And not just the Humboldt River; the challenges include all surface water systems with groundwater pumping within that basin.

The Humboldt River water flow is long and slow. It has a strong dynamic, especially in dry years. In successive dry drought years, the water loss worsens, and it is a challenge to move water through the system. The DWR has been working on this problem for six or seven years now. There have been many public discussions on how best to handle this situation without causing harm and creating new problems.

The Division is working with the USGS to develop groundwater flow models to better understand the hydrology of the Humboldt River. We want to ensure the facts are accurate so good decisions can be made and explained to Nevadans. Right now, we do not have a good solution, but our priority is protecting senior water rights and allowing beneficial use of other rights where it does not directly conflict with senior rights.

SENATOR HANSEN:

The Division has the toughest job in Nevada; trying to solve all the water problems in the State is extremely difficult. The different elements that must be considered when addressing a water problem are overwhelming. It will take years to solve some of these problems. I know there are staffing problems and financial challenges the Division is dealing with. Have financial issues been discussed with the Governor's Finance Office?

MS. NADEAU FAIRBANK:

We have been communicating with the Director's Office to determine the most appropriate and balanced approach to obtaining the money we need to perform our statutory obligations.

SENATOR HANSEN:

There are many injection wells in the Reno-Sparks area. These wells are pumping water back into an aquifer that is depleted. The injection well water is then accessed in drier years. Is that water included in your groundwater calculations?

MR. SULLIVAN:

The aquifer storage and recovery program involves pumping water and then accessing it for later use. Injection wells use decreed surface water rights to divert water off the river, then inject it into the aquifer. The DWR works with the injection well owners to develop a feasibility and storage accounting plan to

determine how much water can be recovered, after considering water loss from evaporation.

The pumped water cannot be stored indefinitely, and the water being pumped is surface water. The Division identifies pump water as surface water for statistical purposes, as the water was diverted from river surface water at the start of the process. I think we are all in agreement that water is one of the most complex and challenging issues we are facing in Nevada.

CHAIR PAZINA:

Water will be the most difficult and challenging issue our Committee will be hearing.

SENATOR GOICOECHEA:

The \$6.4 million in funding you received over the past four years will not even buy you the gasoline to conduct an inventory. The Committee needs to get you the funds you need.

CHAIR PAZINA:

I will entertain a motion on S.B. 13.

SENATOR FLORES MOVED TO DO PASS S.B. 13.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

\* \* \* \* \*

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Natural Resources  
February 16, 2023  
Page 21

CHAIR PAZINA:

I will assign the Floor statement to Senator Goicoechea. There being no public comment, we are adjourned at 4:47 p.m.

RESPECTFULLY SUBMITTED:

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Cherie Dittler,  
Committee Secretary

APPROVED BY:

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Senator Julie Pazina, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Introduced on Minute Report Page No.</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	1		Attendance Roster
S.B. 88	C	5	Warren Hardy/ Nevada Conservation League, and the Humane Society of the United States	Letter of Support from Rebecca Goff
	D	6	James Settelmeyer/ Nevada State Department of Conservation and Natural Resources	<a href="#">Visual Presentation (Exhibit D)</a> contains copyrighted material. Original is available upon request of the Research Library)
S.B. 13	E	13	Ashley Jeppson/ Division of Plant Health and Compliance	Speaking Points
	F	13	Adam Sullivan/ Division of Water Resources	Visual Presentation