

**CARSON WATER SUBCONSERVANCY DISTRICT
LEGISLATIVE COMMITTEE**

NOTICE OF PUBLIC MEETING

DATE: October 16, 2017

TIME: 1:00 P.M.

LOCATION: Carson Water Subconservancy District
Conference Room
777 E. William St., #110
Carson City, NV 89703

AGENDA

Please Note: A quorum of the CWSD Board of Directors will not be present at this committee meeting. Any action on the part of the committee is for recommendation to the full Board of Directors for ultimate action and will not be considered a formal action of the CWSD Board. Reasonable efforts will be made to assist and accommodate individuals with disabilities who wish to attend the meeting. Please contact Toni Leffler at (775)887-7450 (<mailto:toni@cwsd.org>), at least a week in advance so that arrangements can be made.

1. Call to Order
2. Roll Call
3. Discussion Only: Public comment - Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.
4. For Possible Action: Approval of the Legislative Committee Minutes from January 31, 2017.
5. For Possible Action: Discussion regarding ownership, operation, and maintenance of the Carson River.
6. For Possible Action: Discussion regarding State Lands' Question 1 Program funding.
7. Discussion Only: Public comment - Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.
8. For Possible Action: Adjournment

Supporting material for this meeting may be requested from Toni Leffler at 775-887-7450 (<mailto:toni@cwsd.org>) and is available at the CWSD offices at 777 E. William St., #110A, Carson City, NV 89701 and on the CWSD website at www.cwsd.org.

In accordance with NRS 241.020, this notice and agenda has been posted at the following locations

- Dayton Utilities Complex
34 Lakes Blvd
Dayton, NV
- Minden Inn Office Complex
1594 Esmeralda Avenue
Minden, NV
- Lyon County Administrative Building
27 S. Main St.
Yerington, NV
- Churchill County Administrative Complex
155 N Taylor St.
Fallon, NV
- Carson City Hall
201 N. Carson St.
Carson City, NV
- Carson Water Subconservancy District Office
777 E. William St., #110A
Carson City, NV
- Alpine County Administrative Building
99 Water St.
Markleeville, CA
- CWSD website:
<http://www.cwsd.org>
- State public meetings website:
<http://notice.nv.gov>

AFFIDAVIT OF POSTING

The undersigned affirms that on or before 9:00 A.M. October 11, 2017, he/she posted a copy of the Notice of Public Meeting and Agenda for the October 16, 2017, meeting of the Carson Water Subconservancy District Legislative Committee in accordance with NRS 241.020; said agenda was posted at the following location:

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Name: _____

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CARSON WATER SUBCONSERVANCY DISTRICT
LEGISLATIVE COMMITTEE
October 16, 2017

Item # 5 - For Possible Action: Discussion regarding ownership, operation, and maintenance of the Carson River.

At CWSD's September Board meeting the question was asked regarding the State claim of ownership of the river from the center of river to the high-water mark and the background on that claim. Mr. James responded that the Nevada Supreme Court ruled that the State has ownership of the river to the high-water mark in the early 1970s (State vs. Bunkowski). Mr. James also gave a little historic background regarding repairs to the diversion/grade control structures along the Carson River. In the past, CWSD worked with ranchers to manage FEMA funding for the repairs to the grade control/diversion structures. This year CWSD wasn't eligible for FEMA funding according to new rules because the State does not claim ownership of the diversion structures so they aren't considered public structures. The ranchers were able to get funding from the Farm Service Agency (FSA) to help fund the repairs due to the flood damage.

Director Penzel questioned whether it should be the State's responsibility for maintenance if the State claims ownership of the river. People are caught in the middle. Mr. James mentioned that this question was asked of the State Land representative at one of the meetings arranged by State Senator James Settelmeyer. The response was that State Lands would need to increase its budget if they were going to take on the maintenance of the Carson River. It was pointed out that the State also owns the Truckee and Humboldt Rivers. Mr. Benesch noted that the State claims ownership of the land under the structures but does not claim ownership of the structures.

It was recommended that staff set up a meeting to discuss this topic with State Lands, conservation districts, and the CWSD Legislative Committee. The goal of the meeting is for everyone to get a better understanding of what options are available to deal with future flooding, how to pay for the repairs, and what groups need to be brought into the discussion.

Item # 6 - For Possible Action: Discussion regarding State Lands' Question 1 Program funding.

One of the possible sources of funding that could be used for repairs along the Carson River is Question 1 (Q1) Program funding. Although there is no funding available under this program for a couple of years. It would be useful for the conservation districts and board members to hear from State Lands regarding the Q1 program.

**CARSON WATER SUBCONSERVANCY DISTRICT
LEGISLATIVE COMMITTEE**
January 31, 2017, 10:30 a.m.

DRAFT MINUTES

Directors present:

Karen Abowd, Carson City
Ken Gray, Lyon County
Doug Johnson, Douglas County
Austin Osborne, Storey County
Ernie Schank, Churchill County
Steve Thaler, Douglas County

Staff present:

Ed James, General Manager
Toni Leffler, Administrative Assistant/Secretary to the Board

Others present:

Susan Joseph-Taylor, NDWR

Director Abowd called the meeting to order at 10:35 a.m. at the Carson Water Subconservancy District Conference Room, 777 East William Street, #110, Carson City, Nevada. Roll call was taken, and a quorum of the Legislative Committee was present. There was no public comment.

Item #4 - Discussion for possible action regarding approval of the Legislative Committee minutes from February 6, 2015. Director Schank made the motion to approve the minutes from February 6, 2015, and the motion was seconded by Director Johnson. Directors Osborne and Schank voted to approve the motion, with Directors Abowd, Gray, and Thaler abstaining for not being present at that meeting.

Item #5 - Discussion for possible action regarding a review of various BDRs/bills that CWSD may want to support, oppose, or monitor during the 2017 Legislation Session. Mr.

James introduced Susan Joseph-Taylor, Deputy State Administrator, to talk about water bills. Ms. Joseph-Taylor noted that she has been doing this job for 23 years and has never seen so many water bills. The rumor mill of misconceptions has been interesting over the past few months

- **SB 73 (BDR 177)** - This bill is proposed to bring clarity and more tools to Nevada Water Law. The bill will revise Water Law expanding the Critical Management Areas in Diamond Valley. It expands on critical management areas, like Diamond Valley, NV, where they are wanting to change water rights into water shares. This bill will also give domestic well owners a say in the water management plan. Director Schank asked if this

doesn't give junior rights a greater voice when the basin is over-appropriated. Ms. Joseph-Taylor noted that the point of a critical management area is to give everyone a voice.

Director Abowd asked about paper water rights, and Ms. Joseph-Taylor referred to it as a water right that is not being used. Director Schank asked hypothetically if it will be a vote based on the amount of water owned. He suggested the vote be determined by the amount of acre feet you own up to 100% of perennial yield. Director Schank feels this is a band aid, but to solve problem is to deal with the growth. The State needs to force getting the groundwater basins back into equilibrium. If there isn't water available, then counties shouldn't be issuing building permits. The State Engineer has authority to declare no more domestic wells. Director Osborne noted that the Master Plan for a new subdivision must come with proof that there are water rights with the application to build, but that doesn't apply to existing subdivisions. The only remedy is a building moratorium. CWSD should watch this bill.

Director Schank clarified that paper water rights in Silver Springs are valid but are not being used. The owners can apply for extensions. There are senior ag rights in Silver Springs, with municipal rights junior, so there is a concern that the municipality will run out of water. The ag right could be forfeited because it is unused, but the owner can go to Court to keep it. Beneficial use means putting the water rights to beneficial use, but if you haven't exercised your rights for a number of years, they can be forfeited, so forfeiture needs to be better defined in terms of beneficial use.

- **SB 74 (BDR 178)** – A recommendation came out of the Governor's Drought Forum that water statutes include language related to drought. The expanded language includes rain barrels and guzzlers for wildlife watering but may need to define the size of rain barrels. Mr. James noted that CWSD may need to send a letter requesting to be on the Water Advisory Committee, if it is created.
- **SB 51 (BDR 180)** – Adjudication Statutes - This bill would have the State Engineer deal with vested water rights.
- **AB 52 (BDR 258)** – This bill deals with lithium mining.
- **BDR 408** – The Governor's Drought Forum recommended suspending the requirements for extensions, etc., in times of drought.
- **BDR 336** – This bill from the Legislative Committee on State Lands is to prevent the State Engineer from considering wildlife as a beneficial use of water.
- **BDR 356** – This bill is for cloud seeding.

- **BDR 357** – In 2011, when talking about critical management areas, the Legislature also talked about prioritizing domestic wells. This means domestic wells can be cut off if the basin is administered by priority. Due to health and safety issues the State Engineer wants to modify the law so that only outdoor water use to be curtailed.
- **BDR 358** – Nye County proposes that in severely over-appropriated basins new wells be limited to $\frac{1}{2}$ af and metered.
- **BDR 359** – This bill is make a deadline for owners of pre-statutory (vested) water rights to file claim with the State Engineer before they are declared abandoned.
- **BDR 445** – This bill is to allow rain barrel water collection.
- **SB 47 (BDR 499)** – This is a housekeeping bill to correct language from 2013 to change “temporary” water rights in Las Vegas to “revocable” water rights and to change right of entry to “premises” to right of entry to “place of use.”
- **BDR 593** – This bill has to do with fracking.
- **BDR 639** – Irrigation districts adjustment annually what their Board of Directors may incur in terms of indebtedness. This will allow for an annual adjusted basis as costs keep going up instead of the districts continuing to go back to the Legislature.
- **SB 74 (BDR 178)** – This is concerning monetary management and mining provisions (MMM Plan).

Mr. James noted that the language can change so we need to watch bills closely. Director Johnson suggested reaching out to NACO. NACO has a teleconference every Friday at 2:00 p.m.

Mr. James gave summaries of the non-water bills:

- **AB 34 (BDR 179)** – This bill is about provisions regarding state lands.
- **AB 42 (BDR 389)** – This bill is regarding public records.
- **AB 43 (BDR 441)** – This bill is regarding a partial abatement of taxes. Current law has a 3% tax cap or twice last year’s CPI, whichever is lower. This bill proposes changes so that the minimum will be 3%. CWSD will watch this bill and the counties will take the lead.
- **BDR 473** – This is a Reno bill regarding flood management projects. CWSD has in the statutes the ability to get additional money for flood projects which may be an alternative

way for counties to get flood recovery money. The additional tax can be limited to the areas of flood damage.

Mr. James mentioned that the Governor's office is submitting a bill to fund the Clearing and Snagging Account. Director Abowd brought up Director Stodieck's comment that ranchers could take care of river before State ownership. Mr. James will have a meeting on Friday, 2/3/17, with NDEP and ACOE about how to streamline the permitting process. Director Schank asked that Rusty Jardine be informed about the Friday meeting.

Director Schank commented that CWSD should hold public meetings to try to answer questions, and help allay people's fears. We could find out who influential people are and try to address the questions in a civil manner as a shared concern. He will help work to set up invitations and suggested that a meeting be held on south side of the river toward Stagecoach and Dayton.

Director Schank commented on the Diamond Valley issue. At the Bureau of Reclamation Mid-Pacific Regional meeting, they brought the lady from Australia over to discuss the plan. Her proposal sounded like a massive governmental take over. The State Engineer's office sees it as helping the people. Director Schank thinks it is against prior appropriations and was concerned that it be kept from spreading and this becoming a precedence. Easily junior appropriators could take over this process and the senior rights could lose appropriation.

Director Gray asked whether the water law is broken or there is a lack of enforcement. Mr. James explained that early on the State Engineer didn't know how much water was available to appropriate and didn't focus on perennial yield. The State Engineer now is looking at actual perennial yield for a basin versus water rights given.

Mr. James will email the Legislative Committee about bills that come up.

The committee did not make a motion but asked staff to monitor the bills mentioned above.

Item #6 - Public Comment - None.

There being no further business to come before the Legislative Committee, Director Schank made the motion, seconded by Director Thaler, that the meeting be adjourned at 12:37 a.m.

Respectfully submitted,

Toni Leffler
Secretary