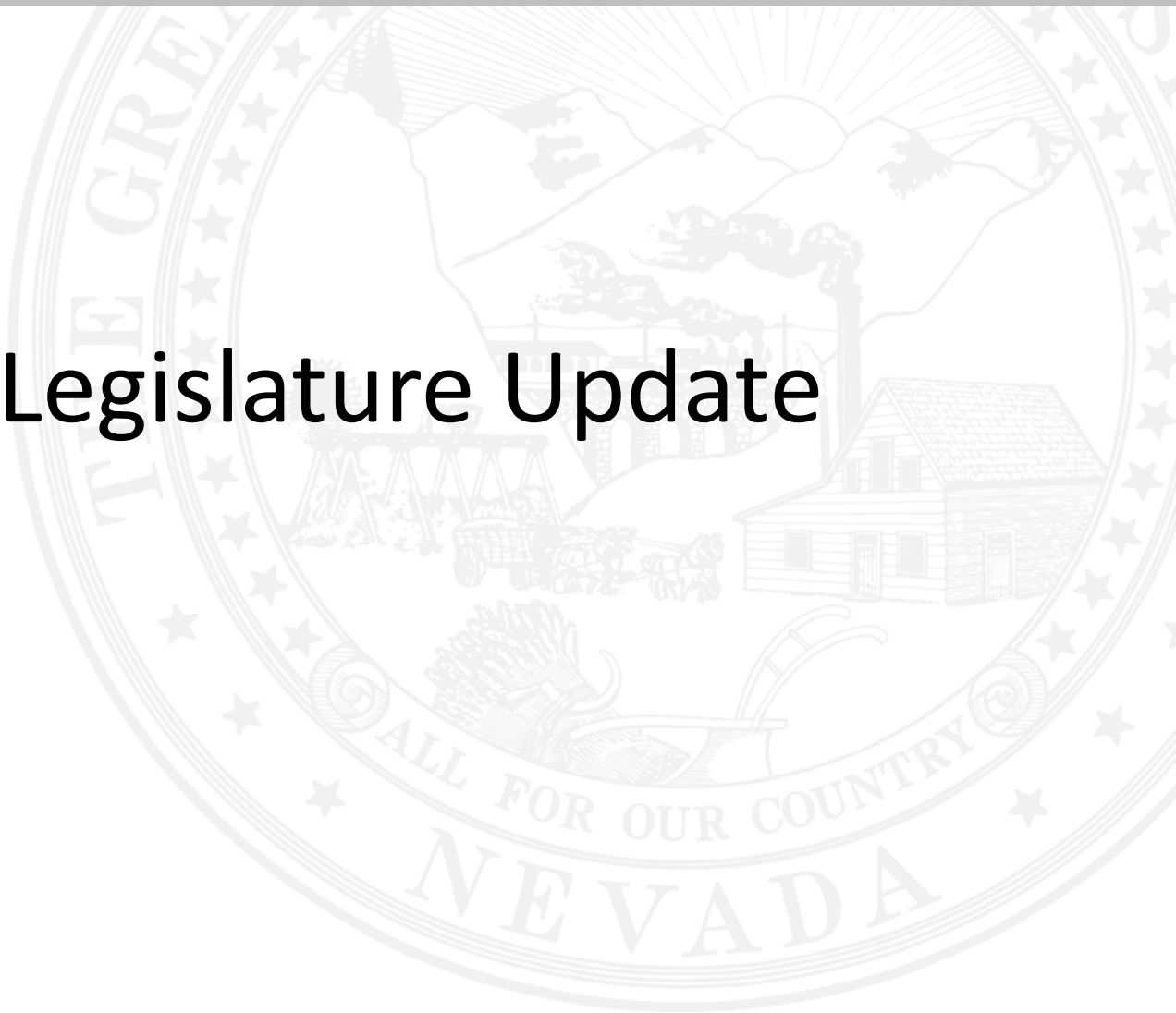




Division of Water Resources

2011 Legislature Update



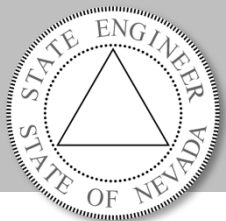


Division of Water Resources

Links to New Legislation

- AB 46 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB46_EN.pdf
- AB 73 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB73_EN.pdf
- AB 114 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB114_EN.pdf
- AB 115 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB115_EN.pdf
- AB 410 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB410_EN.pdf
- AB 419 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB419_EN.pdf
- AB 422 http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB422_EN.pdf
- SB 361 http://www.leg.state.nv.us/Session/76th2011/Bills/SB/SB361_EN.pdf

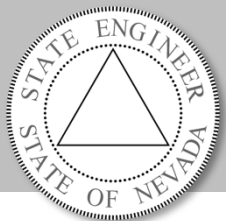




Division of Water Resources

2011 Legislation - AB 46

- Effective on passage
- Clarifies basin budget assessments are **NOT** subject to tax abatement
- Applies prospectively



Division of Water Resources

2011 Legislation – AB 73

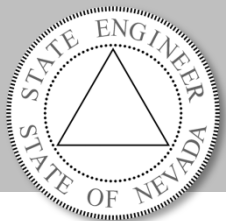
- Effective upon passage
- Puts into NRS 533 and 535, language that gives DWR the right to enter the land where water is being diverted or used or where any dam or obstruction is situated.
- Makes it clear under 534.090 that only certificated rights can be forfeited.
 - Amendatory language of the bill simply declares that this has been the practice since 1947 and is intended to clarify rather than change the existing statute to promote stability and consistency in the administration of 533 and 534.



Division of Water Resources

2011 Legislation – AB 73 (con't)

- New language clarifying the issue that a 4-year nonuse letter does NOT have to be sent to a permittee before forfeiting in those instances where the permittee filed an extension of time to prevent a forfeiture but then doesn't put the water to beneficial use or file another extension of time within the one year timeframe.
- Domestic Well Credit Program language change that removes the requirement of having to hold a hearing on a domestic well credit program before implementing such a program. However the State Engineer must issue an order and anyone feeling aggrieved may appeal that decision.



Division of Water Resources

2011 Legislation – AB 114

- Effective July 1, 2011
- Changes the permit fee for changes of point of diversion and place of use only of an existing irrigation right to a flat fee of \$750.

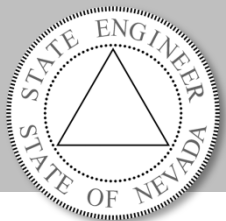




Division of Water Resources

2011 Legislation – AB 115

- Effective July 1, 2011
- Rewrite of NRS 533.370 as a result of the Nevada Supreme Court's decision in the Great Basin Water Network v. State Engineer appeal.
- Gives the State Engineer 2 years from the final date of protest in which to act upon an application
- Rearranges existing language so that it flows better

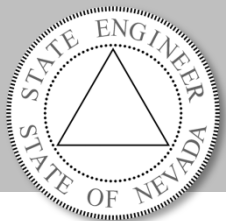


Division of Water Resources

2011 Legislation – AB 115 (con't)

- Provides more exemptions for the postponement of taking action on an application:
 - Upon written authorization by applicant
 - If an application is protested
 - If the application is for municipal use
 - In areas where studies of water supplies are ordered (NRS 533.368)
 - Where court actions or adjudications are pending which may affect the outcome of the application
 - In areas where an adjudication of vested water rights is necessary
 - On an application to change a vested right in a basin that has not been adjudicated.
 - Where authorized entry to land is needed from a governmental agency
 - On an application where the State Engineer has required additional information.

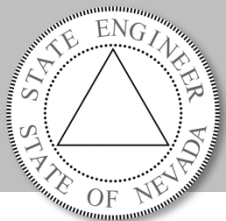




Division of Water Resources

2011 Legislation – AB 115 (con't)

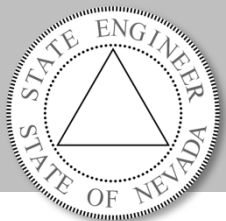
- If the State Engineer doesn't take action on the application, it remains active until approved or rejected.
- If the State Engineer hasn't approved, denied or held a hearing on an application within 7 years after the final date for filing a protest, he is required to republish the application at a time immediately preceding the time at which he is ready to act on the application. The cost of the republication must be paid by the applicant.
- These new changes do not go into effect until July 1, 2011. The division and water right applicants need to be cognizant of the two sets of criteria.



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2011 Legislation – AB 410

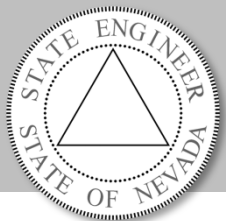
- Effective July 1, 2011
- Requires that any protest filed by a governmental agency or political subdivision against the granting of a change application in the same basin, must be signed by the director, administrator, chief, head or other person in charge of that governmental agency.
- The bill further calls-out six (6) governmental agency heads that must sign the protest.
- This new language also applies to recharge permits



Division of Water Resources

2011 Legislation – AB 419

- Effective July 1, 2011
- Provides a tool to deal with over appropriated basins
- Critical Management Areas
 - State Engineer MAY designate any basin where the groundwater withdrawals consistently exceed the perennial yield of the basin
 - State Engineer SHALL designate a basin upon receipt of a petition by a majority of the water right holders in the basin (not domestic well owners).



Division of Water Resources

2011 Legislation – AB 419 (con't)

- After a basin has been designated a critical management area, a petition for the approval of a groundwater management plan for the basin may be submitted to the State Engineer by the majority of the water right holders in the basin that sets forth the necessary steps for removal of the critical management area designation.
- If after 10 consecutive years of being designated a Critical Management Area and a groundwater management plan has not been approved for the basin, the State Engineer SHALL order that withdrawals, including domestic wells, be regulated by priority.

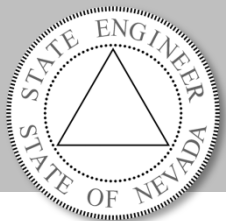


Division of Water Resources

2011 Legislation - AB 422

- Effective July 1, 2011
- Provides that a public body may lease a water right owned by the public body to an owner or holder of a water right who, as determined by the State Engineer, is over pumping





Division of Water Resources

2011 Legislation - SB 361

- Effective upon passage
- Any person may apply for a temporary permit to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire
- A plan for establishing vegetative cover that is resistant to fire must be submitted to the State Engineer. The State Engineer may forward the plan on to the State Forester for his review.
- The issuance of the temporary permit cannot impair existing rights.
- No protest period. \$150 to file the application and \$200 to issue the permit. The temporary permit must not exceed 1 year.



Division of Water Resources

Bills That Didn't Pass

- AB 329 – Defined “wildlife” as excluding wild horses and burros.
- AB 387 – Established a “conservation” domestic well that could only withdraw .5 AFA, had to be metered and had to be powered by alternative energy e.g. wind or solar.
- AB 466 – Would've required the State Engineer to define environmentally sound through regulations.
- SB 68 – Would've made it mandatory for the State Engineer to allow cities and counties participate in monitoring, mitigation and management plans



Division of Water Resources

Bills That Didn't Pass

- SB 153 – Would've given owners of municipal and QM rights the ability to file extensions of time for up to 10 years. Would've made it mandatory to give those rights 10 years to file a PBU on issuance of the permit.
- SB 362 – Would've allowed people in Critical Management Areas to pay additional money on their extension of time to not use their water. The additional money would be used to buy out (retire) water rights in these Critical Management Areas.
- SB 363 – Would've required the State Engineer to publish applications twice a week for 8 consecutive weeks. Also would've required applicants of municipal, QM and Industrial use, to notice any domestic well owner within 5000 feet that the app has been filed.



Division of Water Resources

Please visit our website at
water.nv.gov

