



April 8, 2025

Nevada State Legislature
Assembly Natural Resources Committee
401 S. Carson St.
Carson City, NV 89701

Via email: AsmNR@asm.state.nv.us

Re: Written Comments in Opposition to AB419

Dear Chair Anderson and Members of the Committee:

In the Nation's driest State, at a time when many areas are experiencing unprecedented water shortages, AB419 would move Nevada water law in the wrong direction.

By increasing applicants' ability to influence to the Division of Water Resources, arbitrarily limiting the time for consideration of new applications to appropriate water, creating unnecessary bureaucratic hurdles to public participation, and encouraging water speculation, AB419 would increase unsustainable groundwater consumption, inflame conflicts among water users, and irreparably harm the natural environment. Rather than offering solutions to the pressing issues stemming from ever-increasing demands on the State's limited water resources, AB419 promises to create more problems.

Section 1 of AB 419 would require the State Engineer to provide "pre-application review" for parties who file an application to appropriate water. Not only would this increase the already significant demands on the Department of Water Resources and its staff, but it would also provide applicants with an opportunity that existing rights holders and other potentially affected members of the public do not enjoy, and encourage back-room dealing with the State's water resources. This would be inconsistent with fundamental principles of Nevada Water Law, which clearly establishes that water is a publicly owned resource, available for appropriation only for beneficial public uses. The parameters of this "pre-application review" process are also unworkably vague, and thus certain to confuse stakeholders and place additional burdens on the Department.

Sections 2 and 3 of AB419 direct the State Engineer to make a "preliminary determination" on an application to appropriate water, and provide the outlines of a

procedure for both applicants and protestants to object to the preliminary determination. The strict time limits on this determination push the State Engineer to make decisions on pending application without an adequate factual or scientific basis, and the need to make a preliminary determination on an accelerated timeline would risk creating irreversible bureaucratic momentum in favor of application approval, even in areas with complex hydrology and where questions of water availability and potential conflict with existing rights remain outstanding. These provisions also create additional and unnecessary bureaucratic hurdles for the affected public—essentially forcing them to protest an application twice—and place additional administrative burdens on the State.

Section 4 would introduce legislative oversight to the water appropriation process, requiring the State Engineer to periodically submit a report on pending applications to the Legislative Counsel Bureau. The specifics of how this would occur, and what the purpose of LCB's review would be are not made clear, but this has potential to raise significant separation of powers issues and inject political pressure into decisions that should be made solely on the basis of the best available science.

Finally, Section 6 would impose additional deadlines concerning applications to change the place of use, manner of use, or point of diversion of water that has been applied for, but has yet to be put to beneficial use. This would encourage the buying, selling, and leasing of water rights which have not been put to beneficial use—in other words, water speculation. Further, the State Engineer should not be limited in his ability to investigate a proposed change in use—and how that change could impact existing rights and the public interest—particularly in areas where water scarcity and conflict are a concern.

The aggregate effect of the changes proposed in AB419 would be to make it more difficult for the State Engineer to: study the impacts of proposed appropriations; provide a full and fair opportunity for affected parties to be heard; and reject applications that threaten to conflict with existing rights or harm the public interest. AB419 would also open the door for applicants—but not the other parties to an application proceeding—to influence the State Engineer's decisionmaking process. All of this would come at great cost to the taxpayer, as the effort to meet the stringent demands of the new application process and wholly revise the State Engineer's hearing procedures would undoubtedly cost the State tens of millions of dollars.

As the State's water resources face unprecedented demands, and as those charged with managing these resources face unprecedented challenges, the trend should be toward more deliberate, careful, objective, and informed management that protects both the property rights of existing water users and the integrity of the natural environment. AB419 would lead us in the opposite direction, applying pressure on administrators who are already overburdened to approve ever-increasing rates of water use without adequate information. For these and other reasons, the Center opposes AB419.

Sincerely,

/s/ Scott Lake

Scott Lake

Nevada Staff Attorney

Center for Biological Diversity

PO Box 6205

Reno, NV 89513

(802) 299-7495

slake@biologicaldiversity.org