

# Drought talks could bring legislative showdown in Nevada

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CARSON CITY — Everyone and every living thing needs water. The challenge in Nevada is how best to prepare and share when Mother Nature turns off the taps.

An unprecedented statewide discussion in late September about drought and water rights in Nevada could signal a looming showdown in the 2017 Legislature over water management.

The three-day drought summit and public workshops held around the state left some people nervous and others hopeful that Nevada can broker water solutions that meet the needs of urbanites while sustaining rural economies, wildlife and the ecological health of a vast and diverse landscape.

"If we start the argument of one versus the other ... then we've lost the argument," said David Stix, president-elect of Nevada Cattlemen's Association.

"I will not get into an argument on what is more important, flushing toilets or raising alfalfa and onions."

## Drought forum's deep dive

An eight-member drought forum chaired by Leo Drozdoff, director of the Department of Conservation and Natural Resources, was created by Gov. Brian Sandoval in April to analyze Nevada's water situation and recommend ways the driest state in the nation can prepare for sustained drought.

The forum will submit a report by the end of the year, and Sandoval has said he probably will incorporate recommendations requiring changes to state law in his 2017 legislative agenda.

"Water law is the underpinnings of a lot of these things," Drozdoff said Monday when the forum convened to churn over voluminous public testimony, concerns and ideas.

Suggestions from interested parties and the public run the gamut. Create more water storage. Impose tiered water rates — the more you use, the more you pay — to encourage conservation. Restrain homeowner associations from requiring thirsty landscaping. Expand use of recycled water. Allow the capture of rainwater — yes that is currently illegal.

Also, do away with the "use it or lose it" provision in state water law that critics say encourages waste. Educate judges, whose decisions often set legal precedent, on the intricate complexities of it all. Gather more data on drought conditions and forecasting. Eradicate saltcedar, an invasive tree that can guzzle 200 gallons a day.

And finally, tie population growth to available water resources.

"We need to tie growth more tightly to the wet water we have available," said Howard Watts with Great Basin Water Network, a group that advocates balancing water resources needed for human needs with protection of plants and animals. In many areas of Nevada, water rights recorded on paper exceed the "wet" water actually available.

Managing growth is left to local jurisdictions, and building moratoriums are unlikely. But Drozdoff wondered if the state could play a larger role in assisting the cities and counties on land use decisions. "Is there an element of water planning that would help?"

The drought forum will hold at least two more meetings this year before finalizing a report to the governor.

### **Even small stuff will be hard**

If history is any indication, even tiny tweaks to more than a century of water law could require a Moby Dick-size effort and Sandoval's political muscle to chug through the choppy currents of the Legislature.

Jason King, Nevada's state water engineer, knows that well.

In the 2015 session, King sought two bills that ended up drowning in the legislative whirlpool.

One sought a 10-year window for people holding "vested" water rights — those that predate state law — to submit proof of their water claim. The goal was to get an accurate inventory over how much water there is in Nevada.

Another sought authorization for the state engineer to impose "conservation" domestic wells in overly taxed and distressed groundwater basins such as Pahrump, which has 11,000 domestic household wells. Domestic wells by law can pump 2 acre-feet of water per year. The proposed conservation well would have limited use to 0.5 acre-feet, with meters to monitor usage. One acre-foot is enough to supply at least two average Las Vegas Valley homes for one year.

Most urban and town dwellers are used to water meters. But many people who live in the state's rural areas are on domestic wells that, though limited in volume by law, are largely unregulated.

"If you can't measure it, you can't manage it," King said, suggesting all water use — domestic, agriculture, commercial and industrial — should be metered. "Why shouldn't we know how much water we're using?"

But that could be a tough sell. People tend to distrust the government and having their activities monitored. Some fear metering would lead to curtailed water if the state really knew how much water they used.

### **One state, different challenges**

The water challenges Nevada faces are as diverse as the landscape itself. Las Vegas receives 90 percent of its water from Lake Mead, the level of which has plunged 130 feet since 2000. Fed by the Colorado River, a water source shared by seven states and Mexico, the lake has faced a persistent drought problem for 15 years.

But John Entsminger, general manager of the Southern Nevada Water Authority, says aggressive conservation measures and a sophisticated system that allows water used indoors to be treated, put back in the lake and used again, means Las Vegas has enough supplies to meet demand for decades to come and can accommodate another 1 million residents. Representatives of homebuilders said construction practices today are much more efficient, water-wise. Members of the public, however, remain skeptical as they see the visible shrinking of their dominant water supply.

A proposed water pipeline from rural eastern Nevada, once pitched as critical to keep Las Vegas viable as the state's economic engine, has lost its urgency though it remains part of the water authority's portfolio of long-term options. So, too, is the possibility of desalination. But Entsminger said that option would be expensive — \$1 billion or more — and isn't needed, at least not now.

It's a different story in rural Nevada, where ranching and farming depends on water from rivers, streams and underground aquifers. After four years of drought, there is a lot less to go around. That has raised tension between senior and junior water right holders, and questions over the relationship between surface water and groundwater.

Does ground pumping suck water and moisture from river beds, thereby denying people with those water rights use of their property? And how much water will it take, once rain and snow returns, to saturate beds and banks, thereby allowing water to actually make its way downstream?

Rural communities, many served by private water utilities, are having to dig deeper wells. On top of that, rural areas are losing water to aging, leaky infrastructure.

Lynn Hettrick, deputy director of the Department of Agriculture, suggested a buy-back program in which the state buys water rights from willing sellers.

"Some people aren't going to use them. They certainly don't want to lose them." The kicker, Hettrick said, is "funding, funding, funding."

"If we don't come up with a plan to pay for some of this stuff, then all we're doing is talking about it."

State Sen. Pete Goicoechea, R-Eureka, concedes the mere suggestion of tinkering with state water law makes some folks cringe. He's one of them.

"We're starting to look at this drought as a reason to rewrite Nevada water law," he said.

State water law is based on a priority system. Those with the oldest water rights — some which predate statehood — are first in line during good water years and bad. That pecking order makes them valuable property.

"If you move away from priority, who's going to pay for that taking?" asked Goicoechea, a longtime rancher.

### **Legislature takes a look too**

Sandoval's drought forum isn't the only body tackling water and drought.

The 2015 Legislature ordered the Legislative Committee on Public Lands to conduct an interim study on water and alternative sources.

Assembly Bill 198, sponsored by Goicoechea, state Sen. James Settelmeyer of Minden, and Assemblymen James Oscarson of Pahrump and Jim Wheeler of Gardnerville, sets out mandates to quantify water use down to gallons per capita per day and to quantify surface and groundwater supplies and how conservation efforts increase supplies.

It further requires analyses on desalination, inter-basin water transfers, cloud seeding, reclaiming wastewater and water recycling.

That report is to be delivered to lawmakers when the Legislature next convenes in February 2017.

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