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## Agriculture; Underground Storage and Recovery of Water

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the total sales per unit of production.<sup>12</sup> Furthermore, overhead costs<sup>13</sup> must be determined according to generally accepted principles of accounting and allocated proportionately to each unit of production.<sup>14</sup>

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12. *Id.*

13. Costs for overhead include: Salaries for executives and officers of the company; all other costs of labor, including indirect costs, rent, depreciation, costs for maintenance, costs incurred in delivering the product, fees for licenses, taxes and insurance, cost of materials, costs for repairs, the cost for electricity and other public utilities and all other costs that relate to the sale and distribution of the product. *Id.*

14. *Id.* 1, at \_\_\_ (enacting NEV. REV. STAT. § 584.\_\_\_\_).

### **Agriculture; underground storage and recovery of water**

NEV. REV. STAT. § 534.\_\_\_\_ (new); §§ 534.010, 534.050, 534.060 (amended).

AB 548 (Callister); 1987 STAT. Ch 727

Under existing law, every person<sup>1</sup> desiring to sink or bore a well<sup>2</sup> in any basin must apply and obtain a permit from the state engineer<sup>3</sup> to appropriate the water before performing any work in connection with the boring or sinking.<sup>4</sup> Upon a written application showing good cause, existing law authorizes the state engineer to issue a waiver of the permit requirements for: (1) exploratory wells to be drilled to determine the availability or quality of water; or (2) to allow the temporary use of water in constructing a highway or exploring for oil, gas, minerals or geothermal sources.<sup>5</sup> Chapter 727 expands existing law by permitting the state engineer to waive the permit requirements for wells drilled in shallow ground water systems that are pumped to alleviate the potential hazards resulting from the rise of ground water caused by secondary recharge.<sup>6</sup>

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1. See NEV. REV. STAT. § 534.010 1(e) (amended by 1987 Nev. Stat. ch. 727, sec. 28, at \_\_\_) (definition of person).

2. See *id.* § 534.010 1(h) (definition of well drilling or drilling a well).

3. See generally *id.* §§ 532.010-.220 (defining state engineer).

4. *Id.* § 534.050 1.

5. *Id.* § 534.050 2 (amended by 1987 Nev. Stat. ch. 727, sec. 29, at \_\_\_).

6. 1987 Nev. Stat. ch. 727, sec. 29, at \_\_\_ (amending NEV. REV. STAT. § 534.050 2). The Legislature finds and declares that the removal of ground water from any basin in Nevada

With the enactment of Chapter 727, any person<sup>7</sup> desiring to operate a project<sup>8</sup> designed and constructed to add water to a system of aquifers,<sup>9</sup> store water<sup>10</sup> underground and recover that water, must apply and obtain a permit to operate the project.<sup>11</sup> Under Chapter 727, the state engineer may periodically review a project to determine if the permit holder is complying with conditions of the permit and the public is properly guarded.<sup>12</sup> Chapter 727 authorizes the state engineer to permanently revoke or temporarily suspend the permit after an investigation and hearing.<sup>13</sup> Furthermore, if a person violates Chapter 727, the state engineer may issue a temporary order for the person to cease and desist the construction pending final action by the state engineer.<sup>14</sup> Under Chapter 727, however, the state engineer must issue a written notice that the person must appear and show cause why the person should not be ordered to cease and desist from the violation.<sup>15</sup> After the hearing, the state engineer must issue a

that alleviates potential hazards resulting from the rise of ground water caused by secondary recharge is of beneficial use if accomplished properly. *Id.* sec. 27, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_). *See also id.* sec. 11, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (definition of recharged water).

7. 1987 Nev. Stat. ch. 727, sec. 9, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (definition of person).

8. 1987 Nev. Stat. ch. 727, sec. 10, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (definition of project).

9. *See* NEV. REV. STAT. § 534.010 1(a) (amended by 1987 Nev. Stat. ch. 727, sec. 28, at \_\_\_) (definition of aquifer). *Compare id. with* 1987 Nev. Stat. ch. 727, sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (definition of aquifer).

10. *See* 1987 Nev. Stat. ch. 727, sec. 13, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (definition of stored water).

11. *Id.* sec. 17, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_). To issue a permit, the state engineer must determine that: (a) the applicant has the technical and financial capability to construct and operate a project; (b) the applicant has a right to use the proposed source of water for recharge pursuant to an approved appropriation; (c) the project must be hydrologically feasible; (d) if in an area of active management, the project must be consistent with the program of augmentation for that area; and (e) the project will not cause harm to users of land or other water within the area. *See id.* sec. 17, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_). The holder of a permit may also apply for approval to assign the permit to another person if the applicant has a right to use the source of water and the technical and financial capability to construct and operate the project. *Id.* sec. 17, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) 3). *See also* 1987 Nev. Stat. ch. 727, sec. 10, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (definition of project). *See generally id.* sec. 19, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_) (adversely affected party may file a protest).

12. *Id.* sec. 24, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_). A person deemed in violation of this section, or any permit or regulation, may be assessed a civil penalty not exceeding \$100 per day of violation not directly related to the illegal recovery or use of stored water, or a penalty not exceeding \$10,000 per day if directly related to the illegal recovery or use of stored water. 1987 Nev. Stat. ch. 727, sec. 25, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_).

13. *Id.*

14. 1987 Nev. Stat. ch. 727, sec. 24, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_).

15. *Id.* sec. 24, at \_\_\_ (enacting NEV. REV. STAT. § 534.\_\_\_\_).

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decision and order in a form that may include: A determination of a violation, an order to cease and desist, the recommendation of a civil penalty, and an order directing positive steps to be taken to abate any damage or harm from the violation.<sup>16</sup> Under Chapter 727, instead of plugging an abandoned well, the owner may advise the state engineer and other interested hydrologic entities, that the well is available to monitor the ground water.<sup>17</sup> If the well would be useful as a site for monitoring, Chapter 727 authorizes the state engineer to grant the owner a waiver of the requirement that the well be plugged.<sup>18</sup>

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16. See NEV. REV. STAT. § 534.010 1(h) (amended by 1987 Nev. Stat. ch. 727, sec. 16, at \_\_\_\_).

17. 1987 Nev. Stat. ch. 727, sec. 30, at \_\_\_\_ (enacting NEV. REV. STAT. § 534.060 7).

18. *Id.*