

Division of  
WATER RESOURCES

Jason King, P.E.  
State Engineer

Western States  
Water Council  
163<sup>rd</sup> Meeting

July 23, 2010

# Water Resource Issues, Actions and Activities



DEPARTMENT OF  
**CONSERVATION &  
NATURAL RESOURCES**

# Topics of Presentation

- Budget
- Litigation
  - **Supreme Court Decision**
- Renewable Energy
- Walker Lake
  - Buy/Lease Program to save the Lake
- Potential Bills for 2011 Session

# Budget

**DWR's Budget – > 90% is salaries and rent**

## **2009 Legislative Session**

- 12% cut, loss of 4.4 staff
  - Furloughs – Minimum one (1) day a month (12 in a year) effective July 1, 2009 through June 30, 2011
  - No cost of living increases
  - No longevity pay
- Raised almost all our fees
  - 1989 last time fees were increased in earnest
- Projected to bring in an extra \$900,000
  - Revenues go to the general fund, not DWR

# Budget

## 2010 Special Legislative Session

- All agencies were asked for an additional 10% cut to FY10 and FY11 budget
  - Legislature only cut us 2% and 3% respectively.
- Offered 8 positions, only took 3
- Reductions in Travel and Training

**Not much left to cut!!!**

# Next Session – Feb 2011


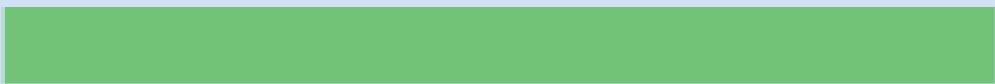
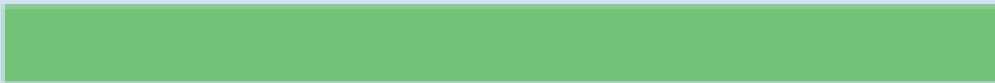

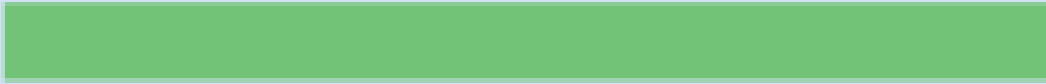
- Expecting a \$3 Billion shortfall statewide for a ~\$6.3 billion general fund budget!!!

# Nevada Government

## State Spending

Nevada has the lowest per-capita state spending in the U.S.

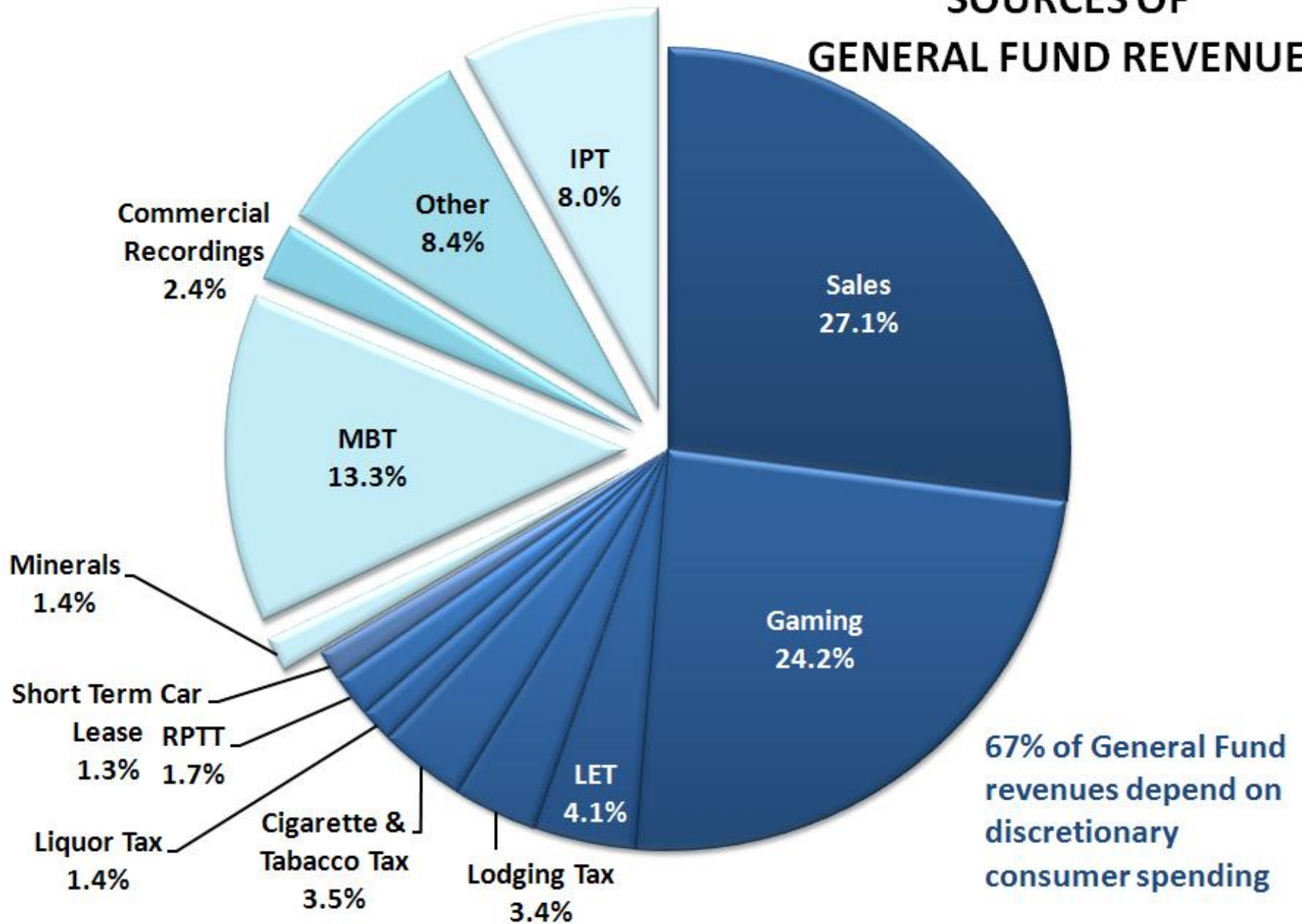
State government general expenditure per capita, 2008

1. Nevada		<b>\$3,563</b>
2. Texas		<b>3,727</b>
3. Georgia		<b>3,729</b>
4. Florida		<b>3,754</b>
5. Colorado		<b>3,919</b>

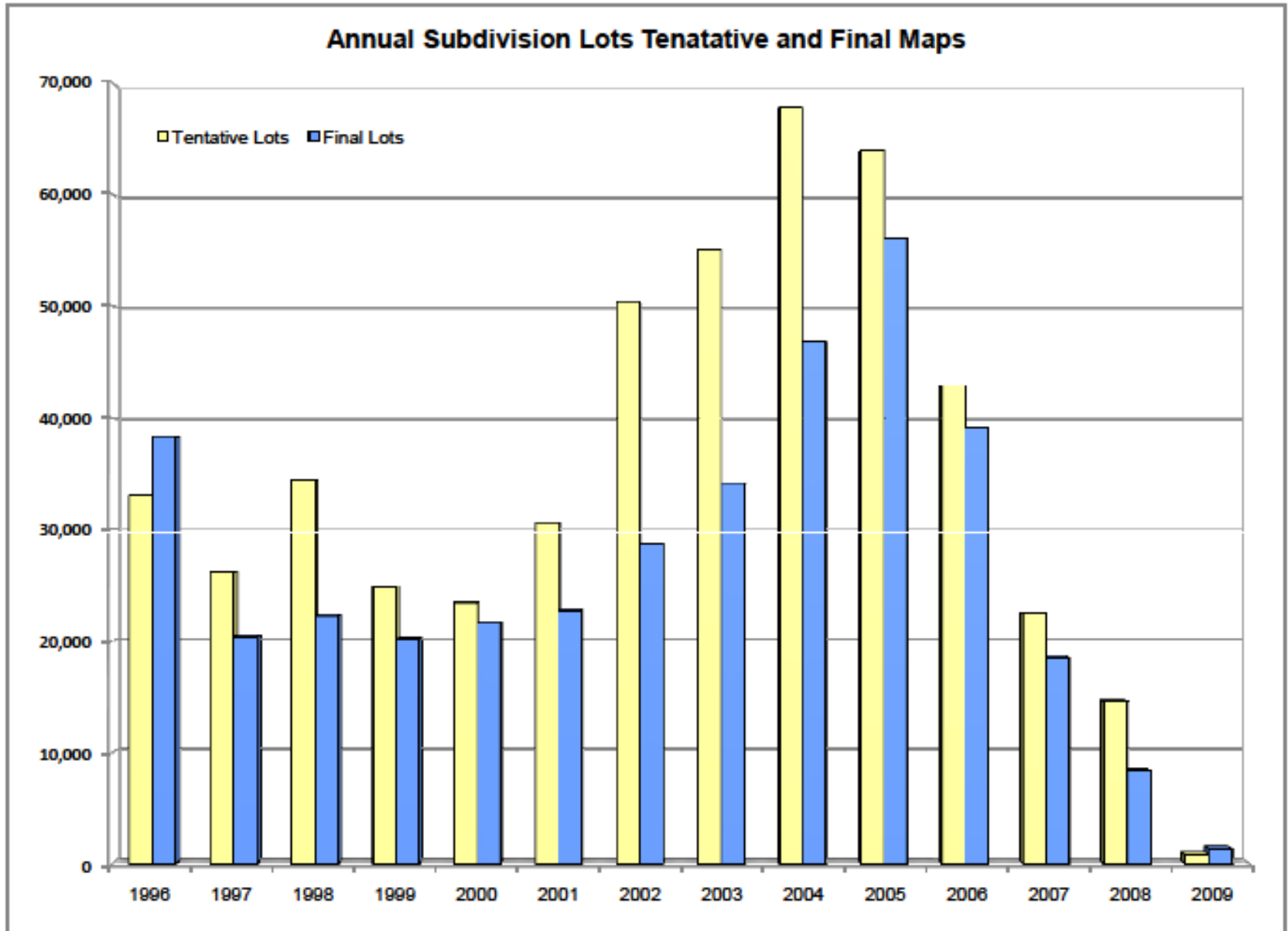
Note: The U.S. Census defines general expenditure as all state expenses other than liquor store, utility or social insurance trust spending.

Source: Census Bureau

# SOURCES OF GENERAL FUND REVENUES



# Southern Nevada



# Litigation

- Water Issues Reaching Critical Mass
  - Water is worth \$\$\$
  - Litigation becoming more frequent
  - Courts are issuing decisions that have broad implications
    - Supreme Court – Great Basin Water Network Case
  - Issues becoming more complicated
    - Water availability
    - Environmental soundness
    - Surface/Groundwater interconnectivity (recent Supreme Court argument)

# Litigation

## State Supreme Court Decision

- *Great Basin Water Network v. State Engineer*, January 28, 2010
- Reverses District Court's decision affirming the State Engineer's ruling on issuing ground water permits to SNWA, filed in 1989, to import water into Las Vegas from eastern NV
- Decision stems from the court's interpretation of 1947 statutory language that stated the S.E. has 1-year to either approve or deny a water right application.
  - Never said what happened if we didn't act.
  - S.E. historically interpreted it to mean that the application is still pending before him.

# Litigation

## State Supreme Court Decision

- Utah and Nevada were within days of signing a State-to-State agreement that would have apportioned the groundwater resources in Snake Valley shared by both states – a culmination of 4+ years of good work!

# Litigation

## State Supreme Court Decision – Round 1

- The decision remands it back to the District Court to either:
  - Require SNWA to file new applications, or
  - Require the State Engineer to re-notice and reopen the protest period.
- Could impact thousands of pre-2003 water right filings that took greater than 1-year to act upon
  - ~14,500 rights took longer than 1 year to act upon between 1947 and 2003 (the year that an amendment to the statute was enacted – actually meant to be retroactive).
  - Did take action on >34,000 apps in that time period
- Mad Rush to refile those water right applications that may be in jeopardy!

# Litigation

- Supreme Court Decision was an agenda item in the recent Special Session
  - Tried to get a statutory fix but ran out of time
- Received a *Motion to Express Legislative Intent*
  - Hold a workshop to address issue and make a recommendation
- We held a workshop and took public comments including proposed corrective statutory language. (Posted everything on our website.)
- Issued a report to the Governor whereby it was recommended that a “fix” to the supreme court decision was necessary due to the uncertainty it had caused on water rights in Nevada and left it up to the Governor to either wait until next session or reconvene a special session to address this one issue.
- Governor has decided to wait to see what the courts will do with it.

# Litigation

## State Supreme Court Decision – Round 2

- In response to Motions to rehear the evidence, the Supreme Court issued a new opinion on June 17<sup>th</sup> that voided the January 28<sup>th</sup> opinion
- Although still somewhat unclear, the new opinion does NOT require the refiling of new applications, does NOT affect non-protested applications still pending and does NOT affect water rights already permitted except SNWA's applications in four valleys.
- Ultimately, 421 rights will have to be republished and acted on.

# Other Litigation

- Surface Water/Ground Water Interconnectivity
  - Being litigated in state district court, state supreme court and federal courts
  - Pits senior decreed surface water rights against junior state appropriated ground water rights
- Nevada regulates SW and GW separately (NRS 533 and NRS 534 respectively).
  - Yes, Nevada understands there is a connection between the two!!!

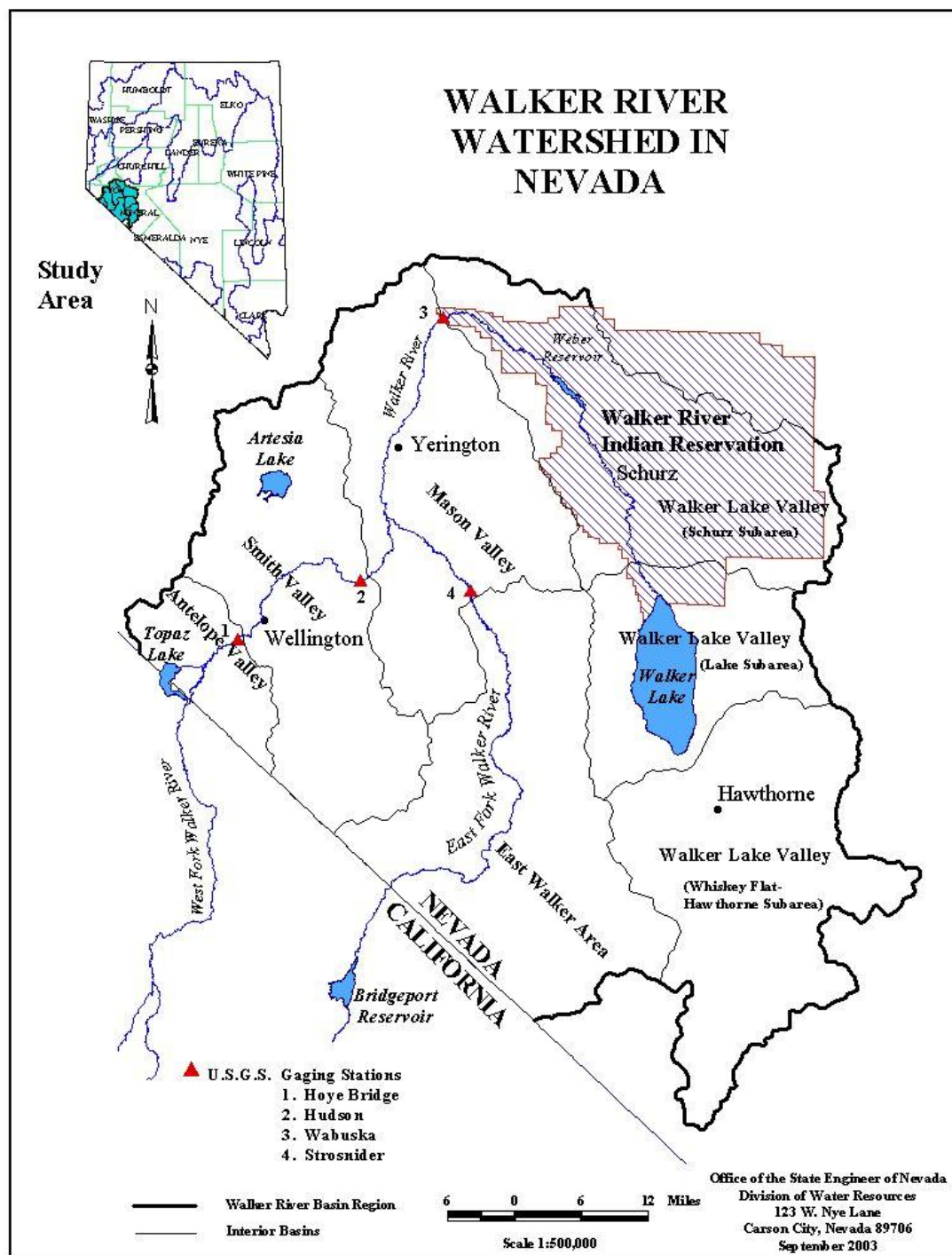
# Renewable Energy

- Solar Power Plants
  - Big bulls eye on Southern Nevada as being an optimum place for solar plants
- Water Issue
  - Thermal Plants - Air Cooled vs. Water Cooled
    - Costs 10% more to build
    - Generates 5% less electricity
    - Uses 80-90% less water
  - Photovoltaic
    - Minimal water needs for the washing of panels

# Renewable Energy

- Geothermal
  - Receiving more applications for geothermal power plant cooling water
  - Same water issues as with solar i.e. air cooled vs. water cooled

# Walker Lake Restoration Program



# Walker Lake

- One of only three desert terminal lakes in North America with a fresh water fishery.
- The lake is a major stopover for migrating birds on the Pacific flyway.
- Lake level has dropped 145 feet since 1882
- TDS now approaching 18,000 mg/l

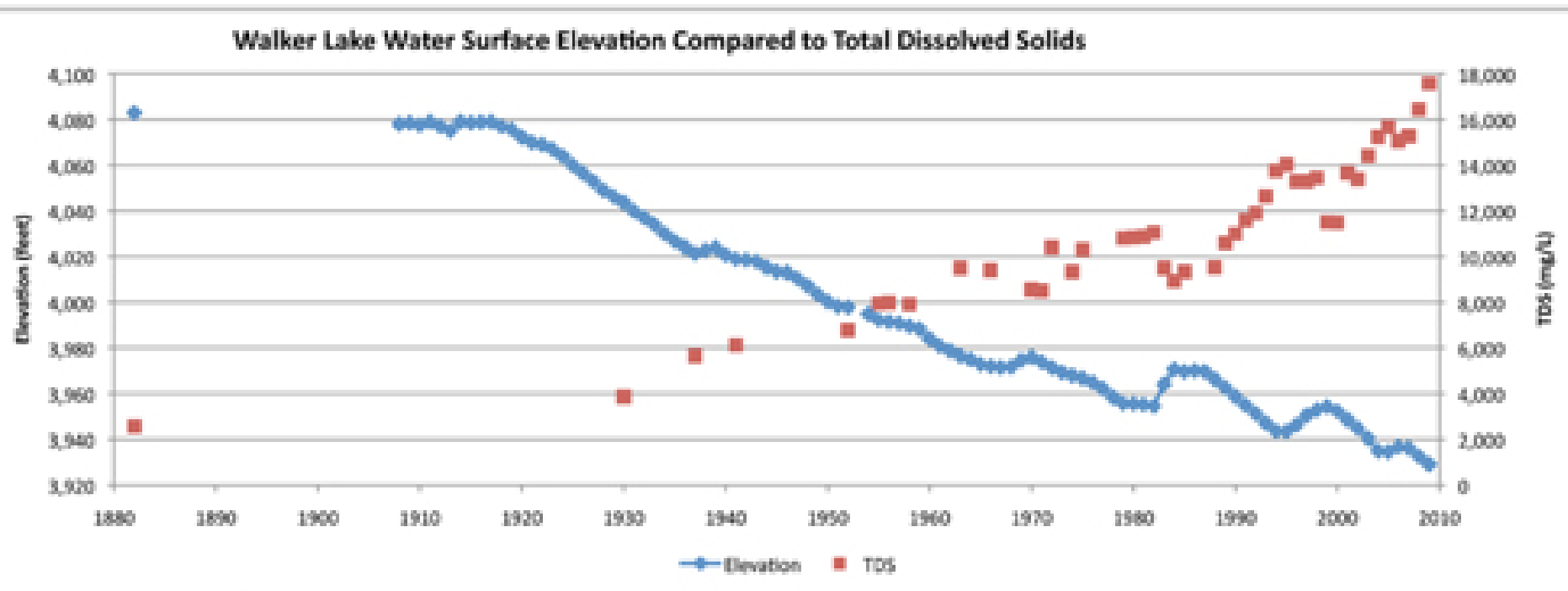


Figure 1 - Source: U.S. Bureau of Reclamation, Revised DEIS for the Walker River Basin Acquisition Program, February 2010

# Walker Lake

## Water Right Acquisition Program

- \$72 million to purchase water rights
- \$25 million, 3-year leasing program
- Fallow land
- Send the water to Walker Lake

## DWR Workload

- Expecting to see numerous change applications to move Walker River irrigation water to Walker Lake

## DWR Concern

- Supplemental groundwater pumping on lands that were stripped of Walker River water

# 2011 Session

- Potential bills:
  - Additional amendments to address Supreme Court decision (aka 1 Year Rule)
  - Domestic wells – can the State Engineer restrict them in certain areas?
  - Capture of rain water for guzzlers and cisterns
  - **Fee Bills!**



**Thank You,  
Questions**