KENNY C. GUINN
Governor

STATE OF NEVADA

ALLEN BIAGGI
Director

HUGH RICCI, P.E.
State Engineer

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701
(775) 684-2800 • Fax (775) 684-2811
http://water.nv.gov

Re: 53987-53992, 54003-54030

March 8, 2006

Ladies and Gentlemen:

Enclosed is the official Intermediate Order and Hearing Notice in the Matter of Applications 53987-53992, 54003-54030, inclusive. Attached please find the service list for parties to whom the order and notice were mailed.

Sincerely,

Hugh Ricci, P.E.
State Engineer

HR/jm

cc: Jason King, E-mail
Tracy Taylor, E-mail
Bob Coache, E-mail
Rick Felling, E-mail
Justin Huntington, E-mail
Tim Wilson, E-mail
Steve Lyon, regular mail
Barbara Shand, regular mail
Matt Jenkins, E-mail
Terry E. Rubald, E-mail
Vince Alberta, E-mail
Donna Burns, E-mail
Ed Vogel, E-mail
Henry Brean, E-mail
Warren Bates, E-mail
Sean Whaley, E-mail

Kent Harper, E-Mail
Mary Manning, E-mail
Cy Ryan, E-mail
Brendon Riley, E-mail
Ken Ritter, E-mail
Launce Rake, E-mail
J.C. Davis, E-mail
Kelvin Hickenbottom, E-Mail
Mike Wolz, E-mail
Steve DelSoldato, E-mail
Elko Branch Office, E-mail
Southern Nevada Branch Office, E-mail
Capitol Reporters, regular mail

Service List
Notice of Pre-Hearing Conference
53987-53992, 54003-54029

Marilyn J. Ambrose
Box 77
Baker, Nevada 89311
Certified Mail #71067808063000192699
54027

Baker Ranches Inc.
Box 29
Baker, Nevada 89311
Certified Mail #71067808063000192484
54022 54023 54024 54025 54026 54027 54028
54029

Carl F. Baker
P.O. Box 163
Baker, Nevada 89311
Certified Mail #71067808063000192705
54026

Reita Berger
Box 86
Baker, Nevada 89311
Certified Mail #71067808063000192729
54022

Carter-Griffin Inc d.b.a. Carter Cattle Co.
P.O. Box 27
Lund, Nevada 89317
Certified Mail #71067808063000192514
53987 54988

County of Nye
P.O. Box 153
Tonopah, Nevada 89049
Certified Mail #71067808063000192521
53987 53988 53990 53991 53992 54003 54004
54005 54006 54007 54008 54009 54010 54011
54012 54013 54014 54015 54016 54017 54018
54019 54020 54021 54022 54023 54024 54025
54026 54027 54028 54029

Baker Town Advisory Board
Box 30
Baker, Nevada 89311
Certified Mail #71067808063000192491
54027

Baker Water & Sewer Gen. Imp. Dist.
Box 94
Baker, Nevada 89311
Certified Mail #71067808063000192507
54027

George Benesch
190 W. Huffaker Lane
Reno, Nevada 89511
Certified Mail #71067808063000192712
53987

Richard Berley
Ziontz Chestnut Varnell Berley & Slonim
2010 Fourth Ave. Ste. 1230
Seattle, Washington 98121
Certified Mail #71067808063000192736
53987

Attn: Greg James
County of Inyo, California
163 May Street
Bishop, California 93514
Certified Mail #71067808063000192781
53987 53988 53990 53991 53992

County of White Pine and City of Ely
801 Clark Street #4
Ely, Nevada 89301
Certified Mail #71067808063000192538
53987 53988 53990 53991 53992 54003 54004
54005 54006 54007 54008 54009 54010 54011
54012 54013 54014 54015 54016 54017 54018
54019 54020 54021 54022 54023 54024 54025
54026 54027 54028 54029

Service List
Notice of Pre-Hearing Conference
53987-53992, 54003-54029

Ely Shoshone Tribe
16 Shoshone Circle
Ely, Nevada 89301
Certified Mail #71067808063000192545
53988 53990 53992 54019 54027

John Entsminger
Southern Nevada Water Authority
1900 E. Flamingo, Suite 180
Las Vegas, Nevada 89119
Certified Mail #71067808063000192743
53987 53988 53989 53990 53991 53992 54003 54004 54005 54006 54007 54008 54009 54010 54011 54012 54013 54014 54015 54016 54017 54018 54019 54020 54021 54022 54023 54024 54025 54026 54027 54028 54029

Eskdale Center
1100 Circle Drive
Eskdale, Utah 84728
Certified Mail #71067808063000192552
54022 54023 54024 54025 54026 54027 54028 54029

Peter Fahmy
U.S. Dept. of Interior Office of the Solicitor
755 Parfet St. Ste. 151
Lakewood, Colorado 80215
Certified Mail #71067808063000192750
53987

Jo Anne Garrett
P.O. Box 130
Baker, Nevada 89311
Certified Mail #71067808063000192767
54027

Simeon Herskovits
Western Environmental Law Center
108 B Civic Plaza Drive
P.O. Box 1507
Taos, New Mexico 87571
Certified Mail #71067808063000192774
53988 54003 54004 54005 54006 54014 54015 54020 54022 54023 54024 54025 54026 54027 54028 54029 54030

Abigail C. Johnson
612 W. Telegraph St.
Carson City, Nevada 89703
Certified Mail #71067808063000192798
54006

Matt Kenna
Western Environmental Law Center
679 E. Second Ave., Ste. 11B
Durango, Colorado 81301
Certified Mail #71067808063000192804
53988 54003 54004 54005 54006 54014 54015 54020 54022 54023 54024 54025 54026 54027 54028 54029 54030

Service List
Notice of Pre-Hearing Conference
53987-53992, 54003-54029

Attn: Ken Albright
Las Vegas Valley Water District
1001 S. Valley View Blvd.
Las Vegas, Nevada 89153
Certified Mail #71067808063000192682
53987 53988 53989 53990 53991 53992 54003
54004 54005 54006 54007 54008 54009 540010
54011 54012 54013 54014 54015 54016 54017
54018 54019 54020 54021 54022 54023 54024
54025 54026 54027 54028 54029

Dr. Dan A. Love
c/o L. David Love
P.O. Box 187
Caliente, Nevada 89008
Certified Mail #71067808063000192811
54003 54004 54005

Attn: Roderick McKenzie
Lund Irrigation & Water Co.
P.O. Box 236
Lund, Nevada 89317
Certified Mail #71067808063000192835
53987 53988 53990 53992

Attn.: Darren Smith
Millard County, Utah
P.O. Box 226
Fillmore, Utah 84631
Certified Mail #71067808063000192897
54022 54023 54024 54025 54026 54027 54028
54029

Moapa Band of Paiute Indians
P.O. Box 340
Moapa, Nevada 89025
Certified Mail #71067808063000192569
53987 53992 54003 54029

Moriah Ranches Inc.
P.O. Box 46
Baker, Nevada 89311
Certified Mail #71067808063000192576
54013 54014 54015 54018

New Age Gardeners
Box 94
Baker, Nevada 89311
Certified Mail #71067808063000192583
54022

Jerry D. Olds
Utah Div. of Water Rights
P.O. Box 146300
Salt Lake City, Utah 84114
Regular Mail
53987

Stephen Palmer
USDOI
Office of the Solicitor
2800 Cottage Way Rm. E1712
Sacramento, California 95825
Certified Mail #71067808063000192859
53987

Panaca Irrigation Co.
P.O. Box 764
Panaca, Nevada 89042
Certified Mail #71067808063000192590
54003 54004 54005

Service List
Notice of Pre-Hearing Conference
53987-53992, 54003-54029

Margaret Ann Pense
P.O. Box 41
Baker, Nevada 89311
Certified Mail #71067808063000192866
54027

Preston Irrigation Company
P.O. Box 184
Lund, Nevada 89317
Certified Mail #71067808063000192606
53987 53988

Nicole Rinke
Attorney at Law
593 Smithridge Park
Reno, Nevada 89502
Certified Mail #71067808063000192873
54015, 54027

William and Katherine Rountree
DX Ranch
HC 64 Box 64510
Ely, Nevada 89301
Certified Mail #71067808063000192880
54014, 54015, 54020, 54022

Paul Taggart
King & Taggart
108 N. Minnesota St.
Carson City, Nevada 89703
Certified Mail #71067808063000192910
53987 53988 53989 53990 53991 53992 54003
54004 54005 54006 54007 54008 54009 540010
54011 54012 54013 54014 54015 54016 54017
54018 54019 54020 54021 54022 54023 54024
54025 54026 54027 54028 54029

Snake Valley Senior Citizen Center
Box 65
Baker, Nevada 89311
Certified Mail #71067808063000192613
54027

Terrance P. & Debra J. Steadman
Box 117
Baker, Nevada 89311
Certified Mail #71067808063000192903
54022 54023 54024 54025 54026 54027 54028
54029

The Border Inn
Box 30
Baker, Nevada 89311
Certified Mail #71067808063000192620
54022 54026

The School of Natural Order Inc.
P.O. Box 150
Baker, Nevada 89311
Certified Mail #71067808063000192637
54022 54023 54024 54025 54026 54027 54028
54029

Toiyabe Chapter of the Sierra Club
P.O. Box 8096
Reno, Nevada 89507
Certified Mail #71067808063000192644
53988 54003 54004 54005

Service List
Notice of Pre-Hearing Conference
53987-53992, 54003-54029

Town of Alamo Water and Sewer Board
P.O. Box 418
Alamo, Nevada 89001
Certified Mail #71067808063000192651
53991

John G. Tyron
631 Ave. I
Boulder City, Nevada 89005
Certified Mail #71067808063000192927
54015 54027

Attn: District Manager U.S. Dept. of Interior
Bureau of Land Management
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
Certified Mail #71067808063000192934
53987 53988 53989 53990 53991 53992 54003
54004 54005 54006 54007 54008 54009 54010
54011 54012 54013 54014 54015 54016 54017
54018 54019 54020 54021 54022 54023 54024
54025 54026 54027 54028 54029

U.S. Dept. of Interior Fish & Wildlife Service
1002 NE Holladay Street
Portland Oregon 97232
Certified Mail #71067808063000192668
53987 53988 53989 53990 53991 53992 54003
54004 54005 54006 54007 54008 54009 540010
54011 54012 54013 54014 54015 54016 54017
54018 54019 54020 54021 54022 54023 54024
54025 54026 54027 54028 54029

U.S. Dept. of Interior Fish & Wildlife Service
911 NE 11th Ave.
Portland Oregon 97232
Certified Mail #71067808063000192675
53987

Dan McGlothlin
U.S. Dept. of Interior National Park Service
1201 Oakridge Drive Ste. 250
Fort Collins, Colorado 80525
Certified Mail #71067808063000192828
53987 53988 53989 53990 53991 53992 54003
54004 54005 54006 54007 54008 54009 540010
54011 54012 54013 54014 54015 54016 54017
54018 54019 54020 54021 54022 54023 54024
54025 54026 54027 54028 54029

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 53987 THROUGH 53992, INCLUSIVE, AND 54003 THROUGH 54030, INCLUSIVE, FILED BY THE LAS VEGAS VALLEY WATER DISTRICT TO APPROPRIATE THE UNDERGROUND WATERS OF DELAMAR VALLEY (182), DRY LAKE VALLEY (181), CAVE VALLEY (180), SPRING VALLEY (184), AND SNAKE VALLEY (195) HYDROGRAPHIC BASINS, LINCOLN AND WHITE PINE COUNTIES, NEVADA.	)	**INTERMEDIATE ORDER AND HEARING NOTICE**

I.

In October 1989 the Las Vegas Valley Water District filed Applications 53987 through 53992, inclusive, and Applications 54003 through 54030, inclusive, to appropriate the public waters of the state of Nevada from groundwater sources within Lincoln and White Pine Counties, Nevada. Numerous persons and entities subsequently protested the applications with over 830 individual protests being filed against the above-referenced applications.

On January 5, 2006, the State Engineer held a pre-hearing conference to discuss issues related to future administrative hearings on the protested applications. In order to understand how many people would be participating in the pre-hearing conference and how many would be presenting formal cases-in-chief at the administrative hearings, the State Engineer included in the Notice of Pre-hearing Conference a form that asked Protestants to declare their intent as to their formal participation in the pre-hearing conference and future administrative hearings.

II.

The following persons or entities returned the forms and indicated they were going to participate in the pre-hearing conference:

Marilyn Ambrose
Carl Baker
Baker Ranches, Inc.
Baker Town Advisory Board
Baker Water and Sewer General Improvement District
Reita Berger
The Border Inn
Carter-Griffin, Inc., d.b.a. Carter Cattle Company
Ely Shoshone Tribe of Indians
Eskdale Center
Jo Anne Garrett
Abigail Johnson
Dan Love
Lund Irrigation and Water Company
Moapa Band of Paiute Indians
Moriah Ranches, Inc.
New Age Gardeners
Nye County
Panaca Irrigation Company
Margaret Ann Pense
Preston Irrigation Company
William and Katherine Rountree
The School of Natural Order, Inc.
Snake Valley Senior Citizen Center
Terrance and Debra Steadman
Toiyabe Chapter of the Sierra Club
Town of Alamo Water and Sewer Board
John Tyron
U.S. Dept. of Interior, Bureau of Land Management
U.S. Dept. of Interior, Fish and Wildlife Service
U.S. Dept. of Interior, National Park Service
White Pine County and City of Ely

Many other Protestants returned the forms and indicated they would not be participating in either the pre-hearing conference or any future administrative hearings.

III.

The following Protestants or a representative on their behalf made appearances at the pre-hearing conference:

Marilyn Ambrose
Carl Baker
Barker Ranches, Inc.
Baker Town Advisory Board
Baker Water and Sewer General Improvement District
Reita Berger
The Border Inn
Ely Shoshone Tribe of Indians
Eskdale Center
Jo Anne Garrett
Abigail Johnson
Lund Irrigation and Water Company
Moapa Band of Paiute Indians
Millard County, Utah
New Age Gardeners
Margaret Ann Pense
Preston Irrigation Company
William and Katherine Rountree
The School of Natural Order, Inc.
Snake Valley Senior Citizen Center
Terrance and Debra Steadman
Toiyabe Chapter of the Sierra Club
Town of Alamo Water and Sewer Board
John Tyron
U.S. Dept. of Interior, Bureau of Land Management
U.S. Dept. of Interior, Fish and Wildlife Service
U.S. Dept. of Interior, National Park Service
White Pine County and the City of Ely

IV.

The following persons or entities returned the forms and indicated they were intending to present or may present a case-in-chief at the administrative hearing. Parties are only allowed to participate in hearings in valleys in which they actually filed protests.

Marilyn Ambrose (protested App. 54027 Snake Valley)

Baker Ranches, Inc. (protested Apps. 54022-54030, inclusive, Snake Valley)

Reita Berger (protested App. 54022 Snake Valley)

The Border Inn (protested Apps. 54022 and 54026 Snake Valley)

Carter-Griffin Inc., d.b.a. Carter Cattle Co. (protested Apps. 53987, 53988 Cave Valley)

Ely Shoshone Tribe of Indians (protested Apps. 53988 Cave Valley, 53990 Dry Lake Valley, 53992 Delamar Valley, 54019 Spring Valley, 54027 Snake Valley)

Eskdale Center (protested Apps. 52022-54030, inclusive, Snake Valley)

Jo Anne Garrett (protested App. 54027 Snake Valley)

Abigail Johnson (protested App. 54006 Spring Valley)

Dan Love (protested Apps. 54003, 54004, 54005 Spring Valley)

Lund Irrigation and Water Co. (protested Apps. 53987, 53988 Cave Valley, 53990 Dry Lake Valley, 53992 Delamar Valley)

Moapa Band of Paiute Indians (protested Apps. 53987 Cave Valley, 53992 Delamar Valley, 54003 Spring Valley, 54029, 54030 Snake Valley)

Moriah Ranches, Inc. (protested Apps. 54013, 54014, 54015, 54018 Spring Valley)

New Age Gardeners (protested App. 54022 Snake Valley)

Nye County (protested all Applications)

Panaca Irrigation Co. (protested Apps. 54003, 54004, 54005 Spring Valley)

Preston Irrigation Company (protested Apps. 53987, 53988 Cave Valley)

William and Katherine Rountree (protested Apps. 54014, 54015, 54020, 54022 Snake Valley)

The School of Natural Order, Inc. (protested Apps. 54022-54030, inclusive, Snake Valley)

Snake Valley Senior Citizen Center (protested App. 54027 Snake Valley)

Terrance and Debra Steadman (protested Apps. 54022-54030, inclusive, Snake Valley)

Toiyabe Chapter of the Sierra Club (protested Apps. 53988 Cave Valley, 54003, 54004, 54005 Spring Valley)

Town of Alamo Water and Sewer Board (protested App. 53991 Delamar Valley)

John Tyron (protested Apps. 54015 Spring Valley, 54027 Snake Valley)

U.S. Dept. of Interior, Bureau of Land Management (protested all Applications)

U.S. Dept. of Interior, National Park Service (protested all Applications)

U.S. Dept. of Interior, Fish and Wildlife Service (protested all Applications)

White Pine County and City of Ely (protested all Applications)

V.

The following legal counsel made appearances at the pre-hearing conference on behalf of the Applicant and various Protestants:

Paul Taggart and Charles Hauser for the Applicant[1]

Western Environmental Law Center, Simeon Herskovits and Matt Kenna, with local counsel Nicole Rinke for the following persons or entities:

Marilyn Ambrose (protested App. 54027 Snake Valley)
Baker Town Advisory Board (protested App. 54027 Snake Valley)
Baker Water and Sewer General Improvement District (protested App. 54027 Snake Valley)
Reita Berger (protested App. 54022 Snake Valley)
The Border Inn (protested Apps. 54022 and 54026 Snake Valley)
Jo Anne Garrett (protested App. 54027 Snake Valley)
Abigail Johnson (protested App. 54006 Spring Valley)
New Age Gardeners (protested App. 54022 Snake Valley)
Margaret Ann Pense (protested App. 54027 Snake Valley)
William and Katherine Rountree (protested Apps. 54014, 54015, 54020, 54022 Snake Valley)
The School of Natural Order, Inc. (protested Apps. 54022-54030, inclusive, Snake Valley)
Snake Valley Senior Citizen Center (protested App. 54027 Snake Valley)
Terrance and Debra Steadman (protested Apps. 54022-54030 Snake Valley)
Toiyabe Chapter of the Sierra Club (protested Apps. 53988 Cave Valley, 54003, 54004, 54005 Spring Valley)
John Tryon (protested Apps. 54015 Spring Valley, 54027 Snake Valley)

George Benesch for the following persons or entities:

Baker Ranches, Inc. (protested Apps. 54022-54030 Snake Valley)
White Pine County and City of Ely (protested all Applications)
Town of Alamo Water and Sewer Board (protested App. 53991 Delamar Valley)
Nye County (protested all Applications)

---

[1] Legal counsel indicated they were making an appearance on behalf of the Southern Nevada Water Authority, but the records of the State Engineer indicate the water right applications are in the name of the Las Vegas Valley Water District.

Richard Burley for the Moapa Band of Paiute Indians (protested Apps. 53987 Cave Valley, 53992 Delamar Valley, 54003 Spring Valley, 54029, 54030 Snake Valley)

Steve Palmer, Office of the Solicitor for the U.S. Dept. of Interior, Bureau of Land Management, Fish and Wildlife Service, Bureau of Indians Affairs for Ely Shoshone Tribe of Indians (protested all Applications)

Steve Palmer, Office of the Solicitor for the U.S. Dept. of Interior, Bureau of Indians Affairs for Ely Shoshone Tribe of Indians (protested Apps. 53988 Cave Valley, 53990 Dry Lake Valley, 53992 Delamar Valley, 54019 Spring Valley, 54027 Snake Valley)

Peter Fahmy, Office of the Solicitor for the U.S. Dept. of Interior, National Park Service (protested all Applications)

VI.

The following persons or entities indicated they may only participate in cross-examination:

Millard County, Utah
Nye County
Town of Alamo Water and Sewer Board
White Pine County and City of Ely

VII.

Matt Kenna and Simeon Herskovits with the Western Environmental Law Center have filed motions to associate with local counsel as required by Supreme Court Rule 42 since neither is licensed to practice law in Nevada. The Nevada State Bar has approved these motions. The Applicant objected to the motion to associate at the pre-hearing conference, but later withdrew the objection by letter. A review of records on file in the Office of the State Engineer shows that the Western Environmental Law Center has made one appearance in an administrative hearing before the State Engineer, such appearance being in November/December 2005. While the State Engineer scheduled all these applications together for the pre-hearing conference, for purposes of hearing/appearances, the State Engineer does not consider all these applications to be only one hearing. However, since there is only one applicant for all these applications, the hearing on Spring Valley will be considered one hearing, Snake

Valley will be considered the second hearing and the hearing on Cave Valley, Dry Lake Valley and Delamar Valley will be considered the third hearing. Supreme Court Rule 42 provides that "more than five appearances by any person or firm of attorneys granted under this rule in a three-year period is excessive use of the rule." The appearances in these hearings will bring Western Environmental Law Center to four appearances, which is less than the amount identified by the rule. The State Engineer grants the motion to associate.

VIII.

Only those persons or entities that have indicated their intent to present a case-in-chief or to participate in cross-examination are considered parties to the administrative hearing for purposes of service of evidentiary documents, witness lists, notice, and motions. For those persons or entities with an interest in the proceedings these documents will be public records of the Office of the State Engineer in Carson City and Las Vegas, Nevada. Additionally, at some point prior to the administrative hearings, the State Engineer will attempt to make the lists, summaries and exhibits submitted on computer compact disks available on the Division of Water Resources website at **www.water.nv.gov**. This order supersedes the State Engineer's previous Interim Order dated August 26, 1991, that required filing hard copies of the documents in public libraries. Nevada's rural public libraries are very small places that could be overwhelmed by stacks of documents. Since libraries have internet access, the public will have access to the information while paper is conserved in the process.

IX.

Various persons requested the State Engineer re-publish notice of the applications and re-open the period for the filing of protests. The State Engineer is not authorized by Nevada Revised Statutes to either re-publish the applications or re-open the protest period; therefore, said request is denied. Pursuant to NRS § 533.365, protests are specific to an individual protestant in that they are verified by affidavit; therefore, the State Engineer finds they do not run to any successor.

X.

The Applicant has requested the State Engineer to take action on specific applications and to hold others in abeyance. The applications the Applicant requested the State Engineer take action upon are as follows:

Basin Name	App. #	Amount Requested (afa)
Delamar V.	53991	6 cfs (4,344 afa)
Dry Lake V.	53990	6 cfs (4,344 afa)
Cave V.	53897	6 cfs (4,344 afa)
Spring V.	54021	10 cfs (7,240 afa)
	54003	6 cfs (4,344 afa)
	54004	6 cfs (4,344 afa)
	54005	6 cfs (4,344 afa)
	54006	6 cfs (4,344 afa)
	54007	6 cfs (4,344 afa)
	54008	6 cfs (4,344 afa)
	54009	6 cfs (4,344 afa)
	54011	6 cfs (4,344 afa)
	54012	6 cfs (4,344 afa)
	54013	6 cfs (4,344 afa)
	54014	6 cfs (4,344 afa)
	54015	6 cfs (4,344 afa)
	54016	6 cfs (4,344 afa)
	54017	6 cfs (4,344 afa)
	54018	6 cfs (4,344 afa)
Snake V.	54028	10 cfs (7,240 afa)
	54029	10 cfs (7,240 afa)
	54024	6 cfs (4,344 afa)
	54025	6 cfs (4,344 afa)
	54030	6 cfs (4,344 afa)

Applications sought to be held in abeyance are as follows:

Basin Name	App. #	Amount Requested (afa)
Delamar V.	53992	10 cfs (7,240 afa)
Dry Lake V.	53989	10 cfs (7,240 afa)
Cave V.	53988	10 cfs (7,240 afa)
Spring V.	54019	10 cfs (7,240 afa)
	54020	10 cfs (7,240 afa)
	54010	6 cfs (4,344 afa)
Snake V.	54026	10 cfs (7,240 afa)

54027	10 cfs (7,240 afa)
54022	6 cfs (4,344 afa)
54023	6 cfs (4,344 afa)

By holding at least one application in abeyance in each basin, the Applicant in effect blocks any applications filed later in time for future use from consideration. These applications have already prevented action in these basins for 17 years and it would threaten to prove detrimental to the public interest and the interests of those with pending applications to hold these applications in abeyance any longer. Therefore, the request to hold applications in abeyance is denied.

XI.

The appearance presented to the public by the Applicant for the last 17 years was that these applications have been on the back burner and would not be actively pursued. However, in the last couple of years, the Applicant has apparently periodically been doing a significant amount of work towards preparation for a hearing. However, this fact was not known to the Protestants who have indicated they cannot be prepared to go to hearing by next July, as requested by the Applicant, as many have not pursued the development of their cases. Additionally, it appears that information has been presented during the environmental review process that the Applicant does not intend to pursue the applications as filed, but rather may be filing change applications to move the points of diversion to entirely new locations.

The State Engineer is very concerned about the expenditure of significant amounts of time and resources being spent on hearings on applications that are not a true expression of the intent of the Applicant. These hearings are going to be extremely costly and will require the dedication of large amounts of time and energy on the part of all participants. If the Applicant intends to file change applications to move the points of diversion, it would seem prudent that such applications be filed before ever proceeding to hearing. The State Engineer would hope, in the interest of economy for all, if change applications were going to be filed, such applications would be filed and become ready for action before any hearing is scheduled. However, the State Engineer has before him a request to proceed on the applications as filed. These applications must be evaluated as they are filed and will be analyzed for impacts at the identified points of diversion and not on some un-identified proposed future well field.

XII.

There are multiple other reasons that dictate against going to hearing on these applications in July 2006 as requested by the Applicant. The Applicant has applied for the largest interbasin appropriation and transfer of water ever requested in the history of the state of Nevada and time must be provided for the development of the evidence. For years the Applicant presented to the public the appearance that it was not going to actively pursue these applications and fundamental fairness requires the Protestants be given adequate time to develop their cases in order to respond in a meaningful manner.

XIII.

All hearings will be held in Carson City, Nevada, as this is a relatively central location for many of the parties and the State Engineer cannot be away from the office for the many weeks of hearing since he always has other business that must be attended to during the course of administrative hearings. There is no agency budget for the many weeks of travel necessary for the multiple staff members necessary to conduct and participate in hearings outside of Carson City and to do so would greatly increase the cost of the court reporter.

XIV.

The Spring Valley hearing is being scheduled for September 2006. While three weeks are being set aside for the hearing, hopefully all three weeks will not be necessary. The hearings for Snake Valley and Delamar Valley, Dry Lake Valley and Cave Valley will be scheduled at some later date.

XV.

Therefore, please take notice, pursuant to the authority set forth in NRS §§ 533.365, 533.370 and 533.375, the State Engineer has set a hearing to consider the matter of protested Applications 54003, 54004, 54005, 54006, 54007, 54008, 54009, 54010, 54011, 54012, 54013, 54014, 54015, 54016, 54017, 54018, 54019, 54020 and 54021.

Accordingly, the hearing will begin promptly at **8:30 a.m., on Monday, September 11, 2006, continuing through Friday, September 15, reconvening at 8:30 a.m. on Monday, September 18, 2006, continuing through Friday, September 22, 2006, and if necessary, reconvening at 8:30 a.m. on Monday, September 25, 2006, continuing through Friday, September 29, 2006, to be held at the Nevada State Legislature, 401 South Carson Street, Room 1214, Carson City, Nevada**. Please take notice, the State Engineer has also arranged for the hearing to be attended by videoconference at 555 East Washington Ave., Room 4406, Las Vegas, Nevada; however, this room will only accommodate 10-15 people; therefore, the State Engineer encourages all who can to be in attendance in Carson City, Nevada.

The exchange of documents, witness lists and descriptions of witness testimony will take place in two simultaneous exchanges.

Initial Evidentiary Exchange: **The parties are hereby ordered to serve on each other and the State Engineer in Carson City and Las Vegas, Nevada, no later Friday, June 30, 2006, an exhibit list, a witness list, a reasonably detailed summary of the testimony of each witness, and copies of any documentary evidence intended to be introduced into the hearing record.** If a witness is not identified as testifying on direct as to a certain topic, the witness will not be allowed to testify to the un-identified topic in his or her direct testimony. If a witness is to be presented to provide expert testimony, the evidentiary exchange shall include a written report prepared and signed by the witness, which shall contain a complete statement of all opinions to be expressed and the basis and reasons for those opinions, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or in support of the opinions and a statement of qualifications of the witness. The parties may choose to exchange documents via computer compact disk in PDF 20 x 20 dpi format.

Second Evidentiary Exchange: **The parties are hereby ordered to serve on each other and the State Engineer in Carson City and Las Vegas, Nevada, no later than Friday, August 4, 2006, an additional exhibit list, witness list, witness testimony summaries or documentary evidence intended to be introduced at the administrative hearing that may be necessary in response to the other parties' first evidentiary exchange**. This exchange is meant only to provide evidence that becomes necessary in rebuttal to the original exchange. It is not intended to be the first time a party presents evidence as to their case-in-chief. Again, the parties may choose to exchange documents via computer compact disk in PDF format.

In addition to the hard copies of the lists, summaries and evidence to be served on the State Engineer in Carson City and Las Vegas, Nevada, **the parties are hereby ordered to also file in the Office of the State Engineer in Carson City and Las Vegas, Nevada, a computer compact disk that includes: their exhibit list in Microsoft Word format using the exhibit numbers assigned below, their witness list in Microsoft Word format, their witness summaries in Microsoft Word format and scanned copies of all their exhibits in PDF 20 x 20 dpi format**. The State Engineer will then attempt to make these documents available on the Division of Water Resources website at **www.water.nv.gov** where all interested persons can access the information. This order supersedes the Interim Ruling dated August 26, 1991, that had the parties filing hard copies of documents in public libraries. If the parties choose to exchange documents via computer compact disk, those arrangements are to be made between the parties themselves.

XVI.

Nevada Administrative Code § 533.290 requires that exhibits introduced into evidence must be in a readily reproducible form, on paper that is 8½" x 11" or foldable to that size. Larger charts, maps, drawings and other material will not be admitted into evidence, but may be used for demonstrative purposes. Exhibits submitted on computer compact disks or any other media, other than paper that is 8½" x 11" or foldable to that size, will not be admitted into the evidentiary record. An original and one copy of each exhibit must be submitted to the State Engineer. Computer presentations, such as power-point slides, must be copied on paper that is 8½" x 11" and offered into evidence. Facilities are not available for copying documents during the hearing.

For the presentation of excerpts from large documents, the State Engineer will allow the submission of excerpts, but upon request, the person or entity serving such document must make the entire document available to whomever requests it. If excepts for a larger document are served and the person upon whom it is served requests to have the entire document in either a hard copy or in a PDF format on a computer compact disk, the person serving said document has 10 days from the date of receipt of the request to place the requested copy in the U.S. Mail.

The parties can agree to document receipt in a digital format and the digital standard will be PDF 20 x 20 dpi files. Any document, report, etc. that any participant intends to refer to must be provided as an exhibit during the administrative hearing and served upon the other participants and the State Engineer in advance. The State Engineer will not be taking administrative notice of documents for the parties to the hearing, but rather the parties must make copies of any such document that is to be made part of the formal hearing record. The hearing record must be able to stand on its own in the event of an appeal. Evidence presented in other administrative hearings will not be made part of this hearing record because the parties to these proceedings are not the same parties to former proceedings. However, this does not preclude the State Engineer from reviewing any information that is record of the Office of the State Engineer necessary for his decision-making.

XVII.

Pursuant to NRS § 533.365(4), the technical rules of evidence do not apply to administrative hearings before the State Engineer.

XVIII.

As set forth in Nevada Administrative Code § 533.220, the hearing will be reported by a certified court reporter. The court reporter will file an original and one copy of the transcripts with the State Engineer. Anyone wanting a copy of the transcript should make arrangements with the court reporter. The costs of the transcript will be borne by the Applicant and Protestants as set forth in the Nevada Administrative Code on a pro rata basis.

XIX.

Many of the parties were assigned groups of exhibit numbers during the pre-hearing conference. **Please note, the exhibit numbers assigned below vary from those assigned at the pre-hearing conference.**

State Engineer	1 - 500
Applicant	501 - 1500
U.S. BLM	1501 - 2000
U.S. FWS	2001 - 2500
U.S. NPS	2501 - 3000
Western Env. Law Center	3001 - 4000
George Benesch	4001 - 4500
Ely Shoshone Tribe	4501 - 4750
Dan Love	4751 - 5000
Moapa Band of Paiute Indians	5001 - 5100
Moriah Ranches, Inc.	5101 - 5200
Panaca Irrigation Co.	5201 - 5300

XX.

If any computer models are presented as evidence, the parties must provide the electronic data files necessary to run the model during the initial evidentiary exchange and the models must be completed in freely available codes, for example MODFLOW. Failure to provide this information will render any such evidence inadmissible.

XXI.

The Applicant will present its case-in-chief first, followed by the Protestants in the order provided below. **Any of the Protestants identified as presenting a case-in-chief who do not intend to present such a case must by Friday, June 2, 2006, provide notice to the State Engineer, the Applicant and the Protestants that they will not present a case-in-chief.** No party will be required to serve copies of the evidence on any person or party other than those actually presenting a case-in-chief or participating in cross-examination in any particular hearing.

For the Spring Valley hearing, the Protestants will present their cases-in-chief in the following order:

Western Environmental Law Center for:
Abigail C. Johnson (App. 54006)
Toiyabe Chapter of the Sierra Club (Apps. 54003, 54004, 54005)
John Tryon (App. 54015)

U.S. Dept. of Interior, Bureau of Land Management (all Applications)

U.S. Dept. of Interior, Fish and Wildlife Service (all Applications)

U.S. Dept. of Interior, Bureau of Indian Affairs for Ely Shoshone Tribe of Indians (App. 54019)

U.S. Dept. of Interior, National Park Service (all Applications)

George Benesch for the following persons or entities:
White Pine County and the City of Ely (all Applications)
Nye County (all Applications)

Richard Burley for the Moapa Band of Paiutes Indians (App. 54003)

Dan Love (Apps. 54003-54005)

Moriah Ranches, Inc. (Apps. 54013, 54014, 54015, 54018)

Panaca Irrigation Company (Apps. 54003, 54004, 54005).

XXII.

The Applicant and all Protestants who have indicated they intend to present a case-in-chief may make an opening statement at the beginning of their case-in-chief, which is to provide an outline of their case and a summary of their argument. Opening statements are limited to a maximum of 15 minutes.

XXIII.

The order for examining witnesses shall be direct examination, cross-examination, re-direct examination limited to issues raised on cross-examination and re-cross examination limited to issues raised on re-direct. Rebuttal cases will not be permitted because the staggered evidentiary exchange provides for exchange of all information in advance of the administrative hearing.

XXIV.

When more than one agent or attorney represents the Applicant or Protestant, only one counsel will be allowed to conduct direct examination or cross-examination of any particular witness, including re-direct and re-cross-examination of said witness. However, a different counsel may participate in separate portions of the same case.

XXV.

The State Engineer is not anticipating the need for or expecting any pre-hearing motions, but **any motion proposed must be filed with the State Engineer on or before Friday, July 7, 2006**. Any party opposing said motion has 14 days from the date of service of said motion to file an opposition to said motion, and the moving party has 7 days from the date of service of any opposition to file a reply.

XXVI.

One full day will be set at the end of the hearing to receive public comment. Public comment may be limited in time to accommodate all persons wishing to speak. Written public comment will be accepted, but must be filed within 30 days from the closing date of the hearing.

XXVII.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the hearing. If special arrangements for the hearing are necessary, please notify Susan Joseph-Taylor at the Nevada Division of Water Resources, 901 South Stewart, Second Floor, Carson City, Nevada, 89701, or by calling (775) 684-2800.

Respectfully submitted,

Hugh Ricci, P.E.

HUGH RICCI, P.E.
State Engineer

HR/jm

Dated this 8th day of

March, 2006.