

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

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STATE ENGINEERS OFFICE

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IN THE MATTER OF APPLICATION /
NOS. 54022 THROUGH 54030, INCLUSIVE, /
FILED TO APPROPRIATE THE / OPPOSITION TO APPLICATIONS
UNDERGROUND WATERS OF SNAKE / FOR INTERESTED PARTY AND
VALLEY (195), HYDROGRAPHIC / SUCCESSOR IN INTEREST
BASINS / STATUS

State	'S EXHIBIT 24
DATE: 7-15-08	

Comes now, the Southern Nevada Water Authority (SNWA), by and through its counsel, Paul G. Taggart, Esq., of the law firm of Taggart & Taggart, Ltd., and Dana Smith, Deputy General Counsel of SNWA to file this opposition to the requests that were filed for interested person status, and successor-in-interest status, in the hearing regarding SNWA groundwater applications in Snake Valley, Nevada.

In particular, for the reasons stated herein, SNWA opposes the following applications for interested person status: (1) Confederated Tribes of the Goshute Reservation, (2) The Wells Band Council, (3) The Ely Shoshone Tribe, (4) Salt Lake County, (5) Utah, (6) Utah County, Utah, (7) Central Nevada Regional Water Authority, (8) Great Basin Water Network, (9) Trout Unlimited, (10) Water Keepers, (11) Veronica Douglass, (12) Great Basin Hospitality and Sports, (13) Abigail Johnson, (14) Theodore Stazeski, and (15) Callao Irrigation Company. Further, SNWA opposes the successor-in-interest status that is sought by Donald Duffy.

I. Factual Background

On October 26, 2005, the State Engineer issued a Notice of Pre-Hearing Conference for water right Applications 53987-53992 and 54003-54030, in Spring,

Snake, Dry Lake, Delmar and Cave Valleys. Applications 54022-54030 were filed for new appropriations in Snake Valley, Nevada. The Pre-Hearing Conference was held on January 5, 2006. On March 8, 2006 an Intermediate order was issued by the State Engineer. The Intermediate Order set the hearing dates for the Spring Valley applications, and stated that the hearings for the Snake Valley and Delamar Valley, Dry Lake Valley and Cave Valley applications would be scheduled at some later date.

On May 23, 2008 SNWA requested that an Administrative Hearing be scheduled for Water Right Applications 54022 – 54030 (“the Snake Valley Applications”). On May 28, 2008, the State Engineer issued a Notice of Hearing for the Snake Valley Applications. The Notice indicates that a public administrative hearing will be held on the Snake Valley Applications on July 15, 2008.

Between June 6 and June 16, 2008, fifteen timely applications for interested person status were submitted to the State Engineer pursuant to NAC 533.100. The applications were filed by various individuals, groups, and entities with an interest in Snake Valley. For reasons further discussed below, SNWA submits that none of the interest person applicants have demonstrated extreme circumstances, or proffered evidence involving general issues of public policy or matters of law, and, therefore, the applications should be denied.

In addition, Donald Duffy filed a request to participate in the Snake Valley hearing as a successor-in-interest to person that property filed protest to a SNWA Snake Valley Application. For the reasons stated below, SNWA also submits that this application should be denied.

II. Legal Background

A. Interested Person Status

When a hearing is scheduled by the State Engineer to consider a water application, only the parties involved in the subject application can participate. These parties are limited to applicants and protestants. NAC 533.050. Generally, if a person or entity is not an applicant or protestant, they are allowed only to participate through public comment. See NAC 533.060. However, the State Engineer has provided the opportunity for a non-party to participate in a hearing as an interested person under specific limited circumstances. NAC 533.040. An interested person is one who has failed to file a timely protest, but who the State Engineer has determined, pursuant to NAC 533.100, is a person that is entitled to testify at the hearing.

Interested person status in a hearing before the State Engineer is governed by NAC 533.100. That provision provides as follows:

NAC 533.100 Recognition as interested person.

1. A person who wishes to be recognized by the state engineer as an interested person must file a written request for recognition with the office of the state engineer and pay a fee in the amount prescribed by NRS 533.435 for filing a protest, at least 30 days before the hearing or prehearing conference at which he wishes to be recognized.
2. The state engineer will grant the request for recognition only upon a showing that extreme circumstances prevented the person from filing his own protest in a timely manner.
3. An interested person may only testify on matters of law, broad public issues or matters concerning how any action of the state engineer with regard to a particular application may affect the operation of a specific water transportation and supply project. (Emphasis added.)

As stated in NAC 533.100(2), the State Engineer will only grant an applicant interested person status "upon a showing that extreme circumstances prevented the person from filing his own protest in a timely manner." Further, according to NAC 533.100(3), when interested person status is allowed, the interested person "may only testify on matters of law, broad public issues or matters concerning how any action of the State Engineer with regard to a particular application may affect the operation of a specific water transportation and supply project."

The narrow exception to the requirement that a party file a timely protest was created to allow for the U.S. Bureau of Reclamation (USBOR) to participate in hearings regarding the Newlands Reclamation Project. Because the USBOR operates the Newlands Reclamation Project, the State Engineer has allowed the USBOR to participate as an interested person in water right hearings, even when the USBOR has not filed a timely protest. In this case, as further discussed below, numerous individuals and entities unrelated to the USBOR have filed for interested person status.

III. Analysis

The hearings regarding these SNWA Snake Valley Applications will already involve numerous protestants representing various points of view. The evidence presented by existing protestants and by SNWA will provide all the relevant information necessary to make a sound determination on the applications. The administration of the hearings will already be complicated by the number of protestants, and there is no extreme circumstance warranting the addition of other individuals and entities. Granting interested person status to the applicants will only increase the complexity of the hearing and needlessly waste time through the presentation of cumulative and repetitive evidence.

Unlike the prior situations where the USBOR was allowed to participate in hearings involving water rights specific to one of its own water supply projects, the applicants here cannot offer a compelling reason for interested person status. They have failed to offer any new information that will not already be part of the administrative record, part of the evidence of other protestants, or that could be presented during public comment. Administrative necessity mandates that the State Engineer limit the number of participating parties in this matter and deny the applicants' requests for interested person status.

Applications to participate in the Snake Valley hearing as an interested person have been filed by the following individuals or entities involving the applications that are identified in parentheses.

- Confederated Tribes of the Goshute Reservation (all)
- Wells Band Council (all)
- Ely Shoshone Tribe (all)
- Salt Lake County, Utah (all)
- Utah County, Utah (all)
- Central Nevada Regional Water Authority (all)
- Great Basin Water Network (all)
- Trout Unlimited (54028)
- Water Keepers (all)
- Veronica Douglass (54022)
- Great Basin Hospitality and Sports (54022)
- Abigail Johnson (all)
- Theodore Stazeski (54022)
- Callao Irrigation Company(all)

Each application for Interested Person Status should be rejected for the reasons stated below.

A. Requests from Tribal Entities.

The applications for interested person status submitted by the Confederated Tribes of the Goshute Reservation, the Ely Shoshone Tribe and the Wells Band should be denied because: 1) the interests of federally recognized Indian tribes are already being represented by the Bureau of Indian Affairs (BIA), and 2) the fact that the tribes may have relied on such representation in deciding whether or not to file their own timely protests is not an extreme circumstance. To the extent that federally recognized tribes are dissatisfied with the representation provided by the BIA in prior hearings, that is an issue outside the jurisdiction of the State Engineer. The BIA, in its capacity as trustee for the tribes, is a recognized protestant in the Snake Valley hearings, and as such, the tribes are in a position to present relevant evidence regarding their concerns. Therefore, granting the tribes interested person status would result in presentation of cumulative evidence and their applications should be denied.

B. Salt Lake County and Utah County (collectively "Utah Counties").

The Utah Counties request interested person status in order to discuss air quality issues and present scientific evidence on the air quality impact of groundwater pumping on the Snake Valley. Specifically, they are concerned that groundwater pumping in Snake Valley will produce a permanent dust bowl and wind-borne particulate air pollution. The Utah Counties explain that they did not file timely protests because, in 1989 when the groundwater applications were filed, there was no information available about air quality impact from large scale groundwater pumping. In addition to requesting interest person status, the Utah Counties have formally requested cooperating agency status in the Nevada Bureau of Land Management (BLM) Environmental Impact

Statement (EIS) process on the SNWA Clark, Lincoln and White Pine Counties ground water project.

The applications by the Utah Counties for interested person status should be denied because the evidence they seek to present on air quality is not generally admitted at hearings held before the State Engineer. The State Engineer's authority in reviewing water right applications is limited to the considerations identified in Nevada's water statutes. *See County of Churchill, et. al. v. Ricci*, 341 F.3d 1172 (9th Cir. 2003) (citing *Pyramid Lake Paiute Tribe of Indians v. Washoe County*, 918 P.2d 697 (Nev. 1996)). Notably, Nevada's water policy statutes do not authorize consideration of issues involving air quality or air pollution. *See State Engineer Ruling 5726* (April 16, 2007). In fact, the State Engineer has previously denied a protest application on the ground that the State Engineer had no authority to consider air quality issues because its review was limited to Nevada's water laws. *See id.* Also, the State Engineer has repeatedly recognized that an water right hearing before the State Engineer is not the proper forum to either consider or resolve environmental issues such as air quality because doing so would duplicate the efforts of other agencies of the federal or state government. *See State Engineer Ruling No. 5465* at 21 (holding that the enforcement of federal and state air quality laws is . . . entrusted to other divisions of government); *State Engineer Ruling 5506* at 15 (holding that "issue as to water quality is relegated to another agency of government"). Moreover, in *Intermediate Order No. 1* (October 4, 2007), regarding SNWA's Delamar, Dry Lake, and Cave Valley applications, the State Engineer overruled protest claims relating to air pollution and did not allow evidence regarding such claims to be submitted during the hearing on those applications.

Therefore, given that the evidence the Utah Counties seek to present on air quality is not relevant to the determination of the water rights applications, the State Engineer should deny the applications of the Utah Counties for interested person status.

C. Great Basin Hospitality & Sports (54022), Theodore Stazeski (54022) and Abigail Johnson (all) (collectively the "Baker Residents.")

These Baker Residents request interested person status so that they can testify how their residences, businesses and plans for future development will be adversely affected by groundwater pumping in Snake Valley. The Baker Residents rely on the Baker General Improvement District (GID) water supply and are concerned that the groundwater pumping by SNWA will deplete the existing water supply, interfere with their ability to develop property in Snake Valley, and harm the natural beauty of the local environment.

1. Reliance on Baker GID water supply

The mere fact that the Baker Residents are reliant on Baker GID water does not amount to "extreme circumstances" justifying interested person status. The State Engineer is bound under Nevada law to determine whether any new appropriation of water will conflict with existing water rights. *See* NRS § 533.370. Therefore, in considering the Snake Valley applications, the State Engineer must address whether the proposed applications will conflict with Baker GID water rights, even if the Baker Residents do not participate as interested persons during the hearing.

2. Future Development in Snake Valley

The fact that the Baker Residents intend to seek additional water rights for future development of Snake Valley is not an extreme circumstance. The interbasin transfer

statute, NRS 533.370(6), requires the State Engineer to consider the potential for an undue limit on future growth and development of the basin of origin. Therefore, the State Engineer will consider future growth in Snake Valley regardless of whether the Baker Residents are granted interested person status.

The legislative history of the interbasin transfer statute demonstrates that the entity for which the "future growth and development" factor was enacted is not the individual water user with existing rights and/or pending applications. These water users are already taken into account by requirement that the State Engineer reject an application that conflicts with existing rights. 533.370. Rather, the interbasin transfer statute addressed the economy of the basin of origin *as a whole*. See SB 108-1999, pp. 8-9; Interim Study Report by the Legislative Committee on Public Lands, Bulletin 99-13, Jan. 1999, p. 4. Legislative debate on the "future growth and development" factor focused exclusively on "regional water planning" and the range of potential impacts to rural *counties*, as opposed to individual water users. SB 108-1999, pp. 8-9. Similarly, the 1999 Interim Report focused on "factors including, but not limited to, the economy, environment, and quality of life in the basin of origin." 1999 Report, p. 4 (emphasis added). Consistent with this approach, the legislative history only mentions individual water users in terms of their *existing* rights: "Water transfer concerns center on whether a water transfer has the potential to impact the rights of existing water users . . ." SB 108-1999, p. 8. Individuals with pending, junior water right applications are not mentioned.

The focus of the interbasin transfer statute is thus the overall condition of community in the basin of origin, i.e., a concern regarding undue limits on the future economic growth and development of that *region*, as opposed to individual water users,

existing water rights, or junior applications. Accordingly, the interbasin transfer statute does not provide authority for the Baker Residents to participate in the upcoming hearing as interested persons in order to introduce evidence of their potential expansion plans.

Additionally, although future development in the basin of origin is considered, NRS 533.370(6) does not direct the State Engineer to depart from the longstanding 'first in time, first in right' principle. Broad claims for water for future development in Snake Valley should not trump senior groundwater applications under the prior appropriation system. Thus, neither the ownership of water rights or pending water right application, nor the intent to seek additional water rights for future development, presents extreme circumstances under Nevada water law. Therefore, the interested person applications should be denied.

The Baker Residents' requests for interested person status should also be denied because they seek to present evidence that is not permitted by NAC 533.100(3). The Nevada Administrative Code expressly states that interested persons "... may only testify on matters of law, broad public issues or matters concerning how any action of the state engineer with regard to a particular application may affect the operation of a specific water transportation and supply project." NAC 533.100(3).

Here, the Baker Residents seek to provide testimony regarding existing water rights and the potential future development of their real property and business operations in Snake Valley. Such testimony about their personal development plans does not involve a matter of law or broad public policy, nor does it involve a water transportation and supply project. Accordingly, the evidence the Baker residents seek to present is not

permissible under NAC 533.100(3), and therefore their applications for interested person status should be denied.

3. Concern for Subject of Paintings.

Baker Resident, Dr. Theodore Stazeski, also advises in his application that he seeks to present "a series of art workshops based on extremely interesting landscape and indigenous flora and fauna of Snake Valley." The information about the beautiful landscape of Snake Valley that Mr. Stazeski desires to present is exactly the type of information generally received through public comment. Specifically, NAC 533.060 provides that public comment is available for persons to express general support or opposition to an application, the facts presented, or the policy discussed. Therefore, Mr. Stezeski does not need to be granted interested person status because the hearing process allows for public comment.

D. Callao Irrigation Company (all) and Veronica Douglass (54022)
(collectively the "Utah Residents")

These applicants for interested person status are made by Utah Residents who own or control Utah water rights in Snake Valley. They are concerned for their livelihood and allege that the export of water will negatively impact their water rights and ranch operations, as well as curtail future growth. Ms. Douglass is also concerned for the trout in the area, and specifically trout in a pond that is operated in cooperation with the Utah Division of Wildlife.

As previously stated, the State Engineer is bound by Nevada water law to determine whether any new appropriation of water will conflict with existing rights. NRS § 533.370. Therefore, the State Engineer must address whether the proposed

applications will conflict with Utah Residents' water rights on Snake Valley, regardless of whether the Utah Residents participate in the hearing as interested persons.

Regarding Douglass' concerns for the trout in a pond that is operated in cooperation with the Utah Division of Wildlife, the State Engineer is required to consider whether an application for an interbasin transfer of water is environmentally sound in relation to the exporting basin. NRS 533.370(6). The State Engineer may consider possible impacts of SNWA's applications on fish in Snake Valley, such as the trout in the subject pond, and address this concern in the permit terms that are attached to SNWA's water right permits.

Accordingly, the Utah Residents have failed to prove an exceptional circumstance, or proffer the type of evidence that an interested person can properly present, and their application should be denied.

E. Great Basin Water Network

GBWN alleges that it should be allowed interested person status because it did not exist in 1989, and therefore had no opportunity to file a timely protest. The fact that GBWN was formed after 1989 does not rise to the level of the type of extreme circumstances that justify interested person status.

A person who buys property "stands in the shoes" of the predecessor-in-interest who owned the property during the time period for filing a protest. If the predecessor-in-interest did not file a protest, a subsequent property owner is bound by the predecessor's inaction and should not be allowed to circumvent the strict statutory time limit for filing by requesting interested person status. *See* Intermediate Order in Application Nos. 53987 through 53992 (March 8, 2006). Moreover, given that water applications in the Snake

Valley are a matter of record, prospective purchasers and subsequent groups with interests in the water have record notice of the applications previously filed. *See id.* Therefore, the fact that GBWN was formed after 1989, or that its members purchased property after the protest period expired, does not establish the extreme circumstances required for interested person status.

F. Central Nevada Regional Water Authority ("CNRWA")

The CNRWA is a "unit of local government that collaboratively and proactively address water resource issues common to the communities in Nevada's rural interior" and consists of an association of the following counties: Elko, Esmeralda, Eureka, Lander, Nye and White Pine. The CRNWA requests interested person status in order to present information on the direct impact explosive growth has on Nevada's rural economies and water reasons. The CRNWA alleges the following extreme circumstances: (1) it was unable to file a timely protest in 1989 because the organization did not exist; and (2) explosive growth occurring after 1989 has created concern in the rural counties about where "SNWA will get the additional water resources."

CNRWA has failed to allege an extreme circumstance to justify granting its application for interested person status. As previously stated, an organization is not allowed to circumvent the strict statutory time limit for filing a protest by requesting interested person status. The mere fact that an organization did not exist in 1989 during the protest period is an insufficient justification for interest person status. The members of the organization each had record notice of the existence of the 1989 applications and members of the group who purchased property after 1989 are bound by their predecessor's failure to protest.

Moreover, that fact that CNRWA believes that SNWA will seek water in other rural counties in the future is an insufficient justification for interested person status. Hydrographic Basin boundaries are a critical administrative tool utilized by the Office of the State Engineer in the issuance of groundwater rights in the State of Nevada. State Engineer Ruling No. 5621 at pg. 22. The State Engineer's long-standing policy is to manage groundwater basins on an individual basis. *Id.* Here, CNRWA makes no allegation that Snake Valley is hydrologically connected to any of the hydrographic basins in the rural counties they represent. In the event that other water supplies are sought, hearings will be held and the State Engineer will consider those on a case-by-case basis. An unspecified belief that water may be applied for from other basins does not justify interested person status in the Snake Valley hearings.

Finally, with respect to CNRWA's application, it is noteworthy that two of the counties that they represent, White Pine and Nye, are already recognized protestants for the Snake Valley hearing. Therefore, any evidence that CNRWA would present on behalf of White Pine and Nye Counties would be needlessly cumulative and repetitive. Accordingly, CNRWA's request for interested person status should be denied.

G. Water Keepers

Much like the Great Basin Water Network, Water Keepers' request for interested person status should be denied. Rather than focusing on NAC 533.100(2)'s requirement to show how extreme circumstances prevented Water Keepers from filing a timely protest, the bulk of Water Keepers' request contains irrelevant legal arguments and factual assertions that have no relation to the very narrow issue their request should be addressing. Indeed, out of the 6 items that Water Keepers characterizes as "extreme

circumstances," only one of those items relates to NAC 533.100(2) and the Water Keepers' own actions (that Water Keepers did not exist in 1990). As discussed above, this does not amount to extreme circumstances. The remaining 5 assertions regarding drought and global warming and accusations regarding SNWA's actions have no bearing on whether or not Water Keepers were prevented from filing a protest in 1990 by extreme circumstances. Moreover, the topics Water Keepers wishes to testify about bear little relation to the topics the State Engineer is required to consider under Nevada water law. For example, Water Keepers would like to submit evidence and testimony regarding the bicameral nature of Nevada's legislature; the application of Utah law to these proceedings; the submission of hearing materials to public libraries; the continued growth of Indian gaming; and the timing of the hearing in relation to the presidential election. Clearly, Water Keepers' proffered evidence and testimony concerns items well outside of the State Engineer's jurisdiction and their request for interested person status should be rejected.

Water Keepers has failed to allege an extreme circumstance to justify granting its application for interested person status. As previously stated, an organization is not allowed to circumvent the strict statutory time limits provided for filing protests by simply requesting interested person status. The mere fact that an organization did not exist in 1989 during the protest period is insufficient justification for interest person status. The members of the organization each had record notice of the existence of the 1989 applications and members of the group who purchased property after 1989 are bound by their predecessor's failure to protest.

H. Trout Unlimited (Application 54028 only)

The application for interested person status filed by Trout Unlimited states that: "Trout Unlimited, Great Basin Chapter, is represented in White Pine County, Nevada by Nevada anglers and recreationists who have been involved in aquatic-riparian conservation for native fish species...in Snake Valley since the 1970's, and especially since the 1989 application for groundwater withdrawal by the Southern Nevada Water Authority (SNWA)." Trout Unlimited later asserts that an extreme circumstance which prevented them from filing a timely protest is they were unaware of the Applications during the protest period, but became aware of them at a later date.

Nevada law provides that a protest to the subject applications must be filed within thirty (30) days of the last publication of said applications. Since Trout Unlimited was admittedly in the area or had members in the area at the time of the applications, they had every opportunity to file a timely protest. Since Trout Unlimited did not file a protest, but had the ability to do so within the prescribed time period, they should not be allowed to circumvent the statutory requirements regarding protest by seeking interested person status.

The State Engineer is already required by statute to determine whether an application will threaten to prove detrimental to the public interest, and to consider whether an interbasin transfer is environmentally sound as to the exporting basin. *See* NRS 533-370(6). As made clear by the plain language of the statute, consideration as to the environmental soundness of the Applications is but one of several criteria the State Engineer contemplates in evaluating the public interest. The consideration requires a balancing of competing priorities among potential uses and consideration of, for example,

the public interest in making water available for beneficial uses, and in ensuring that environmental issues are being addressed through other statutory processes. Based on NRS 533.370(6), the State Engineer may consider possible impacts of SNWA's applications on fish in Snake Valley, such as the Bonneville Cutthroat Trout, and address this concern in the permit terms that are attached to SNWA's water right permits. Therefore, in considering the Snake Valley Applications, the State Engineer must address the concerns raised by Trout Unlimited regardless of whether Trout Unlimited is granted interested person status in the Snake Valley hearing.

In addition to the State Engineer's environmental considerations regarding SNWA's water rights applications, federal laws such as the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA) and the Federal Land Policy and Management Act (FLPMA) also apply to SNWA's application for a right of way from the Bureau of Land Management (BLM). The BLM is currently preparing an Environmental Impact Statement and a Biological Assessment that will analyze direct, indirect, and cumulative effects on the environment and on listed and candidate species under the ESA. The federal environmental compliance processes will ensure a thorough analysis of potential effects on environmental resources that may result from SNWA's Clark, Lincoln, and White Pine Counties Groundwater Development Project. SNWA understands that managing regional water supplies means managing the environments that surround them, and to that end, SNWA has entered into stipulations with various federal agencies in order to protect sensitive species, including fish and aquatic habitats.

Accordingly, since the existing administrative scheme that SNWA must follow under state and federal law provides for the consideration of potential impacts on

Bonnieville Cutthroat Trout, Trout Unlimited's evidence will be simply cumulative, and their request for interested person status should be denied.

I. Successor-in-Interest Application of Donald Duff.

Mr. Donald Duff filed an application to participate in the Snake Valley hearing because he is allegedly a successor-in-interest to Owen L. Gonder, and Mr. Duff desires to pursue the protest that was filed by Mr. Gonder to Application 54025.

NRS 533.370 was amended during the 2007 legislative session to add a provision allowing certain qualified individuals to become successors in interest to timely filed protests. Sec. 4.9, Ch. 429 Statutes of Nevada 2007. The act allows the successor in interest of an owner of a water right or an owner of real property containing a domestic well to continue the protest of the former owner of such water right or real property. Sec. 4.9, Subsec. 10, Ch. 429 Statutes of Nevada 2007; NRS 533.370(8). A qualified successor in interest must notify the State Engineer of his or her intention to pursue the protest.

Here, Mr. Duffy provided an affidavit to the State Engineer stating that he is qualified to be a successor in interest protestant because he is the successor in interest to Owen L. Gonder, who was a water rights owner when Mr. Gonder protested Application No. 54025 in 1990. However, a search performed on the State Engineer's water rights website on June 20, 2008, indicated that Mr. Duff is the owner of a water right application (No. 70829) filed in 2004, by Mr. Duff himself, not by Mr. Gonder. No other water rights were listed under the name Donald Duff. Similarly, a search indicated that no water rights were listed under the name Owen L. Gonder, although several other people with the same last name were listed. Therefore, SNWA requests that the State

successor in interest protestant until sufficient documentation is provided to confirm his eligibility.

IV. Conclusion

SNWA respectfully submits that the interested person applicants have neither demonstrated extreme circumstances needed for interested person status, nor proffered the type of evidence that interested persons may present. Also, SNWA respectfully submits that the applicant for successor in interest status has not proven his eligibility for that status. As such, SNWA requests that the State Engineer deny all the interested person applications and successor in interest applications that were filed in this matter.

DATED this 23rd day of June, 2008.

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