



UTAH ASSOCIATION OF COUNTIES

A Unifying Voice for County Government

August 15, 2008

VIA OVERNIGHT COURIER

Susan Joseph-Taylor
Hearing Officer
Nevada Division of Water Resources
Suite 2002
Carson City, NV 89701

State	'S EXHIBIT 42
DATE:	8-18-08

Re: In the Matter of Applications 54022 Through 54030 Inclusive, Filed to Appropriate The Underground Water of the Snake Valley Hydrographic Basin (195) White Pine County, Nevada

Millard County's Statement Regarding Issues Previously Addressed in Protest Hearings in Which Millard County Was Not a Party

Dear Mrs. Taylor:

Pursuant to your order made during the July 15, 2008 pre-hearing conference herein, Protestant Millard County respectfully states its position on whether to waive certain statutory issues previously addressed and ruled on in with respect to SNWA's groundwater applications in other hydrographic basins.

1. **Millard County Does Not Waive the Statutory Requirement for SNWA to Justify the Need to Import Water From the Snake Valley Hydrographic Basin.**

The accuracy of the Las Vegas Valley population growth projections on which the State Engineer relied in other basin rulings, is questionable given the significant economic downturn that hit Las Vegas after those rulings issued. It is not reasonable to rely in the Snake Valley hearing of Fall, 2009, on old water need assessments which issued for other hydrographic basins before the economic downturn hit. Downward

revisions of economic activity affect future growth projections, which in turn render old assessments of future water needs inaccurate. Thus, the “need” issue should be reassessed for the Snake Valley protest hearing expected to occur in the Fall of 2009.

Additionally, the Snake Valley hydrographic basin presents an entirely new set of inter-state circumstances relevant to the “need” question, circumstances which were not considered in the protest hearings for project basins wholly within Nevada. The inconvenient hydro-geologic and geographic facts are that the Snake Valley basin occurs mainly within Utah, and the groundwater to be tapped at the relatively small Nevada corner of Snake Valley is part of the Great Salt Lake regional groundflow system which for decades, centuries and eons has flowed to Utah where it has been put to beneficial use in modern times. Thus the “need” issue in Snake Valley is wholly new and may be framed as follows: What is SNWA’s need to permanently and artificially lift water out of a hydrographic return flow system that mainly occurs in Utah and which Utah depends heavily upon? What kind of “need” exists that could possibly justify that kind of interstate impact? Millard County submits that the State Engineer has yet to address that particular “need” issue in any other proceeding prior to this one.

Add to these the fact that Millard County was not a party to the other protest hearings in which the “need” requirement was allegedly satisfied, and Millard County simply cannot concede the statutory “need” requirement of NRS § 533.370(6)(a), nor concede any of the following related bullet points set forth in SNWA’s May 23, 2008 letter to the State Engineer (hereafter “Exhibit 1”): the third, fifth and sixth bullet points.

2. **Millard County Does Not Waive the Statutory Requirement for SNWA to Justify Afresh That A Reasonable Conservation Plan Has Been Adopted and Is Effectively Being Carried Out.**

Millard County is informed and believes that State Engineer rulings in other SNWA project basins were issued without the benefit of the following recent scientific study and report: Cooley et al., Pacific Institute/Western Resource Advocates, *Hidden Oasis: Water Conservation and Efficiency in Las Vegas* (November 2007). Millard County proffers the following conclusions from the Cooley report:

- a. Las Vegas is falling behind other western United States cities in its efforts to cut wasteful, inefficient uses of water.
- b. Las Vegas has implemented only a small fraction of the various water-efficiency programs being used successfully throughout the western U.S.
- c. Water conservation and efficiency improvements in Las Vegas can defer or eliminate the need for new water supply facilities.
- d. Long-term planning efforts fail to include conservation improvements and thus may overestimate future demand..
- e. Combining the conservation and efficiency strategies this study identifies with the programs and policies the Southern Nevada Water Authority (SNWA) has already implemented will reduce vulnerability to future drought and increase overall system reliability.
- f. Installing water-efficient landscapes can reduce outdoor SFR demand by 40%, saving about 48 KAFY.

With all the time that passes between the State Engineer hearings on the various SNWA project basins, it only makes sense for the State Engineer to require the applicant and protestants to fully advise the State Engineer of all evidence bearing on the “conservation” statutory issue when the Snake Valley protest hearing finally rolls around

in the Fall of 2009.

Moreover, Millard County was not a party to those prior hearings in which the “conservation” requirement was allegedly satisfied, so Millard County has not had an opportunity to advise the State Engineer whether, based on the latest scientific reports including the Cooley report referenced above, SNWA has adopted and effectively carried out a reasonable and adequate conservation plan.

Accordingly, Millard County does not concede the statutory “conservation” requirement of NRS § 533.370(6)(b), nor concede any of the following related bullet points set forth in Exhibit 1: the fourth and sixth bullet points.

3. Millard County Does Not Waive the Statutory Requirement for SNWA to Prove the Matters Required by NRS 533.370(1)(c).

Millard County proffers that after the State Engineer issued the prior rulings on other SNWA project basins, cost estimates for the overall SNWA groundwater project have swollen significantly. The State Engineer did not consider these cost increases when issuing prior SNWA groundwater project rulings. Millard County proffers that recent reports in the Las Vegas Sun indicate the ultimate price tag could be \$12.8 billion and would not be paid off until the year 2059. Millard County is informed and believes that is a significant increase not contemplated by the State Engineer when issuing prior rulings.

Moreover, the assumptions on how to finance and pay off this project have undergone a serious shake up. Millard County is informed and believes that up until now, SNWA’s plan was to finance this gargantuan cost through continued growth. But

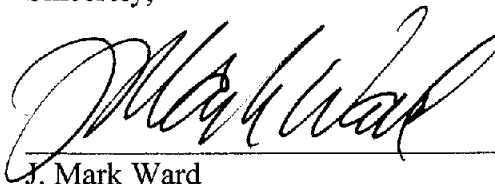
the finance-through-growth assumption is seriously undercut by the recent Las Vegas economic downturn (see point 1, above).

Add to these the fact that Millard County, being a "first timer" in these SNWA hearings, has not yet had the opportunity to advise the State Engineer on the cost and financial issues.

By the time the Fall of 2009 rolls around and these Snake Valley hearings get underway, the State Engineer would be wise to perform a "financial reality check" during the hearings and receive up-to-date cost and other financial related evidence from the applicant and protestants in order to review whether the applicant is still able to meet the obligations of NRS 533.370(1)(c).

Accordingly, Millard County does not concede the statutory requirement of NRS § 533.370(1), nor concede any of the following related bullet points set forth in Exhibit 1: the first and second bullet points.

Sincerely,



J. Mark Ward
UT Bar # 4436
UTAH ASSOCIATION OF COUNTIES
5397 South Vine Street
Murray, Utah 84107
(801) 265-1331 Telephone
(801) 265-9485 Fax
Attorney for Protestant Millard County, Utah

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cc. John B. Rhodes, Esq.
Paul G. Taggart, Esq.
Other Counsel of Record in Snake Valley Matter