

JIM GIBBONS
Governor

STATE OF NEVADA



LEO DROZDOFF
Acting Director

JASON KING, P.E.
State Engineer

**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
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August 19, 2010

Ken Albright
Southern Nevada Water Authority
P.O. Box 99956
Las Vegas, Nevada 89106

John Entsminger
Southern Nevada Water Authority
P.O. Box 99956 Mail Stop 485
Las Vegas, Nevada 89153

Re: Applications 53987 through 53992, 54003 through 54021 (Spring, Cave, Dry Lake and Delamar Valleys)

Dear Mr. Albright and Mr. Entsminger:

As you are aware, on June 17, 2010, the Nevada Supreme Court issued its decision in the matter of *Great Basin Water Network, et al. v. State Engineer and Southern Nevada Water Authority*. The Court's decision requires the State Engineer to republish notice of the above-referenced water right applications and held that the State Engineer must approve or reject each application within one year after the final date for filing a protest unless action is postponed in accordance with the statute in effect in 1989. In accordance with the Nevada Supreme Court's decision, the State Engineer is currently intending to republish these applications in November 2010.

In conjunction with the republication and prior to taking action on them, I bring to your attention Nevada Revised Statue 533.364, which provides as to certain interbasin transfers of groundwater that an inventory of the water resources be conducted under certain circumstances within a certain timeframe.

The statute provides that:

1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater from a basin which the State Engineer has not previously inventoried or for which the State Engineer has not conducted, or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, that the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported.

The inventory must include:

- (a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;
- (b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and
- (c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.


4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory.

While I am aware that the Reviser's Note to the statute provides that this section of the water law does not apply to an application for which a notice of hearing was issued before July 1, 2009, this note pre-dates the *Great Basin Water Network* decision. I believe the requirement of this section of the water law will now be applicable to these applications since notice of them is being republished and the hearing process starting over.

Therefore, please be informed that, in accordance with NRS 533.364, I am designating the SNWA as the entity to conduct an inventory of the basins from which the water is to be exported under the above-referenced applications. I would certainly hope this inventory could be completed before the first evidentiary exchange prior to any administrative hearing on the above-referenced applications. I am aware that this is less than the one year provided for under the statute, but the statute provides this work must be completed prior to the State Engineer being able to approve an application for an interbasin transfer of more than 250 acre-feet of groundwater from the basins at issue here.

Thank you for your attention in this matter.

Sincerely,

 P.E.
Jason King, P.E.
State Engineer