

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

State 'S EXHIBITS <u>92</u>
DATE: _____

IN THE MATTER OF APPLICATIONS 53987 )  
THROUGH 53992, INCLUSIVE, AND 54003 )  
THROUGH 54021, INCLUSIVE FILED TO )  
APPROPRIATE THE UNDERGROUND )  
WATERS OF SPRING VALLEY, CAVE )  
VALLEY, DELAMAR VALLEY AND DRY )  
LAKE VALLEY HYDROGRAPHIC BASINS )  
(180, 181, 182 AND 184), LINCOLN COUNTY )  
AND WHITE PINE COUNTY, NEVADA )

**CONFEDERATED TRIBES OF  
THE GOSHUTE RESERVATION**

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STATE ENGINEER'S OFFICE

**OPENING STATEMENT**

The outline of the Goshute Indian Reservation was defined by the Treaty of 1863 between the United States and the Goshute Shoshone Indians. This Treaty was a Treaty of peace and friendship. The Reservation was then created by Executive Order No. 1539 in 1912 and Executive Order No. 1903 in 1914. The Western Shoshone people, of whom the Goshute are a part, however, have occupied these lands since time immemorial. With the creation of the Reservation, the Confederated tribes of the Goshute Reservation also have federal reserved water rights.

The evidence presented during the hearing will show the vital importance of the basins of origin to the Confederated Tribes of Goshute Indians. Not only now, but since long before the arrival of Euro-Americans, the Goshute people utilized the water resources, game species, and plants located in their aboriginal territory for survival and cultural traditions. The evidence will show the devastating impact to the Goshute water and cultural resources if this project moves forward. Under Nevada law, the applicant must justify the need to import water from another basin. NRS § 533.370(6)(a). There is no justification of the need to import water that is

sufficient to overcome the devastation and destruction that will be caused by the removal of groundwater upon the basins of origin and the Goshute people. The State Engineer can reject the application if the proposed action is not environmentally sound as it relates to the basin from which the water is exported. NRS § 533.370(6)(c).

The proposed action is not environmentally sound for the basin of origin and will unduly limit, if not completely foreclose future growth and development of the basins of origin. This is another consideration of the State Engineer. The State Engineer must consider whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported. NRS § 533.370(6)(d). The appropriation and proposed use would have unduly negative impacts on cultural, historic, and religious resources which would harm the public interest. The State Engineer must reject the application if it threatens to prove detrimental to the public interest. NRS § 533.370(5).

The Goshute people place particular cultural importance to Spring Valley. This is an area where their ancestors lived, hunted, gathered, traded among each other, and practiced their tribal religion and cultural traditions. The abundance of clean water from the springs is another reason the area is important. The area was used for festivals and other social, religious, and economic activities. Spring Valley is the site where the Goshute people were massacred on several occasions. This area is held in reverence by the Goshute people and it is a sacred site to them. You will hear from multiple Tribal members regarding their unique ties to this area.

The Tribal religious traditions are inextricably tied to these cultural areas and the environment for many reasons. Tribal members actively and regularly participate in Tribal ceremonies, Tribal festivals, and various other personal and traditional activities within this area.

Tribal members visit the area to pass traditional and religious information on to the next generation, and to perform ceremonies and bless the spirits of their ancestors.

You will have the opportunity to listen to Rupert Steele, a member of the Confederated Tribes of the Goshute Reservation, a Tribal Elder, and a former Chairman of the Tribes. He has lived on the Goshute Reservation for approximately 40 years. He will tell of the Tribal ancestors that are buried within Spring Valley. He will tell of the sacred importance of the water. Also, he will discuss the adverse effects of the groundwater pumping on the Tribe and their culture. The loss of big game in the area will destroy an important source of subsistence hunting and revenue for the Tribe. Wildlife in its natural habitat is part of the natural resources belonging to all of the people of the State of Nevada and the preservation, protection, management and restoration of wildlife within the State contribute immeasurably to the aesthetic, recreational and economic aspects of these natural resources. NRS § 501.100. The wildlife in this area is of particular importance to the Goshute people who have utilized and acted as stewards of this resource since time immemorial as the wildlife plays a central role in the Tribe's cultural traditions. Providing water to wildlife is necessary and beneficial use of water. *State v. Morros*, 104 Nev. 709, 717 (1988). Sport hunting is a form of recreation, and wildlife watering under the rubric of recreation is a beneficial use of water under Nevada law. *Id.*

Charlene Pete, a member of the Confederated Tribes of the Goshute Reservation will talk to you of the importance of water to the Goshute people. She will discuss the importance of "home." The Reservation is the permanent homeland of the Goshutes reserved to them by action of the United States government. Under the *Winters* doctrine, the United States Supreme Court recognized that Indian Tribes, including the Goshutes in this case, have an implied reserved water right for their Reservation lands when the Reservation was recognized. The Tribe's federal

reserved water right includes water necessary to sustain all the practicably irrigable acreage on the Reservation. The proposed pumping of groundwater in the basins of origin should be denied because the pumping will take from the water resources necessary to satisfy the Tribe's priority reserved water right and negatively impact the Tribe's cultural areas to a degree that will destroy the homeland of the Goshute people. The federal government's prior entry of stipulated agreements to monitor damage to Tribal water resources was done without required Tribal government consultation and represents a gross failure of the federal government to fulfill its trust responsibility to protect Tribal water resources. The evidence will show that the applicant does not know the specific impact to Tribal water resources that will occur by the proposed pumping. At the end of these hearings we will be left with the question of why any approval of massive groundwater pumping in Tribal aboriginal territories can occur when we have yet to understand the impact of the pumping on the scarce water resources in these areas.

A former member of the Tribal Government, Milton Hooper will also discuss the Goshute principles of stewardship or conservation as related to water resources. These principles include: (1) take no more than you need, (2) leave enough for others who follow, and (3) allow the resources to renew themselves. The withdrawal of groundwater will directly violate these principles and will destroy the connection between the Goshute people and the resources that sustain them.

Ed Naranjo, a Tribal Council member and current Tribal Administrator responsible for all operations of Tribal government, will discuss the adverse impacts that will be caused upon the Tribe's economic development activities if the groundwater pumping proceeds. He will also talk of the importance of water in the lives of the Goshute people and in their spiritual lives. He will testify that the appropriation and proposed use would be detrimental to the public interest on

economic grounds as unduly limiting future growth and development in the basins of origin and hydrologically connected basins.

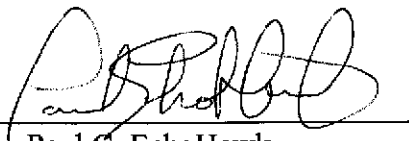
The testimony you will hear from Tribal members with historical knowledge of the affected areas will be supported by the expert report and testimony of Dr. Thomas Myers, who will demonstrate the devastating impacts from the proposed groundwater pumping. His report shows that the proposed groundwater pumping scenarios will not approach equilibrium within 200 years nor recover within 600 years. The pumping scenarios will cause from 50 to 100 feet of drawdown in some areas. Permitting these applications to proceed would dry up wetlands and springs throughout the valley. The groundwater withdrawals will cause substantial drawdown of groundwater levels, reduction of discharge in springs, and adverse effects upon wetland evapotranspiration. These effects will spread to adjoining valleys. In some cases, springs will go dry and remain dry even after pumping ceases. The appropriation and proposed use would be detrimental to the public interest on environmental grounds due to being environmentally unsound and unsustainable.

Southern Nevada Water Authority's own evidence will show that if the depth to water increases beyond two to four meters in some areas, that all of the cottonwoods would die in those areas. Juniper cover in some areas could decrease by up to sixty percent and that if the depth to water is too high, the Junipers would only survive for a few decades. This project will leave minimal resources for the development in the basins of origin and raises serious concern about the future of ranching and agriculture. The applicant makes no mention of the federally reserved water rights guaranteed to the Tribes. The State Engineer has an obligation to address these rights.

Conclusion

As will be shown, the proposed groundwater pumping project will have significant and far reaching impacts on the basins of origin and the Goshute people. There is no justification for this and it is not in the public interest to grant the applications of Southern Nevada Water Authority. For these reasons, the proposed applications should be denied.

Dated: September 16, 2011

By 

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of September, 2011, a true and correct copy of the foregoing OPENING STATEMENT was served on the following counsel of record by depositing the same for mailing by overnight mail, postage prepaid, addressed to the following:

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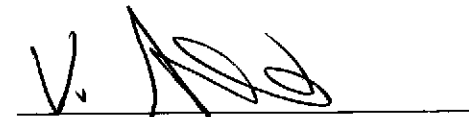
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