



**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES**

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June 6, 2011

**AMENDED THIRD**

**INFORMATIONAL STATEMENT REGARDING  
SOUTHERN NEVADA WATER AUTHORITY  
WATER RIGHT APPLICATIONS IN  
SPRING, CAVE, DRY LAKE AND DELAMAR VALLEYS**

**In the Matter of Protested Applications 53987, 53988 (Cave Valley - Basin 180), 53989, 53990 (Dry Lake Valley - Basin 181), 53991, 53992 (Delamar Valley - Basin 182), and 54003 through 54021 (Spring Valley - Basin 184)**

**Purpose of this Statement.** The purpose of this statement is to provide the public with information regarding the orders and decisions that were made during the pre-hearing conference in the above-referenced matter. The reason for the amended statement is that the State Engineer did not list those persons who made an appearance at the pre-hearing conference through Mr. Simeon Herskovits who are individual Protestants themselves separate from the protests filed by the Great Basin Water Network, but who did not actually appear themselves at the pre-hearing conference. At the pre-hearing conference, Mr. Herskovits provided a list of those Protestants in a letter, but did not read their names into the record and it was an oversight not to list them in the Third Informational Statement.

The following persons made appearances at the pre-hearing conference:

**Applicant Southern Nevada Water Authority (SNWA)** - Paul Taggart, Esq., Dana Walsh, Esq., Robert Dotson, Esq., Steven Sims, Esq.

**Protestant Great Basin Water Network (GBWN)** - Simeon Herskovits, Esq.

**Protestants 2nd Big Springs Irrigation Company, Keith Anderson, Craig Baker, Dean Baker, Thomas Baker, Baker GID, Baker Ranches, James & Donna Bath, Bath Lumber Company, Govert Bassett, Walter Benoit, Border Inn, Carter-Griffin, Inc. Max & Diane Chipman, Citizens Education Project, Louis Cole, Defenders of Wildlife, Kristine Fillman, Patrick Fillman, Gardner's Quarter Circle 5 Ranch, Jo Anne Garrett, Kena Gloeckner, Patrick Gloeckner, Great Basin Business & Tourism Council, Kathy Hiatt, County of Inyo, Abigail Johnson, Linda Johnson, League of Women Voters of Salt Lake City, Robert Lewis, Lund Irrigation & Water Company, Orvan Maynard, Roderick McKenzie, Nevada Farm Bureau, Panaca Irrigation Company, Gary & Jo Ann Perea, Preston Irrigation Company, Launce Rake, William & Kathy Rountree, Toiyabe Chapter Sierra Club, Amelia Sonnenberg, Sportsworld, Terrance & Debra Steadman, Utah Audubon Council, Mildred Valencia, David Von Seggren, Mark Wadsworth, Lois Weaver, County of White Pine and City of Ely, Debra Whipple (hereinafter identified as 2nd Big Springs Irrigation Company, et al.) - Simeon Herskovits, Esq.**

**Protestant Richard and Lesley Sears - Richard Sears, Esq.**

**Protestant Long Now Foundation - Steven Reich, Laura Welcher**

**Protestant Millard County, Utah - John Rhodes, Esq.**

**Protestant Juab County, Utah - John Rhodes, Esq.**

**Protestant Confederated Tribes of the Goshute Reservation - Aaron Waite, Esq., Mark Echohawk, Esq. and V. Aaron Contreras, Esq.**

**Protestant Duckwater Shoshone Tribe - Aaron Waite, Esq., Mark Echohawk, Esq. and V. Aaron Contreras, Esq.**

**Protestant Ely Shoshone Tribe - Aaron Waite, Esq., Mark Echohawk, Esq., and V. Aaron Contreras, Esq.**

**Protestant EskDale Center - Jerald Anderson**

**Protestant Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints - Severin Carlson, Esq.**

**Protestant United States Department of Agriculture Forest Service - Mark Muir**

**Protestant Nye County - George Benesch, Esq.**

**Protestant Henry Vogler IV - Henry Vogler**

Legal counsel for several parties indicated they would be filing motions to associate out of state legal counsel. For the Southern Nevada Water Authority, the State Engineer has signed an Order Admitting to Practice for Steven Sims. For the Confederated Tribes of the Goshute Reservation, Duckwater Shoshone Tribe and Ely Shoshone Tribe, Mr. Waite to date has not filed a motion to associate Mark Echohawk and V. Aaron Contreras and they will not be recognized as legal counsel in this matter until such motion is filed and granted. For Millard and Juab Counties, Mr. Rhodes to date has not filed a motion to associate J. Mark Ward and he will not be recognized as legal counsel in this matter until such motion is filed and granted. The Great Basin Water Network indicated that Kara Gillon for Defenders of Wildlife would be assisting with the Great Basin Water Network case; however, Mr. Herskovits, who is legal counsel for the Defenders of Wildlife did not indicate if compliance with Nevada Supreme Court Rule 42 would be necessary.

The following orders and decisions were made:

**REQUEST FOR INCORPORATION OF RECORD.** There was a request from some Protestants that the entire record of the hearings held in September 2006 on Applications 54003 through 54021 (Spring Valley) and in February 2008 on Applications 53987 through 53992 (Cave Valley, Dry Lake Valley and Delamar Valley) be incorporated into this proceeding. The Applicant objected to this request.

**Order** - the State Engineer ordered that he would not incorporate the entire proceedings from the 2006 and 2008 hearings into the hearing on remand. However, the State Engineer ordered that he will take administrative notice of the exhibits from the prior hearings and any party wanting to use an exhibit from either of these prior hearings must specifically identify the exhibit on its exhibit list during the first evidentiary exchange. Any party identifying an exhibit from a prior hearing is not required to provide copies of the exhibit to any other parties to this hearing on remand or the State Engineer. The State Engineer already has the exhibits on file in the Office of the State Engineer and any other party can obtain a copy of any exhibit from the Division of Water Resources website under the SNWA Hearing on Remand - Past Hearings. The transcript from the previous hearings will not be incorporated into this proceeding.

**EVIDENTIARY EXCHANGES - WHO WILL BE SERVED.** Pre-hearing exchanges of documentary evidence, witness lists and summaries of testimony must only be served on the actual participants to the hearing who made an appearance at the pre-hearing conference. Where multiple counsel or persons represent one party, only one person is designated to receive the service of filings. Below, please find the name of each person to be served and under each name the State Engineer has indicated whether they are to receive the filings in an electronic format (on a computer disk in the format identified in the notice of hearing), paper copies or both.

The following are the persons to receive actual service:

Dana Walsh  
Southern Nevada Water Authority  
1001 S. Valley View Blvd. MS#485  
Las Vegas, Nevada 89153  
(If party serving is requesting both paper and electronic, said party will serve the SNWA with both paper and electronic documents.  
If party serving is only requesting electronic, then SNWA will accept electronic only.)

Great Basin Water Network and Protestants  
2nd Big Springs Irrigation Company, et al.  
Simeon Herskovits  
Advocates for Community and Environment  
P.O. Box 1075  
El Prado, New Mexico 87529  
(Paper and electronic)

Richard W. and Lesley Ann Sears  
1963 South 17th East HC 10  
Ely, Nevada 89301  
(Electronic)

Long Now Foundation  
Laura Welcher  
Director of Operations  
Fort Mason Center  
Building A  
San Francisco, California 94123  
(Electronic)

Juab County and Millard County, Utah  
J. Mark Ward  
Utah Association of Counties  
5397 Vine Street  
Murray, Utah 84107  
(Paper and electronic)

EskDale Center  
Jerald Anderson  
1100 Circle Drive  
EskDale, Utah 84728  
(Paper and electronic)

U.S. Department of Agriculture  
Forest Service  
Jeanne A. Evenden  
324 25th Street  
Ogden, Utah 84401  
(Electronic)

Henry C. Vogler IV  
HC 33 Box 33920  
Ely, Nevada 89301  
(Paper)

Nye County  
George Benesch  
190 W. Huffaker Lane, Suite 408  
Reno, Nevada 89511-2092  
(Paper and electronic)

Confederated Tribes of the Goshute  
Reservation, Duckwater Shoshone Tribe and  
Ely Shoshone Tribe  
Mark Echohawk and V. Aaron Contreras  
505 Pershing Ave., Suite 100  
Pocatello, Idaho 83205  
(Electronic)

Corporation of the Presiding Bishop of the  
Church of Jesus Christ of Latter-day Saints  
Severin A. Carlson  
Kaempher Crowell, Renshaw, Gronauer &  
Fiorentino  
510 W. Fourth Street  
Carson City, Nevada 89703  
(Electronic)

**EXHIBIT NUMBERS** - The exhibits will be marked following a standardized format for all participants. For example, the State Engineer will mark the Notice of Pre-Hearing Conference and Hearing as “SE\_001 Notice of Pre-Hearing Conference and Hearing dated 04/01/2011” or “SE\_002 Application 54003 - Exhibit No. 3 from the September 2006 hearing.”

The following exhibit identifying labels were assigned during the pre-hearing conference:

State Engineer “SE\_Exh\_001 Document Title through SE\_Exh\_999 Document Title”

Southern Nevada Water Authority “SNWA\_Exh\_001 Title through SNWA\_Exh\_999 Title”

Great Basin Water Network “GBWN\_Exh\_001 Title through GBWN\_Exh\_999 Title”

Richard and Lesley Sears - Richard Sears “SEAR\_Exh\_001 Title through SEAR\_Exh\_999 Title”

Long Now Foundation “LONG\_Exh\_001 Title through LONG\_Exh\_999 Title”

Millard County, Utah “MILL\_Exh\_001 Title through MILL\_Exh\_999 Title”

Juab County, Utah “JUAB\_Exh\_001 Title through JUAB\_Exh\_999 Title”

Conf. Tribes Goshute Reservation “CTGR\_Exh\_001 Title through CTGR\_Exh\_999 Title”

Duckwater Water Shoshone Tribe “DUCK\_Exh\_001 Title through DUCK\_Exh\_999 Title”

Ely Shoshone Tribe “ELY\_Exh\_001 Title through ELY\_Exh\_999 Title”

EskDale Center “ESK\_Exh\_001 Title through ESK\_Exh\_999 Title”

Corp. P.B. Church Jesus Christ of LDS “CPB\_Exh\_001 Title through CPB\_Exh\_999 Title”

Nye County “NYE\_Exh\_001 Title through NYE\_Exh\_999 Title”

Please note, in order to accommodate persons such as Henry Vogler, who is not represented by legal counsel and who indicated that he only wanted to make a statement and did not plan on presenting exhibits, an opening argument or closing argument, it was agreed that Mr. Vogler would not have to present anything other than his statement; therefore, he should not need exhibit numbers.

**EXHIBIT LIST** - The State Engineer agreed by June 15, 2011, to prepare an exhibit list and post it on the website of the Nevada Division of Water Resources. This new exhibit list includes the exhibits that will be entered into the record by the State Engineer and the exhibit list has already been posted to the website.

**MOTIONS** - Any pre-hearing motions must be file stamped in the Office of the State Engineer in Carson City, Nevada, and served on the parties by **Friday, September 2, 2011**. Responses to any motion must be filed stamped in the Office of the State Engineer and served on the parties by Wednesday, **September 14, 2011**.

**HEARING** - The Applicant will be presenting its case first, followed by the Protestants. Please be informed that these dates may shift somewhat depending on how cases proceed.

The hearing is currently scheduled as follows, excluding Saturdays, Sundays and holidays:

Monday, September 26 through Thursday, October 6, 2011	Opening Statements and Southern Nevada Water Authority
Friday, October 7, 2011	Public comment
Monday, October 10 through Friday October 14, 2011	Southern Nevada Water Authority
Monday, October 31, 2011	Richard and Lesley Sears, Henry Vogler, Juab County, Millard County
Tuesday, November 1, 2011	EskDale Center, Great Basin Water Network
Wednesday, November 2 through Thursday, November 10, 2011	Great Basin Water Network
Friday, November 11, 2011	Holiday, no hearing
Monday and Tuesday, November 14 and 15, 2011	Confederated Tribes of the Goshute Reservation, Duckwater Shoshone Tribe, Ely Shoshone Tribe
Wednesday, November 16, 2011	Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints
Thursday, November 17, 2011	Long Now Foundation
Friday, November 18, 2011	Closing arguments

**OPENING STATEMENTS** - Any party wanting to make an opening statement is ordered to file a written opening statement in the Office of the State Engineer by **Monday, September 19, 2011**. Any written opening statement is limited to 15 pages. For any party who files a written opening statement, but wishes to also present an oral opening statement, the State Engineer will provide 15 minutes to make that opening statement on the first day of the hearing.

**SLIDE PRESENTATIONS** - If any party plans to use a slide presentation during the testimony of a witness, the slide presentation may only include references to evidence and conclusions that were provided during the evidentiary exchanges. Slide presentations are only demonstrative presentations of the evidence that was pre-filed. No new evidence or conclusions will be allowed in any slide presentation. The parties agreed to provide the other parties to the proceeding with copies of their slide presentations at the close of the hearing on the day before any witness will testify using the slide presentation.

**HYDROLOGIC MODELS** - Any party intending to use a hydrologic model is required to provide that model during the first evidentiary exchange on July 1, 2011. The model must be accompanied by any supporting documentation and must be able to be run by any other party.

**CLOSING STATEMENTS** - Any party may make an oral closing statement that will be limited to 15 minutes. Any party may also file a written closing statement to be filed in the Office of the State Engineer in Carson City, Nevada, and served on the other parties by **Friday, December 23, 2011**. The closing statement should provide references to the record and is limited to 25 pages. Closing statements are not mandatory. Responses to closing statements are not allowed.

**PROPOSED DRAFT RULINGS** - Any party may file a proposed draft ruling to be filed in the Office of the State Engineer in Carson City, Nevada, and served on the other parties by 5:00 p.m. Friday, January 27, 2012. Anyone submitting a proposed draft ruling must also provide an electronic copy in Microsoft Word. Proposed draft rulings must contain citations to the record of any fact referred to in the draft ruling and citations to any statute or case law. Responses to proposed draft rulings are not allowed.