



Toiyabe Chapter
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STATE ENGINEER'S OFFICE

November 23, 2011

Jason King, Nevada State Engineer
Nevada Division of Water Resources
901 So. Stewart St. #2002
Carson City, NV 89701
ATTN: Susan Joseph-Taylor

Re: Request to deny SNWA applications in Spring, Cave, Delamar and Dry Lake Valleys

Dear State Engineer King,

On behalf of the over 5000 members of the Toiyabe Chapter of the Sierra Club in Nevada and the eastern Sierra, I am submitting comments on the applications of the Southern Nevada Water Authority (SNWA) in the proposed interbasin transfer of groundwater from Spring, Cave, Delamar and Dry Lake Valleys in White Pine and Lincoln Counties to southern Nevada. Many of our members who live near or recreate in areas in eastern Nevada and Utah's West Desert targeted by SNWA's (SNWA) groundwater development (GWD) project as well as our thousands of members who live in southern Nevada are very concerned about the potential environmental harm from the proposed pumping project, and the lack of current need for this project as well as its burgeoning costs. In addition, our members in the Eastern Sierra have experienced first-hand the adverse impacts of the Los Angeles Department of Water and Power's (LADWP) interbasin water transfer project for over 100 years and have worked for decades to obtain some long overdue mitigation for some impacts. We do not want to see the Owens Valley environmental and sociocultural disasters replicated in eastern Nevada by SNWA's GWD project. Therefore, we request that you deny SNWA's 25 applications.

The Toiyabe Chapter protested many of the original applications filed by the Las Vegas Valley Water District (and subsequently transferred to SNWA). We protested the 2010 duplicate applications filed by SNWA. And we re-protested the original applications when afforded the opportunity to do so by the Nevada Supreme Court decision. The Sierra Club was represented by the attorneys for the Great Basin Water Network (GBWN) in the original hearings on Spring Valley in 2006 and on Cave, Delamar, and Dry Lake Valleys in 2008 and in the re-ordered hearings on these valleys in 2011. Sierra Club members attended all of these hearings.

During the 2011 hearing, we believe that extensive evidence, presented by the GBWN and other protestants, clearly shows the following:

SNWA has not justified the need to import groundwater from the 4 rural basins:

1. There is no current need in southern Nevada for rural groundwater. SNWA's population projections

do not reflect the impacts of the current economic downturn on the current and likely future very slow population growth. Current Colorado River supplies appear to us to far exceed current water demands. The potential for additional water from enhanced water conservation programs from both current and future residents is estimated to generate more water than the amounts in the applications. There are no customers for additional water in southern Nevada.

2. The financial feasibility of the project is tenuous at best. SNWA's financial feasibility report numbers are dependent on projections of steady economic growth and population increases for decades and fly in the face of the current reality of thousands of vacant houses, a high unemployment rate, falling tax revenues and increasing budget shortfalls in local governments. The projected \$15.4B GWD cost is underestimated, since it does not reflect many essential future costs such as operations and maintenance or mitigation. The estimated tripling of local water rates of current customers to pay for a project to supply water for future customers is unfair and not in the public interest.

3. SNWA's director and other witnesses testified at the hearings that they have no intention of constructing the pipeline project, including drilling wells for approved applications, even if BLM grants a Right of Way and if the State Engineer approves its applications, for the foreseeable future. Construction may not start for decades until either a severe drought drops the level of Lake Mead to 1075 feet, other Colorado River water supplies must be replaced or the Las Vegas economy recovers to the extent that additional water supplies are needed. None of these 3 conditions can be predicted with any accuracy. And, in fact, SNWA may not put this water to beneficial use for decades.

Significant improvements in southern Nevada water conservation plan are needed.

Before any applications for interbasin transfers are approved, SNWA's conservation plan and goals should be revised to take advantage of the many opportunities to increase water efficiency in both indoor and outdoor water uses by residents, businesses, municipalities, visitors, and industries. In addition, the water rate structure should be reformed to provide lower rates for basic water uses and higher graduated rates for increased uses with the highest rates set for the highest tier of excessive water uses. And, water wasting should be significantly reduced.

SNWA's current applications are not environmentally sound in the targeted basins of origin.

The Bureau of Land Management's 4000 page Environmental Impact Statement (EIS) supports the concerns of the protestants and many other Nevadans about significant adverse impacts of the SNWA's GWD project. These include hundreds of feet of water table drawdowns, hundreds of square miles of subsidence, and habitat destruction and fragmentation over 2.6 million acres of public and private lands in eastern Nevada in the five basins studied as well as in dozens of other affected basins.

The EIS and evidence at the hearing show that desertification of the basins of origin will continue for hundreds of years. Evidence did not show that SNWA's plans to manage the pumping from its 25 applications so that current vegetation communities would transition to new communities in an orderly process are feasible or possible, especially without increasing the risk of invasive species, such as cheatgrass, into dried up areas.

SNWA's applications are not an appropriate long-term use and will unduly limit the future growth and development in the basins of origin.

Evidence at the hearing showed that pumping the 25 applications at full requested amounts (as well as

at lesser amounts) constitute groundwater mining because a new hydrological equilibrium would not be reached in hundreds if not thousands of years. Even lesser amounts of pumping would not result in a new equilibrium in a short time, and its adverse impacts would simply take more time to occur. Unsustainable groundwater pumping is not allowable under Nevada water law.

In addition, according to SNWA witnesses, the GWD project construction may be delayed for many years if not decades because the water is not currently needed. Therefore, SNWA applications may not be put to beneficial use.

SNWA's applications have already unduly limited growth in the basins of origin since 1989 and any approved but unused water rights will continue to preempt future development including expansion of agricultural operations, mining, alternative energy development, and recreation and tourism.

Other factors should be considered by the Nevada State Engineer concerning the SNWA applications.

The three Nevada tribes, the Goshutes, Ely and Duckwater Shoshones, provided compelling evidence of the cultural resources and traditional uses of the springs, vegetation, and sacred sites in Spring Valley. Protecting cultural resources and traditional practices of tribes in Spring Valley from adverse impacts of SNWA pumping on these treasures is in the public interest and widely supported by today's society.

Leaving water at the source for wildlife is a requirement of Nevada water law. There was no evidence presented at the hearing or in the EIS that SNWA will protect every spring and seep in the four valleys which are currently being used by native wildlife. Mitigation proposals to supply artificial water to wildlife in impacted valleys are vague and probably unsustainable over 75 years, much less hundreds of years.

These applications represent an unprecedented proposal to tap the carbonate aquifer in a huge area of eastern Nevada, western Utah and extending into California. There are many regional and sub-regional flow systems within the carbonate aquifer. Attributing adverse pumping impacts to SNWA's wells would be extremely difficult if not impossible, therefore making proposed mitigation irrelevant and impacts permanent.

The proposed monitoring and mitigation framework outlined in the EIS and in testimony at the hearing is deeply flawed. It was developed by SNWA and federal agencies in secret, with local affected residents, counties, state agencies, Indian tribes, protestants and the public specifically excluded from the process. Evidence showed that the proposals lack standards or criteria for "unreasonable" or "unacceptable" pumping effects and triggers for taking action to avoid, minimize or mitigate these effects. The stipulated agreement is not enforceable nor are there any penalties for violating it. It places an undue burden on the Nevada Division of Water Resources to oversee SNWA pumping and monitoring as well as to address disputes and complaints from adversely affected senior water rights holders in the four valleys. In short, it fails to effectively address the long-term groundwater mining effects of SNWA's 25 applications in the four valleys.

There are considerable questions about whether unappropriated water is available at the source.

While there may be water available for appropriation in Spring Valley, the estimated impacts on the local environment, other water users, and cultural resources in Spring and other affected basins are

unreasonable, unacceptable, and cannot be effectively mitigated. Reserving sufficient water to prevent the drying of every spring, wetland, and meadow in Spring Valley, to prevent vegetation transitions to bare soil and invasive weeds, to avoid the creation of dust storms from denuded lands, and to protect and preserve wildlife habitat and cultural resources is critical in evaluating whether there is any "unappropriated" water.

Based on the evidence presented, we do not believe there is any unappropriated water available in Cave, Delamar, and Dry Lake Valleys. There is little local discharge and the groundwater continues downgradient to downflow basins which are already fully appropriated and which provide critical habitat for endangered species.

SNWA applications, if approved and implemented, will conflict with existing rights in all 4 valleys.

In Spring Valley, it is clear that proposed SNWA pumping will impact extensive existing water rights, many of them vested rights. In addition, SNWA pumping in the southern end of Spring Valley will impact extensive existing water rights in Snake Valley, also many of them vested water rights.

In Cave, Delamar and Dry Lake Valleys, it is also clear that virtually all the groundwater is already committed (or over-committed) in downflow basins in White River Valley, Coyote Springs, and Moapa.

The use of the water under the proposed applications will prove detrimental to the public interest.

We do not believe that it is in the public interest to sacrifice one part of Nevada for another, to approve proposed groundwater mining, to permit pumping which will destroy irreplaceable and invaluable cultural resources in Spring Valley, adversely impact wildlife and its habitat over thousands of acres and cause unreasonable and unacceptable impacts on existing vested and other water rights, including water rights in downflow basins on which endangered species depend.

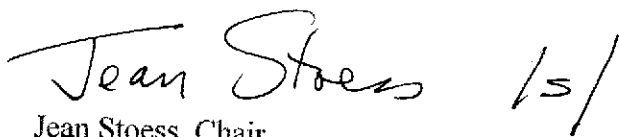
The use of water under the proposed applications will adversely impact domestic wells.

It is unclear from the evidence presented at the hearing that SNWA pumping will not adversely affect domestic wells in Spring and Cave Valleys.

For all of these reasons and others, we believe that there is sufficient evidence for you to deny the 25 SNWA applications.

Thank you for considering our comments.

Sincerely,

Handwritten signature of Jean Stoess in cursive, followed by a vertical line and the number 15.

Jean Stoess, Chair
Toiyabe Chapter of the Sierra Club