

ADVOCATES FOR COMMUNITY AND ENVIRONMENT

Empowering Local Communities to Protect the Environment and their Traditional Ways of Life

Post Office Box 1075
El Prado, New Mexico 87529
Phone (575) 758-7202 Fax (575) 758-7203

2017 JUL 21 AM 10:46
RECEIVED
STATE ENGINEERS OFFICE

July 19, 2017

State of Nevada
Division of Water Resources
Attn: Susan Joseph-Taylor
901 S. Stewart St., Suite 2002
Carson City, NV 89701

Re: SNWA Pipeline Applications SCDD Remand Hearing – Public Comment

Dear Ms. Joseph-Taylor:

We are following up with a revised hard copy of our emailed inquiry about public comment, which was prompted by the fact that the group of protestants we represent, including local governmental entities and citizens' organizations, have been receiving inquiries from concerned members of the public who believe they should have an opportunity to provide comment on the important issues that Judge Estes remanded for reconsideration.

Before sending our inquiry to you, we reached out to counsel for the other parties actively participating in this remand proceeding. No one objected, and counsel for the Southern Nevada Water Authority (SNWA) proposed setting aside a half day on Friday, September 29, for members of the public to give oral comment. A copy of that email correspondence with counsel of record and your office is attached in chronological order as Exhibit A.

September 29 comes at the end of the week that has been set aside for SNWA's case, so it would not impinge on the four-and-a-half days available during the week of October 2-6 for the protestants' respective cases. Because the protestants must fit all of their presentations into that limited time during the second week of the remand hearing, no time is available for oral public comment during that week.


We think it would be a mistake to treat the issues on remand as being so narrow as not to merit public comment. That view does not square with Judge Estes' decision, which placed central importance, and based its reversal of the State Engineer's 2012 rulings, on those issues. Such a narrow characterization of the issues also is inconsistent with the repeated arguments by both the State Engineer and SNWA in the State courts that these issues are of great public consequence and concern, which seems to be borne out by the public interest that has been expressed.

Accordingly, we respectfully propose that the State Engineer set aside half the day on September 29 for oral comment during the remand hearing. Because many concerned and potentially affected people live and work far from Carson City we also believe that, whether or not time is made available for oral public comment during the hearing, the public should be provided with

the opportunity to submit written comments to the State Engineer through October 20, 2017, two weeks after the end of the remand hearing. That would allow members of the public to take the information presented during the hearing into account in their written comments without delaying the State Engineer's ruling on remand.

Enclosed with the two copies of this letter being filed with the State Engineer's Office is an additional copy of the letter along with a self-addressed stamped envelope. Please file stamp and mail us that copy of this letter.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Simeon Herskovits', written in a cursive style.

Simeon Herskovits

Counsel for Protestants White Pine County, Great Basin water Network, et al.

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2017, I served, or caused to be served, a true and correct copy of the foregoing, as follows:

 X By electronic means pursuant to stipulation of counsel made on October 13, 2016, addressed as follows:

Paul Taggart
TAGGART & TAGGART, LTD.
108 N. Minnesota St.
Carson City, NV 89703
Email: paul@legaltnt.com

Paul Echo Hawk
ECHOHAWK LAW OFFICE
P.O. Box 4166
Pocatello, ID 83205
Email: paulechohawk@gmail.com

Dana Walsh
SOUTHERN NEVADA WATER AUTHORITY
1001 S. Valley View Blvd. MS#485
Las Vegas, NV 89153
Email: dana.walsh@lvvwd.com

Scott Williams
BERKEY WILLIAMS LLP
2030 Addison Street, Suite 410
Berkeley, CA 94704
Email: swilliams@berkeywilliams.com

Robert Dotson
DOTSON LAW
One East First Street, City Hall Tower, Suite 1600
Reno, NV 89501
Email: rdotson@dotsonlaw.legal

Aaron Waite
WEINSTEIN & RILEY, P.S.
6785 S. Eastern Ave., Suite 4,
Las Vegas, NV 89119
Email: aaronw@w-legal.com

Severin A. Carlson
KAEMPHER CROWELL, RENSCHAW,
GRONAUER & FIORENTINO
510 W. Fourth Street
Carson City, NV 89703
Email: scarlson@kcnvlaw.com

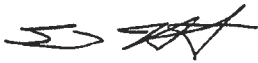
J. Mark Ward
3004 W. Sweet Blossom Drive
South Jordan, UT 84095
Email: wardjmark@gmail.com

Paul Hejmanowski
HEJMANOWSKI & MCCREA, LLC
520 South Fourth Street, Suite 320
Las Vegas, NV 89101
Email: prh@hmlawlv.com

John Rhodes
RHODES LAW OFFICES, LTD
P.O. Box 18191
Reno, NV 89511
Email: johnbrhodes@yahoo.com

X By U.S. POSTAL SERVICE: I deposited for mailing in the United States Mail, with postage prepaid, an envelope containing the above-identified document, at Taos, New Mexico, in the ordinary course of business, addressed as follows:

Attention: Jerald Anderson
EskDale Center
1100 Circle Drive
EskDale, Utah 84728



Simeon Herskovits

Exhibit A

From: [Iris Thornton](#)
To: ["Dana Walsh"; "J Mark Ward"; simeon@communityandenvironment.net; paulechohawk@gmail.com; swilliams@berkeywilliams.com; scarlson@kcnvlaw.com; "Paul Hejmanowski"; "John Rhodes"](#)
Cc: ["Paul Taggart"; "Robert Dotson"](#)
Subject: SCDD Remand Hearing - Public Comment
Date: Wednesday, June 21, 2017 9:35:52 PM

Counsel,

We have been receiving inquiries regarding when members of the public will be able to provide comment during this fall's hearing, and would like to contact the State Engineer to inquire as to what date will be designated for public comment, as has been done in the previous hearings. We don't care which day it is, but believe it is important to get a date set as far in advance as possible so people will be able to plan for it.

Please use "reply all" to let us and the other parties know if you agree with that, and if so what date you suggest. Also, please let us know whether you would agree to our contacting the State Engineer by telephone to make that inquiry or would prefer that we do so by letter.

Thank you,

Iris Thornton
Advocates for Community and Environment
P.O. Box 1075
El Prado, NM 87529
Phone: 575-758-7202
Fax: 575-758-7203
Cell: 505-504-2610
Email: iris@communityandenvironment.net

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From: Sev Carlson
To: Iris Thornton; "Dana Walsh"; "J Mark Ward"; simeon@communityandenvironment.net; paulechohawk@gmail.com; swilliams@berkeywilliams.com; "Paul Hejmanowski"; "John Rhodes"
Cc: "Paul Taggart"; "Robert Dotson"
Subject: RE: SCDD Remand Hearing - Public Comment
Date: Thursday, June 22, 2017 11:39:33 AM

Cleveland Ranch has no objection to your request and we are comfortable if you make the request to the State Engineer either via phone or by letter.

KAEMPFER

CROWELL

Severin A. Carlson
Kaempfer Crowell
50 West Liberty Street, Suite 700
Reno, Nevada 89501
Tel: (775) 852-3900
Dir: (775) 884-8317
Fax: (775) 327-2011
Email: scarlson@kcnvlaw.com

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From: Iris Thornton [mailto:iris@communityandenvironment.net]
Sent: Wednesday, June 21, 2017 8:36 PM
To: 'Dana Walsh'; 'J Mark Ward'; simeon@communityandenvironment.net; paulechohawk@gmail.com; swilliams@berkeywilliams.com; Sev Carlson; 'Paul Hejmanowski'; 'John Rhodes'
Cc: 'Paul Taggart'; 'Robert Dotson'
Subject: SCDD Remand Hearing - Public Comment

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From: [J Mark Ward](#)
To: [Sev Carlson](#)
Cc: [Iris Thornton](#); [Dana Walsh](#); simeon@communityandenvironment.net; paulechohawk@gmail.com; swilliams@berkeywilliams.com; [Paul Hejmanowski](#); [John Rhodes](#); [Paul Taggart](#); [Robert Dotson](#)
Subject: Re: SCDD Remand Hearing - Public Comment
Date: Thursday, June 22, 2017 12:21:17 PM

Millard and Juab Counties say ditto to what Mr. Carson just said.

Mark Ward

On Jun 22, 2017, at 11:39 AM, Sev Carlson <SCarlson@kcnvlaw.com> wrote:

Cleveland Ranch has no objection to your request and we are comfortable if you make the request to the State Engineer either via phone or by letter.

<image001.gif>

Severin A. Carlson
Kaempfer Crowell
50 West Liberty Street, Suite 700
Reno, Nevada 89501
Tel: (775) 852-3900
Dir: (775) 884-8317
Fax: (775) 327-2011
Email: scarlson@kcnvlaw.com

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Cc: 'Paul Taggart'; 'Robert Dotson'
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From: [Dana Walsh](#)
To: [J Mark Ward](#); [Sev Carlson](#)
Cc: [Iris Thornton](#); simeon@communityandenvironment.net; paulechohawk@gmail.com; swilliams@berkeywilliams.com; [Paul Hejmanowski](#); [John Rhodes](#); [Paul Taggart](#); [Robert Dotson](#)
Subject: RE: {EXTERNAL} Re: SCDD Remand Hearing - Public Comment
Date: Thursday, June 22, 2017 12:24:33 PM

Counsel,

SNWA agrees that it would be good to schedule time for public comment during the fall remand hearings. We propose a half day on Friday September 29th be reserved for public comment. We request that any communication to the State Engineer's office on this matter be directed to the hearing officer with all counsel on the cc line.

Thanks,
Dana

From: J Mark Ward [mailto:wardjmark@gmail.com]
Sent: Thursday, June 22, 2017 11:21 AM
To: Sev Carlson <SCarlson@kcnvlaw.com>
Cc: Iris Thornton <iris@communityandenvironment.net>; Dana Walsh <dana.walsh@lvvwd.com>; simeon@communityandenvironment.net; paulechohawk@gmail.com; swilliams@berkeywilliams.com; Paul Hejmanowski <prh@hmlawlv.com>; John Rhodes <johnbrhodes@yahoo.com>; Paul Taggart <Paul@legaltnt.com>; Robert Dotson <rdotson@dotsonlaw.legal>
Subject: {EXTERNAL} Re: SCDD Remand Hearing - Public Comment

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From: [Simeon Herskovits](#)
To: ["sjoseph-taylor@water.nv.gov"](mailto:sjoseph-taylor@water.nv.gov)
Cc: ["Paul Taggart"](#); ["Dana Walsh"](#); ["Robert Dotson"](#); ["Paul Heimanowski"](#); ["Steven Carter"](#); ["Scott Williams"](#); ["Paul Echo Hawk"](#); ["Aaron Waite"](#); ["J Mark Ward"](#); ["John Rhodes"](#); ["Iris Thornton"](#)
Subject: Public comment on remand
Date: Monday, July 10, 2017 4:37:00 PM
Attachments: [2017-7-10 Letter to SE re Public Comment.pdf](#)

Dear Ms. Joseph-Taylor:

Please see the attached letter about setting a date and time for oral public comment during the remand hearing this fall, and the procedure for written public comment, on the Southern Nevada Water Authority's water rights applications 53987 through 53992, inclusive, and 54003 through 54021, inclusive.

Thank you,

Simeon Herskovits
Advocates for Community and Environment
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El Prado, NM 87529
Phone: 575-758-7202
Fax: 575-758-7203
Email: simeon@communityandenvironment.net

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Empowering Local Communities to Protect the Environment and their Traditional Ways of Life

94 Highway 150, Suite 8

P.O. Box 1075

El Prado, New Mexico 87529

Phone (575) 758-7202 Fax (575) 758-7203

July 10, 2017

VIA EMAIL

Susan Joseph-Taylor, Deputy Administrator
State of Nevada Division of Water Resources
901 S. Stewart St., Suite 2002
Carson City, NV 89701

Re: Public Comment - Remand of Southern Nevada Water Authority Spring, Cave, Dry Lake, and Delamar Valleys Pipeline Applications

Dear Ms. Joseph-Taylor,

White Pine County and Advocates for Community and Environment have been receiving inquiries regarding what opportunity will be provided for interested members of the public to provide oral or written comment during this fall's remand hearing for SNWA's applications in Spring, Cave, Dry Lake, and Delamar Valleys. We would like to ensure that a reasonable opportunity to do so is provided without unduly burdening the hearing process, and have contacted the other parties to the remand proceedings to inquire about what time slot would be mutually acceptable. SNWA has suggested that a half day be set aside for oral public comment on Friday, September 29. From the other responses we have received that proposal appears to be acceptable to all parties. Accordingly, I am contacting you to request that you designate a time on that date for public comment.

Please advise us about the time that will be provided for oral public comment and the procedure for submission of written public comment so that we may inform the public. We believe it is important to get the dates and procedures for oral and written public comment set as far in advance as possible so people will be able to plan ahead.

Thank you,



Simeon Herskovits

Counsel for Protestants White Pine County, Great Basin water Network, et al.

cc: Paul Taggart, paul@legaltnt.com
Dana Walsh, dana.walsh@lvvwd.com
Robert Dotson, rdotson@dotsonlaw.legal
Paul Hejmanowski, prh@hmlawlv.com
Severin Carlson, scarlson@kcnvlaw.com
Scott Williams, swilliams@berkeywilliams.com
Paul Echo Hawk, paulechohawk@gmail.com
Aaron Waite, aaronw@w-legal.com
J. Mark Ward, wardjmark@gmail.com
John Rhodes, johnbrhodes@yahoo.com

From: [Susan Joseph-Taylor](#)
To: ["Simeon Herskovits"](#)
Cc: ["Paul Taggart"](#); ["Dana Walsh"](#); ["Robert Dotson"](#); ["Paul Hejmanowski"](#); ["Steven Carter"](#); ["Scott Williams"](#); ["Paul Echo Hawk"](#); ["Aaron Waite"](#); ["J Mark Ward"](#); ["John Rhodes"](#); ["Iris Thornton"](#); ["Sev Carlson"](#); ["Jerald Anderson"](#); [Kristen Geddes](#)
Subject: RE: Public comment on remand
Date: Tuesday, July 11, 2017 10:42:14 AM

Good morning all, please be reminded that official filings in this matter are not accepted via email. They must be delivered either in person or through the US mail, with an attached service list and be timestamped in this office. The Division of Water Resources is not set up for electronic filing.

I also note that the email list does not seem to match that identified in the cc list on the actual letter or the proper service list for this matter. When I hit "Reply All" it shows Steven Carter as a recipient, but Mr. Carter has not appeared as presenting his own case in this matter. It also does not identify Mr. Sev Carlson nor Mr. Jerald Anderson and I do not see Mr. Anderson's name in the cc list in the letter and both have made official appearances in this matter.

I had not anticipated reopening public comment. The court remanded the matter to the State Engineer for the consideration of very specific issues and the hearing will be confined to those issues. Public comment was already conducted for this hearing. We have a limited amount of time and fairly significant witness lists; therefore, I don't know if we have time to reopen oral public comment and I don't know that it is warranted.

I was anticipating that the first week would be set aside for the Applicant SNWA to present its witnesses and the second week would be for the Protestants to present their witnesses. Is the SNWA agreeing to forgo ½ day of its hearing time for public comment? Remember, we only have ½ day on Thursday, Oct. 5th. Are all the parties in agreement to reopen public comment? If so, I would anticipate only written public comment. If I allow written public comment, how long would you anticipate leaving the record open? Are all parties in agreement as to the timeframe set aside for presentation of their witnesses?

Respectfully, Susan Joseph-Taylor

Susan Joseph-Taylor, Esq.
Deputy Administrator
Nevada Division of Water Resources
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701
775-684-2872

From: Simeon Herskovits [mailto:simeon@communityandenvironment.net]
Sent: Monday, July 10, 2017 3:37 PM
To: Susan Joseph-Taylor <sjoseph-taylor@water.nv.gov>

Cc: 'Paul Taggart' <Paul@legaltnt.com>; 'Dana Walsh' <dana.walsh@lvvwd.com>; 'Robert Dotson' <rdotson@dotsonlaw.legal>; 'Paul Hejmanowski' <prh@hmlawlv.com>; 'Steven Carter' <scartermcattle@gmail.com>; 'Scott Williams' <swilliams@berkeywilliams.com>; 'Paul Echo Hawk' <paulechohawk@gmail.com>; 'Aaron Waite' <AaronW@w-legal.com>; 'J Mark Ward' <wardjmark@gmail.com>; 'John Rhodes' <johnbrhodes@yahoo.com>; 'Iris Thornton' <iris@communityandenvironment.net>

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Subject: RE: Public comment on remand
Date: Friday, July 14, 2017 2:12:00 PM

Dear Susan:

I apologize for any confusion that may have resulted from my emailing our inquiry about public comment.

We did not go through the normal filing process because we did not view our inquiry about public comment as a formal filing, and emailed it to you in the interests of time. We used Paul Taggart's September 28, 2016, email submitting the proposed interim ruling to you as a guide, and meant to cover the same counsel as that email. Steven Carter's email address was the result of my oversight in not noticing that my computer erroneously inserted Mr. Carter's email address when I started to type Sev Carlson's email address (the two begin similarly). I simply forgot to include Jerald Anderson because he was not included in the list of addressees from that September email which I was using as a guide.

To address the filing issue and the concerns about public comment you have raised we will have a modified hard copy version of our letter physically delivered to the Office of the State Engineer, with an attached service list. To reiterate the basic point of our inquiry, however, we believe that at least some opportunity for public comment should be provided because there is substantial public concern over the issues on which Judge Estes based his reversal of the State Engineer's previous rulings and that he remanded for reconsideration.

Sincerely,
Simeon

Simeon Herskovits
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Fax: 575-758-7203
Email: simeon@communityandenvironment.net

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From: Susan Joseph-Taylor [mailto:sjoseph-taylor@water.nv.gov]
Sent: Tuesday, July 11, 2017 10:42 AM
To: 'Simeon Herskovits' <simeon@communityandenvironment.net>
Cc: 'Paul Taggart' <Paul@legaltnt.com>; 'Dana Walsh' <dana.walsh@lvvwd.com>; 'Robert Dotson' <rdotson@dotsonlaw.legal>; 'Paul Hejmanowski' <prh@hmlawlv.com>; 'Steven Carter' <scartercattle@gmail.com>; 'Scott Williams' <swilliams@berkeywilliams.com>; 'Paul Echo Hawk' <paulechohawk@gmail.com>; 'Aaron Waite' <AaronW@w-legal.com>; 'J Mark Ward' <wardjmark@gmail.com>; 'John Rhodes' <johnbrhodes@yahoo.com>; 'Iris Thornton' <iris@communityandenvironment.net>; Sev Carlson <SCarlson@kcnvlaw.com>; 'Jerald Anderson' <jeraldanderson@hotmail.com>; Kristen Geddes <kgeddes@water.nv.gov>
Subject: RE: Public comment on remand

Good morning all, please be reminded that official filings in this matter are not accepted via email. They must be delivered either in person or through the US mail, with an attached service list and be timestamped in this office. The Division of Water Resources is not set up for electronic filing.

I also note that the email list does not seem to match that identified in the cc list on the actual letter or the proper service list for this matter. When I hit "Reply All" it shows Steven Carter as a recipient, but Mr. Carter has not appeared as presenting his own case in this matter. It also does not identify Mr. Sev Carlson nor Mr. Jerald Anderson and I do not see Mr. Anderson's name in the cc list in the letter and both have made official appearances in this matter.

I had not anticipated reopening public comment. The court remanded the matter to the State Engineer for the consideration of very specific issues and the hearing will be confined to those issues. Public comment was already conducted for this hearing. We have a limited amount of time and fairly significant witness lists; therefore, I don't know if we have time to reopen oral public comment and I don't know that it is warranted.

I was anticipating that the first week would be set aside for the Applicant SNWA to present its witnesses and the second week would be for the Protestants to present their witnesses. Is the SNWA agreeing to forgo ½ day of its hearing time for public comment? Remember, we only have ½ day on Thursday, Oct. 5th. Are all the parties in agreement to reopen public comment? If so, I would anticipate only written public comment. If I allow written public comment, how long would you anticipate leaving the record open? Are all parties in agreement as to the timeframe set aside for presentation of their witnesses?

Respectfully, Susan Joseph-Taylor

Susan Joseph-Taylor, Esq.
Deputy Administrator
Nevada Division of Water Resources
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701
775-684-2872

From: Simeon Herskovits [<mailto:simeon@communityandenvironment.net>]
Sent: Monday, July 10, 2017 3:37 PM
To: Susan Joseph-Taylor <sjoseph-taylor@water.nv.gov>
Cc: 'Paul Taggart' <Paul@legaltnt.com>; 'Dana Walsh' <dana.walsh@lvvwd.com>; 'Robert Dotson' <rdotson@dotsonlaw.legal>; 'Paul Hejmanowski' <prh@hmlawlv.com>; 'Steven Carter' <scartercattle@gmail.com>; 'Scott Williams' <swilliams@berkeywilliams.com>; 'Paul Echo Hawk' <paulechohawk@gmail.com>; 'Aaron Waite' <AaronW@w-legal.com>; 'J Mark Ward' <wardjmark@gmail.com>; 'John Rhodes' <johnbrhodes@yahoo.com>; 'Iris Thornton' <iris@communityandenvironment.net>
Subject: Public comment on remand

Dear Ms. Joseph-Taylor:

Please see the attached letter about setting a date and time for oral public comment during the remand hearing this fall, and the procedure for written public comment, on the Southern Nevada Water Authority's water rights applications 53987 through 53992, inclusive, and 54003 through 54021, inclusive.

Thank you,

Simeon Herskovits
Advocates for Community and Environment
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El Prado, NM 87529
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