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August 4, 2017

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2017 AUG - 7 AM 11:30
STATE ENGINEERS OFFICE

Susan Joseph-Taylor, Esq.
Deputy Administrator
Nevada Division of Water Resources
901 S. Steward St. #2002
Carson City, Nevada 89701

Re: SNWA remand hearing public comment and scheduling issues

Dear Ms. Joseph-Taylor:

On behalf of the Cleveland Ranch, I am responding to the July 27, 2017, letter from the Southern Nevada Water Authority to you. The SNWA letter raises three points: (1) public comment; (2) manner of presentation; and (3) motions in limine.

With respect to the issue of public comment, we do not have any disagreement with the issue and conditions outlined by SNWA.

With respect to the order of presentation, we respectfully part company with SNWA. Trying to group the protestants' presentation on a given topic would be very difficult indeed. We have already negotiated among the protestants an allocation of time and the order in which each protestant would proceed. By doing so, we were able to assure that each protestant would have adequate time to present its case. If we were to follow the SNWA suggestion, I fear we would be looking at an unconstrained free-for-all that loses the discipline and protection of our present arrangement. Moreover, it would complicate the scheduling of witnesses. Under our present arrangement, we can predict with certainty what part of what day each witness is needed. Under the SNWA approach, each protestant will lose that control. For these and other reasons, the Cleveland Ranch is very much against this proposal.

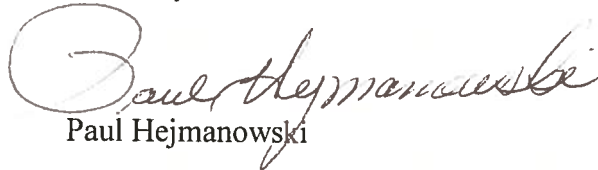
The third SNWA proposal is for a briefing schedule on motions in limine. I do not know whether the State Engineer wants to entertain motions in limine considering the relatively short period of time between the close of the evidentiary hearing and the commencement of the hearing.



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Assuming, however, that motions in limine would be entertained, the SNWA schedule seems to us to be inappropriate. SNWA proposes August 11 as the deadline for filing motions in limine but August 11 is also the deadline for rebuttal evidence, some of which might be fodder for motions in limine. The timing becomes a bit tight. Inasmuch as there is no jury with which to be concerned, the State Engineer can discount irrelevant or inappropriate evidence during his decision-making process. It seems the more efficient approach would be to address evidentiary areas of concern in the post-hearing briefs.

Sincerely,



Paul Hejmanowski

PRH/tlc

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