

October 16, 2017

Susan Joseph-Taylor, Deputy Administrator
Nevada Division of Water Resources
901 South Stewart Street, Suite 2002
Carson City, Nevada 89701

Subject: Comments in the matter of the State Engineer's September 25, 2017 to October 6, 2017 remand hearing to further consider protested Applications 53987, 53988 (Cave Valley), 53989, 53990 (Dry Lake Valley), 53991, 53992 (Delamar Valley), and 54003 through 54021 (Spring Valley) pursuant to District Court Judge Robert Estes' December 10, 2013 decision on the protested applications

Dear Ms. Joseph-Taylor: *Susan,*

The purpose of this letter is to place on paper my comments in the matter of the State Engineer's September 25, 2017 to October 6, 2017 remand hearing to further consider the Southern Nevada Water Authority (SNWA) applications (53987-53992 and 54003-54021) for groundwater from Cave, Dry Lake, Delamar and Spring Valleys pursuant to District Court Judge Robert Estes' December 10, 2013 decision on the applications. I want to thank the State Engineer for providing the public an opportunity to submit written comments on the recently completed remand hearing.

As you know, the subject applications were first filed by the Las Vegas Valley Water District 28 years ago (in October 1989) for the purpose of obtaining groundwater from White Pine and Lincoln Counties to support growth and development in Las Vegas Valley. In 1991 the Southern Nevada Water Authority (SNWA) was created, and SNWA assumed Las Vegas Valley Water District's place as the applicant for the subject applications. SNWA has pursued permitting the applications in order to implement its proposed Groundwater Development Project (Project). Anyone who has followed the disposition of the applications and the Project knows many serious concerns have been identified over the last 28 years regarding the applications and the Project. These concerns include the violations of Nevada water law, environmental impacts and soundness, unsustainable groundwater mining, conflict with senior water rights, impact on rural Nevada's economic future, significant cost of the Project (\$15 billion plus), ability to pay for the Project, Project need, identification of impacts, mitigation of impacts, and viable alternative sources of water.

It is clear the purpose of the remand hearing is for the State Engineer to comply with District Court Judge Robert Estes' December 10, 2013 order that calls for the State Engineer to do the following: "1) The addition of Millard and Juab counties, Utah in the mitigation plan so far as water basins in Utah are affected by pumping of water from Spring Valley Basin, Nevada; 2) A recalculation of water available for appropriation from Spring Valley assuring that the basin will reach equilibrium between discharge and recharge in a reasonable time; 3) Define standards, thresholds or triggers so that

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mitigation of unreasonable effects from pumping of water are neither arbitrary nor capricious in Spring Valley, Cave Valley, Dry Lake Valley and Delamar Valley, and; 4) Recalculate the appropriations from Cave Valley, Dry Lake Valley and Delamar Valley to avoid over appropriations or conflicts with down-gradient, existing water rights.”

Regarding the first order from Judge Estes calling for the addition of Millard and Juab Counties in a mitigation plan so far as water basins in Utah are affected by pumping groundwater in Spring Valley, it appears the Southern Nevada Water Authority had no communication what-so-ever with Millard and Juab Counties in the development of its so-call 3M plan for Spring Valley. I guess one is left with a promise from SNWA that it will do the right thing. I doubt Judge Estes will sign off on this promise, and in the final analysis, it is the State Engineer’s responsibility to comply with the order, not SNWA.

The second order from Judge Estes calls for a recalculation of water available for appropriation from Spring Valley assuring the water basin will reach equilibrium between discharge and recharge in a reasonable time. SNWA showed in the remand hearing that pumping from the points of diversion in its applications will result in significant groundwater mining, and therefore there will not be equilibrium between discharge and recharge in a reasonable time. SNWA admits pumping its groundwater applications will cause long-term groundwater mining and impacts on senior water right holders and the environment. SNWA represents that its “ET Salvage Project” will make everything right, but at best, the “ET Salvage Project” is suspect. I guess one is left again with a promise from SNWA that the second order will be implemented, and all one has to do is believe it will happen. I doubt Judge Estes will sign off on SNWA’s disregard of his second order, and of course, it is the State Engineer’s responsibility to make sure there is compliance with that order.

The third order from Judge Estes calls for defined standards, thresholds or triggers so that mitigation of unreasonable effects from SNWA’s groundwater pumping will be neither arbitrary nor capricious in Spring, Cave, Dry Lake and Delamar Valleys. Anyone who followed the recent remand hearing knows SNWA did not comply with this order. Once again, there is a promise from SNWA that it will do what is required. As you know, SNWA is proposing it be in control of investigations to determine whether its groundwater pumping is the cause of an adverse impact. SNWA has not demonstrated it can effectively mitigate adverse impacts that the proposed groundwater pumping would cause. And, there surely will be adverse impacts of SNWA’s groundwater pumping; that is, all hydrologic studies show the Project’s groundwater pumping will result in significant groundwater drawdowns. SNWA’s 3M plan places an unrealistic and immoral burden on Nevada residents to defend their water rights and/or the environment, at great cost. The bottom line is SNWA presented no evidence at the remand hearing that it complied with Judge Estes’ third order, and it is the State Engineer’s responsibility to make sure there is compliance with that order.

Finally, the fourth order from Judge Estes calls for a recalculation of the proposed appropriations from Cave, Dry Lake, and Delamar Valleys to avoid over appropriations or conflicts with down-gradient, existing water rights. The remand hearing revealed that

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SNWA undercounted the amount of groundwater committed to existing water rights and the environment in the basins in the White River Flow System that are down-gradient from Cave, Dry Lake and Delamar Valleys. In addition, SNWA has not done the modeling or analysis needed to predict where, when, and how drawdown, and therefore impacts, from the Project will take place in the down-gradient water basins. Certainly SNWA has not complied with Judge Estes' fourth order, and it is the State Engineer's responsibility to make sure there is compliance with that order.

To sum up, SNWA has not complied with any of District Court Judge Robert Estes' aforementioned December 10, 2013 remand orders (4), and therefore the State Engineer cannot approve the subject SNWA applications.

I close with the statements made by Patricia Mulroy (former SNWA general manager) and David Donnelly (former SNWA chief engineer) in a February 21, 1994 High Country News article entitled "Las Vegas wheels and deals for Colorado River water." Ms. Mulroy said in the article that "The groundwater importation plan has been proclaimed the singularly most stupid idea anyone's ever had." Dave Donnelly said in the article "Frankly, it doesn't make sense. We don't want to build any more dams, reservoirs, or construction projects. We want to do things that cost less and that are more politically, socially and environmentally acceptable."

Again, thank you for the opportunity to submit written comments on the State Engineer's September 25, 2017 to October 6, 2017 remand hearing to further consider protested SNWA applications for groundwater in Cave, Dry Lake, Delamar and Spring Valleys. If you have any questions, please do not hesitate to contact me.

Sincerely,



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