

October 1, 2010

Jason King, State Engineer

Division of Water Resources

901 Stewart St., Ste. 2002

Carson City, NV 89701

Dear Mr. King,

Thank you for the opportunity to provide you with feedback on the website announcement of August 19 regarding the hearing schedule for SNWA applications and the previous Interpretation and informational statements. I have a number of comments and suggestions that I hope you will consider. These comments are my own and those of the Citizens Education Project, and do not necessarily represent the opinions of the Great Basin Water Network, Utah Audubon Council, or Great Salt Lake Audubon Council, for whom I consult.

I have concerns about your interpretation of the Supreme Court order in *Great Basin Water Network v. Taylor* which I believe ought to be formally addressed and resolved before proceeding to noticing applications and scheduling hearings.

First, it appears that you have chosen not to re-notice applications for valleys other than Spring, Cave, Dry Lake, and Delamar (and presumably Snake at some later date) based upon a narrow interpretation that the scope of the ruling is restricted to those five basins. I believe a proper reading of the Supreme Court ruling would find that it applies to all basins where SNWA filed well applications in 1989. While we can disagree about that, I believe it is incumbent upon you to make clear in a more formal determination that you either have no intention to re-notice and hold hearings on the applications in previously adjudicated valleys (e.g. Hidden, Three Lakes, Tikaboo, Coyote Springs) or when you intend to schedule those, as well as clarifying your intentions regarding the Snake Valley applications. This declaration of your intent should precede finalizing your proposed partial schedule of hearings.

Second, I strenuously object to your seemingly arbitrary decision to not apply the 2010 protests of SNWA's 2010 applications to the original 1989 applications, which are duplicated by those 2010 applications. SNWA has freely admitted that the 2010 applications were nothing but reiterations of the 1989 applications filed in order to protect those original applications. In the absence of any determination from your office on the status of those applications since they were filed in January, and the lack of any guidance to the public on how to respond to the new applications, individuals, organizations, tribes, and government entities had no choice but to file protests within the assumed prescribed protest period or risk forfeiting their future right to protest. For you now to nullify those protests is not only confounding and patently unfair, but contradicts the spirit of the Supreme Court ruling that protestants are entitled to due process and access to justice.

The fair thing to do would be to allow those protests of the January, 2010 applications to apply to the re-noticing of those same applications whenever that is done for each basin. Consolidating SNWA's new 2010 reiterations of its 1989 applications and rolling these protests over into a new protest period should not be administratively difficult, and should actually save your office considerable time, money and effort. Should you choose not to do this, then you should refund all protestants all fees paid to file their protests. To claim that to do this would overly burdensome and expensive is to disrespect the cost and inconvenience that your process has put upon you own citizens.

Before scheduling any further actions on any SNWA applications associated with its groundwater development project, I suggest you make a final, formal determination on what you intend to do with the 2010 applications and protests. And that, regardless of what your decisions may be, that you notify in writing all protestants of all SNWA 1989 and 2010 applications of those decisions and how you intend to proceed from there.

Third, you should not finalize the schedule for hearings prior to re-noticing the applications and allowing the new protest period to proceed. This is the normal procedure, which allows time and opportunity for new protestants to participate in evidentiary and hearing scheduling matters.

Fourth, while an inventory of water resources is appropriate and worthwhile, you should not set arbitrary dates for hearings without some assurance that the relevant inventories will be completed in a timely manner so as to be meaningfully addressed in the hearing process.

Respectfully,

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