



Water Gab

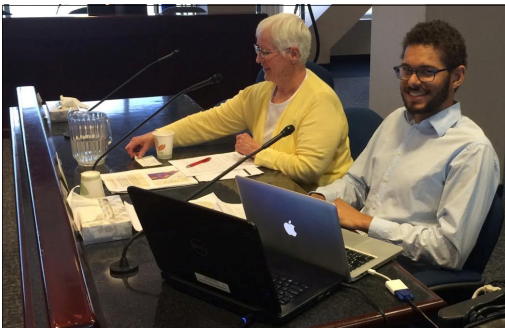
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NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

GBWN Recommends Prudence for Water Rights Decisions Nevada Water Law Should Continue to Protect Senior Water Rights

In February, the Nevada Legislative Commission's Subcommittee to Study Water convened. Its goal is to review the state's water law, learn the current problems in managing the resource, and ultimately propose legislation for consideration in 2017. The committee's third meeting was held in Las Vegas on April 22nd, and GBWN was invited to present its views and recommendations.



Susan Lynn and Howard Watts of GBWN wait to testify before the Legislature's Subcommittee on Water in Las Vegas. During GBWN's testimony, the online videoconference link was lost.

Before it was our turn, we heard from SNWA, Truckee Meadows Water Authority, and Virgin Valley Water District. All of these entities, despite the droughts and declines in their water supplies, claimed that everything was A-OK and that they can continue to grow as much as they want for the foreseeable future. Of course, SNWA does project needing to drain rural Nevada sometime around 2035 to keep the growth machine going. Only the Central Nevada Regional Water Authority raised alarm about the state not being prepared for the effects of drought and climate change on water allocations.

We did our part, stressing the need to approach water law with prudence, rather than the goal of maximizing the use of every last drop.

GBWN contends that if past State Engineers followed existing legislative intent, we wouldn't have more than 50 basins that are severely over-allocated. Perhaps it's time to define perennial yield and beneficial use in ways that will more explicitly prevent these problems, and to come up with a controlled growth policy. We faced

(Legislature Study continued on page 2)

Legal Update: Federal Case and State Remand in Play Nevada Legislature to Consider Increased "Flexibility" for State Engineer

In recent months a number of relatively low key legal developments have taken place. These developments represent the continuation of certain elements of our longstanding multifaceted legal campaign to prevent the Southern Nevada Water Authority (SNWA) from sucking away the lifeblood of rural eastern Nevada's and western Utah's environment and local communities. Our work in federal court and in Nevada state courts and administrative proceedings on SNWA's water rights applications for the Pipeline Project continues to move forward, and we continue to be in a strong position versus the Pipeline in the courts. In response to our victories, and to rulings in another state case that deals with an issue similar to the deficiencies of SNWA's purported monitoring and mitigation plan for their Pipeline, a concerted political push is being mounted by the Nevada State Engineer, SNWA, and their allies, to gut Nevada water law of its longstanding requirement that new water development be sustainable and not conflict with senior water rights.

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Water Gab

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Briefing Continues in our Federal Case

Our lawsuit against the United States Bureau of Land Management and Department of Interior (the federal agencies) progresses slowly but steadily through the process of briefing on the merits. We and our allies filed our motions and briefs for summary judgment on October 30, 2015. In late February and early March the federal agencies and SNWA, respectively, filed their answering briefs and cross-motions for summary judgment in their favor. We are preparing our reply brief, due on May 18. The final round of this briefing on the merits will come this July when the federal agencies file their reply briefs.

Our briefing on the merits represents the heart of this case, which centers on the court's review of the administrative record to determine whether the federal agencies complied with federal law. While the briefs from the BLM and DOI, on the one hand, and SNWA, on the other, do not contain any real surprises, they are lengthy, and there is a lot for us to work through in our reply briefs in this somewhat complex case.

When the briefing is finished, Judge Gordon will set a date for oral argument in the case, which will take place in his courtroom in the federal courthouse in Las Vegas. We cannot predict when the hearing will take place, but our best guess is sometime from the end of summer to early winter. Once the court has heard the parties' oral arguments, it likely will take the case under advisement until it issues a written decision, likely during the first part of 2017.

We remain convinced that our positions in the federal case are correct on both the law and the facts concerning SNWA's Pipeline Project. So we look forward to our day in court and believe we have a fairly good chance of prevailing in federal court, as we have in state court.

Remand from the Nevada State Courts to the State Engineer

It has been several months since the Nevada Supreme Court handed us a significant victory by denying the special petitions for writs of mandamus that SNWA and the State Engineer had filed as a last ditch effort to have senior district judge Estes's ruling in our favor reversed.

(Legislature Study continued from page 1)

some tough questions and hostile comments, and by some odd "accident" the online videoconferencing failed while CNRWA and GBWN were presenting.

One thing to keep an eye out for is the Nevada State Engineer's call for "flexibility" in dealing with over allocation and conflicts between users. We have never been opposed to this concept, but we feel flexible interpretations have caused some of the existing problems and are concerned that too much more would create a loophole where junior water rights holders could eat away at senior water rights. The committee looks to make recommendations in August. We'll keep you updated and may ask for you to submit comments as the process moves along.

GBWN comments to Legislative Subcommittee:

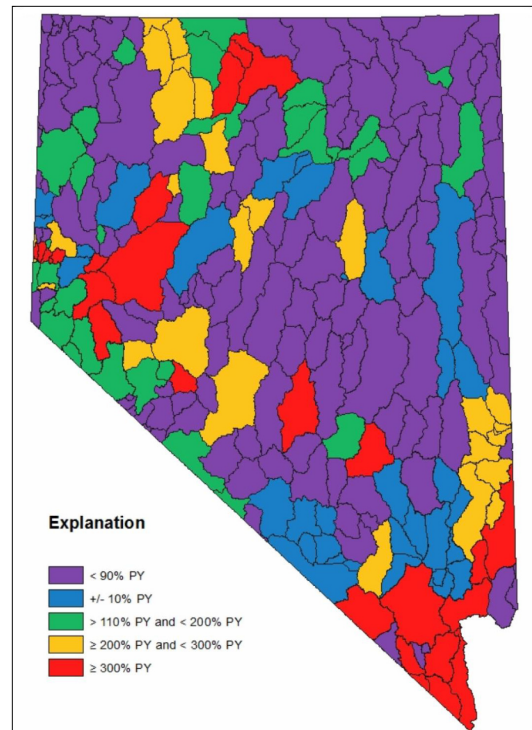
<http://greatbasinwaternetnetwork.org/gbwn-testimony2016.htm>

—Howard Watts III, GBWN Communications Specialist

The practical effect of the Supreme Court's rejection of those petitions, along with the appeals that were filed by SNWA and the State Engineer earlier, was to remand the case back to the State Engineer with the instruction to follow the order issued by Judge Estes and remedy the deficiencies he found or reject SNWA's applications if those deficiencies could not be remedied. But during the following months a small final piece of the case lingered in the Supreme Court, a narrow petition by the Mormon Church as owner of the Cleveland Ranch in Spring Valley that we chose not to join in. In late January of this year the Court finally denied the Church's petition.

In early March lawyers for SNWA and the Protestants, including GBWN, started communicating about scheduling a preliminary procedural pre-hearing conference, or status conference, to determine how and when the case should be handled on remand. Nothing has been scheduled as of the date of this writing. So, it is impossible

(Legal Update continued on page 3)



Nevada State Engineer Viewgraph "Ratio of Committed Water Resources to Perennial Yield by Basin" presented to Nevada Legislature's Subcommittee on Water, 02-08-16. Red, yellow and green basins are from 110+% to over 300% of perennial yield.

to say at this time if, when or how the state proceedings on SNWA's applications for the Pipeline Project will move forward. As we noted previously, the State Engineer and SNWA are on record having asserted unambiguously and more than once that they cannot, in fact, produce evidence to demonstrate that any significant amount of water actually is available on a sustainable basis to supply the project without devastating both the environment and the senior existing water rights throughout a vast area.

Changing Nevada's Water Law Rather than Complying With It

As we noted in the last Water Gab issue, along with the rulings in our own cases, the Nevada Supreme Court's ruling in the *Kobeh Valley Ranch* case to the west of SNWA's pipeline project confirmed that Nevada's long-standing water law does not allow the State Engineer or water right applicants to substitute vague promises of monitoring and mitigation for an analysis and finding that the new proposed water use will not conflict with existing water rights. These rulings are consistent with sound policy reflected in other courts' rulings and other states' laws. In the face of adverse court rulings, the Nevada State Engineer and SNWA are advocating for changes in Nevada water law to provide "flexibility" and protect NSE decisions from effective legal challenges, and give the NSE carte blanche to approve water rights applications without any assurance that they will not, in fact, destroy existing senior water rights.

This proposed revision of the water law represents a grave danger to Nevada's long term economic, social and environmental wellbeing. It would exacerbate the problems the State already faces that are the result of unsustainable water resource management decisions that the State Engineer has made because of an unsound institutional bias against long-term considerations. (See map, page 2). Freeing him of any legal duty to safeguard the State's long-term interests would deprive the courts of the ability to prevent irrational, destructive decisions and would virtually ensure that Nevada ends up exhausting its finite groundwater resources by engaging in unsustainable groundwater mining. This intended change to the State's wa-



Above: Simeon Herskovits at a Great Basin Water Network meeting. In April, Herskovits and Abby Johnson of GBWN appeared together at the White Pine County Water Advisory and Commission Meetings to discuss the lawsuits and recognize the cooperative relationship between White Pine County and GBWN for legal services.

ter law is a grave threat to Nevada's future, and responsible citizens must do everything possible to stop the law from being gutted in this way. As the 2017 Legislative session approaches we will keep you informed of further developments and ask you to spread the word to prevent such a disastrous course of action.

—Simeon Herskovits,
Advocates for Community and Environment

Southern Nevada Update: Water Rates and Water Tweets

Howard Watts of Great Basin Water Network was invited to participate on the Las Vegas Valley Water District's Citizens Advisory Committee on Service Rules and Rates. LVVWD is no longer directly tied to the Water Grab project, but they have control over the various water rates and fees paid by about 70% of Southern Nevada residents. SNWA also has "wholesale" rates, and while those went up a couple of years back to pay for the third straw, LVVWD rates and rules have basically stayed flat since 2007. GBWN is the "environmental/conservation" voice on a committee that includes commercial developers, residential developers, resorts, chambers of commerce, other business owners, and an economist. Some of those business owners represent ratepayers generally. Every rate and fee will be on the table, as well as some interesting potential loopholes or inconsistencies that have developed over time. GBWN will push for strong conservation pricing targeting the most wasteful uses in the valley. The main debate on rates will heat up in June, with recommendations set to come out around September. These recommendations can be adopted or not by the LVVWD board, also known as the Clark County Commission.

We'll begin providing live coverage of the meetings on Twitter, so if you haven't signed up or followed us, now is a good time! We'll also provide information on other events as they happen. And for the best news and commentary on water issues in the Great Basin and beyond, make sure you like us on Facebook. For those already supporting us on social media, thank you and invite a friend! We now have over 400 likes on Facebook and 275 followers on Twitter, not too shabby at all! You can find our social media links on page 7 of the newsletter.

—Howard Watts III, *GBWN Communications Specialist*

Water Gab

Is Desalination a Viable Alternative to the SNWA Pipeline?

Several dozen Nevadans attended a conference in Las Vegas on April 23 at the College of Southern Nevada to hear presentations and discussions on the widespread use of desalination all over the world, the diminishing costs of desalting ocean water, and desalting benefits. Sponsored by the College and the Dallas-based Integral Scientific Institute, the interested audience was informed of an alternative in lieu of the groundwater pumping and pipeline from rural Nevada for growth in Southern Nevada - construction of a desalination plant on the California coast powered by renewable energy from a floating solar PV facility at Lake Mead.

Speaker John Shields, an agricultural engineer with the Bureau of Reclamation speaking on his own behalf, opened the conference by setting the stage on Southern Nevada's dependence on the Colorado River with a presentation on amounts of water stored in Colorado River reservoirs and the plumbing system to distribute it among the 4 upper river states and the 3 lower river states, according to the 1922 Compact and subsequent laws. Despite the extended drought in the southwest, Shields believes that the reservoir storage system has worked well, although the Lake Mead level at which an official shortage is declared, which triggers reductions in allotments to the states, is only 3 feet away from the current declining lake level. Improving resilience of water supplies and responding to worsening drought depends on continuing collaboration by the 7 states. Questions about the amount of river water losses due to reservoir evaporation and leakages as well as unresolved allocations to Indian tribes initiated thoughtful discussions.

CSN professor Mark Bird and adjunct professor Genevieve Minter provided information on both declining costs and increasing benefits of desalination reflected perhaps in the over 18,000 desalt plants in 150 countries all over the world. The presentation sparked excellent discussions of the values of increasing water supplies v. decreasing water demand through water conservation and efficiencies and through smart urban growth instead of the current urban sprawl growth pattern in Southern Nevada.



A roundtable discussion among participants during the lunch break continued these discussions as well as the deficiencies of the current SNWA

proposal which pits urban Nevadans against rural Nevadans, is extremely expensive (\$15.7B and increasing costs), and would cause significant harms to the environment and the rural Nevada and tribal economies.

Tom Manaugh and Said Majdi, co-founders of the Integral Scientific Institute, explained how using a systems approach by these inventors, environmentalists and through Said's engineering expertise, resulted in their MIT award-winning proposal to meet future Southern Nevada water needs

through ocean water desalination and renewable solar energy in lieu of the SNWA pipeline project. The Institute seeks to develop environmentally sustainable and practical solutions to problems in the water-food-energy-transportation-climate nexus. Using new thinking for humans to survive in the future, the Institute focuses its solutions on underused resources: for Nevada, the solution would utilize inexhaustible ocean water, unlimited solar energy and the underused energy distribution infrastructure at Hoover Dam, while preserving limited rural



Rick Spilsbury of GBWN presented his ideas for desalination innovation.

groundwater for community and environmental needs.

Great Basin Water Network board member, Rick Spilsbury, concluded the conference with an historical overview of water issues in Southern and rural Nevada and suggestions for confronting the complicated political and technical options faced by the communities dependent upon the Colorado River and Nevada's limited water resources.

Conference presentations are posted on the GBWN website:

http://greatbasinwaternet.org/desal_conference-2016.htm

http://greatbasinwaternet.org/desal_conference-2016.htm

—Rose Strickland, GBWN Board



Snake Valley Festival

Small Town Parade

*Snake Valley Slither
5K - 10 K*

*Silent
Auctions!
...
Yard Sale!
...
Book Sale!
...
50:25:25 Raffle!
...
More Booths!*



*Ice Cream
Social
...
Community
Breakfast
& Lunch
...
LUAU
...
BBQ Dinner*

Beer Tasting Party!

MASSIVE WATER FIGHT

Pageant for All Ages

Music! Music! Music!

**June 17-19, 2016
Baker, Nevada**

Support Snake Valley in the legal battle to keep its own water!

<http://ProtectSnakeValley.org/festival.html>

CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂ CLIP AND SAVE ✂



Snake Valley Festival

FRIDAY and ALL DAY SATURDAY

50:25:25 RAFFLE TICKETS - Buy at Baker Hall & Border Inn.
25% of the Pot goes to TWO LUCKY WINNERS.
MORE TICKETS SOLD MEANS A BIGGER POT!

*** Drawing Saturday night before the **PAGEANT** ***

ROAD ART CONTEST with \$25 Prize

View Baker's famous **ROAD ART** along Hwy 488 and Hwy 487
Vote for your favorite in the **ROAD ART CONTEST**
at Baker Hall or the Border Inn before 6 PM Saturday.
Winner will be announced Saturday before the **PAGEANT**

Friday, June 17, 2016

2-7 PM BOOTHS near Baker Hall and on Baker Ave

5-7 PM Ice Cream Social on Baker Hall Lawn

with Music Entertainment

6-9 PM Beer Tasting Party at Whispering Elms

All beers made with Great Basin Water!

7-9 PM SILENT AUCTION with "Premium" items

at Whispering Elms

Saturday, June 18, 2016

7:30-9:30 AM Breakfast at Snake Valley Community Center

8 AM-12 NOON Community Yard Sale on Saval Ave

8 AM-3 PM BOOTHS near Baker Hall and on Baker Ave

8 AM-3 PM BOOK SALE near Baker Hall

10 AM Small Town Parade

11 AM-1 PM Solar Telescope on the Playground

11 AM-2 PM Kids Games on Baker Hall Lawn

11 AM-2 PM Lunch & Food Booths in and near

Snake Valley Community Center

11 AM-2:30 PM SILENT AUCTION in Baker Hall

11 AM-3 PM Bake Sale/Pie Sale in Baker Hall

1 PM-3 PM Free Entertainment on Baker Hall Lawn

3 PM Massive Water Fight on the Playground

4 PM- Luau at Whispering Elms: Dress in Hawaiian Attire

5:30 PM BBQ Dinner at the Border Inn

7:00 PM ROAD ART Winners announced at the Border Inn

7:00 PM 50:25:25 RAFFLE Winners announced
at the Border Inn

7:30-8:30 PM PAGEANT with Talent Show at the Border Inn

Crown Mr. & Ms. Snake Valley - 4 age groups

*** under 10, 10-20, 21-60, 60+ ***

8:30 PM Astronomy Program - Great Basin National Park

at the Lehman Caves Visitor Center

Sunday, June 19, 2016

7 AM Snake Valley Slither 5K/10K including a Kids' Race
start and end at Baker Gas & RV on Baker Ave

*** ALL TIMES PACIFIC DAYLIGHT TIME ***

Utah Legislature OKs Tax to Fund Lake Powell Pipeline

State Water Plan Still in Limbo

Just when you think Utah’s Legislature can’t get any worse when it comes to conservation and water policy, of course, it does. While legislators and the Governor patted themselves on the back for another job well done this past session, most veteran observers deemed their performance on the conservation front one of the worst and most frustrating in memory.

Topping the list of poor public policies passed was SB 80 – Infrastructure Amendments (Sen. Adams), which diverts portions of a 1/16 cent sales tax earmark from roads to the Lake Powell pipeline and Bear River diversion projects. Once fully phased in, this statewide sales tax subsidy will deposit over \$42 million/year into a restricted, revolving loan account for those two unnecessary local projects.

The four largest water authorities in the state hired three dozen lobbyists to overcome our opposition to the bill, which nearly defeated it.

Bills we supported that did pass: HB 305 (Rep. Briscoe) Water Rights and Resources Amendments, authorizes the Divisions of Water Rights and Water Resources to collect and verify the accuracy of water use data reported by public municipal water suppliers. The new law is intended to respond to and fix the systemic problems of inaccurate, inconsistent and unreported water use data that skews water use and supply policy decisions, as the 2015 Legislative Auditor’s Office report found. A similar bill, SB 251 – Water Infrastructure Funding Amendments (Sen. Adams), requires the Division of Water Resources, in conjunction with the Water Development Commission, to establish new water conservation targets and criteria for better water data and reporting, and to set appropriate financing and repayment terms for the funds diverted to water development by SB 80. SB 28 (Sen. Jenkins) Water

System Conservation Pricing requires retail water providers to have tiered rate structures, charging higher rates for larger users. Most water districts already have tiered rates, so the impact may be minimal, but it may help put public and political

WE REMAIN IN THE DARK ABOUT THE LONG-AWAITED GOVERNOR’S WATER PLAN.

pressure on districts to make their rate structure more steeply progressive to achieve better conservation efforts by municipal water users.

A good bill that we supported, HB 82 Property Taxing Authority for Public Water (Rep. McKay), which would have restricted the amount of property tax that a water district can levy on water users, did not pass. Using the property tax to subsidize water rates masks the market rate of water, thus discouraging water conservation, and disproportionately impacts renters and small businesses.

While the Governor’s budget proposed support for education over water diversion, it went nowhere along with conservation education. We remain in the dark about the long-awaited Governor’s Water Plan. We’ll keep you posted, loyal readers.

—Steve Erickson, GBWN Board

Fed State Land Grab Targets West Desert

Senate Bill 2382 (Sen. Orrin Hatch) would swap BLM lands in Utah’s West Desert to the U.S. Air Force Utah Test and Training Range and to the State Trust Lands (SITLA) for mining development. This land grab by the State and the UTRR is opposed by many folks in Snake Valley and by environmental groups who oppose the inclusion of a provision that gives counties ownership rights to the roads they claim under RS 2477. Snake Valley residents are concerned about “temporary” road closures and restricted access to affected grazing and public lands, and question the need for and true intent of this massive land withdrawal since the Air Force already has nearly unfettered use of the airspace above these lands. There are also concerns that some of the property to be exchanged would go to the U.S. Army as additional buffer for expanded outdoor testing of chemical, biological and radiological material at the Dugway Proving Ground. The House companion bill, H.R. 4579 (Rep. Stewart), was heard in a House Natural Resources Subcommittee in February. Despite testimony in opposition to non-binding resolutions supporting these two bills, the Utah Legislature unanimously endorsed them.

—Steve Erickson, GBWN Board

Water Gab is a periodic newsletter of **Great Basin Water Network** to keep in touch with friends and neighbors about what’s happening with the water grab fight. To learn more, check our updated website for news updates:

www.greatbasinwaternet.org.



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@GreatBasinWater





Water Gab

**GREAT BASIN
WATER NETWORK**

NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

P.O. Box 75
Baker, NV 89311
775/881-8304
info4gbwn@gmail.com
greatbasinwaternetwork.org

*Inside...
Snake Valley Festival
Schedule*



YOUR
CONTRIBUTION
TO GBWN IS
MORE THAN A
DROP IN THE
BUCKET.

Snake Valley Water Festival Is Buckets of Fun June 17-19, 2016 — Events Support Water Fight

The eighth annual Snake Valley Festival in Baker, Nev., promises to be buckets of fun for families and friends of all ages. Favorite events include the water-themed **parade** — so short it goes around twice — music, **book** booth, **ice cream** social, **BBQ**, community **yard sale** and silent **auction**. The crowd pleasing **beer tasting** is back with new and familiar brews—made from Great Basin water. Sunday’s **5K Slither** is slated: register at active.com. Look for **pies** and crafts. Don’t miss Saturday’s **community breakfast**. It’s all happening at the Festival. **A program is inside this newsletter!** The festival proceeds go to fighting the water grab. See you at the Festival, Father’s Day Weekend, **June 17-19, 2016**.



Mail your tax deductible donation to:
Great Basin Water Network, P.O. Box 75, Baker, NV 89311 or
donate via the PayPal button on our website:
greatbasinwaternetwork.org.
THANK YOU!
Mighty Fine Print: Great Basin Water Network is an IRS approved tax exempt 501 (c) (3) organization. Donations may be deductible. Please contact your financial advisor. This statement is required by the State of Nevada.

Water Gab editor: Abby Johnson. Contributors: Steve Erickson, Simeon Herskovits, Lynne Hoffman, Abby Johnson, Susan Lynn, Rose Strickland, Howard Watts III. Photo credits: Gretchen Baker, Dennis Ghiglieri.

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