

# Judge orders more studies for water grab

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It is not too often a judge's ruling is greeted by all sides as a victory, but that is what happened after federal Judge Andrew Gordon issued a 39-page opinion in the fight over the Clark County water agency's bid to tap groundwater beneath White Pine, Lincoln and Nye counties.

Judge Gordon said the Bureau of Land Management (BLM) could grant right-of-way for a 300-mile network of pipelines across public land, but first it has to address plans to mitigate the potential loss of wildlife habitat due to a draw down of the water table.

The suit was brought by White Pine County, the Great Basin Water Network (GBWN), several Indian tribes and environmental groups against the Southern Nevada Water Authority (SNWA) and the BLM.

The water agency issued a statement saying officials were pleased the judge rejected "the vast majority of the plaintiffs' claims."

A spokesman for GBWN called the ruling a victory because the judge is requiring a revision of the Environmental Impact Statement to add details on how damage to wetlands and wildlife habitat will be monitored and addressed.

"We now have multiple victories in state and federal court showing that this process hasn't followed the requirements of science or law," said GBWN's Howard Watts. "Today SNWA has none of the water rights they've applied for with the state, and no permission to build the pipeline. After passing the buck at both the state and federal

levels, SNWA and BLM can no longer kick the can down the road on developing specific plans to identify and prevent the severe environmental damage this project would produce.”

Gary Perea, a White Pine County commissioner, said, “SNWA has been told again they can’t prove they can build this pipeline without hurting the environment and the people that live in these areas.”

Marc Fink, an attorney for the Center for Biological Diversity, another plaintiff in the case, said, “The federal government has to go back to the drawing board and try to come up with some plan to compensate for the massive environmental damage that would be caused by draining these ancient aquifers.”

Considering that federal studies of the interconnected aquifers in the various valleys involved are already at equilibrium — water that is already being drawn from the aquifers is being replaced gallon for gallon annually with no leeway for additional withdrawal — mitigation might not be feasible.

Judge Gordon noted the importance of the case to both sides, “I am sensitive to the strong feelings and weighty interests at stake in this contest over Nevada’s water — after all, in the West, ‘whisky’s for drinkin’ and water’s for fightin’ over.’ There can be no question that drawing this much water from these desert aquifers will harm the ecosystem and impact cultural sites that are important to our citizens. On the other hand, southern Nevada faces an intractable water shortage.”

The very same issue of how to monitor and mitigate the draw down of the aquifers already is going to be addressed in hearings by the state engineer starting Sept. 25. The state Supreme Court ordered the engineer’s office to further address this issue before finalizing the approval of 84,000 acre-feet a year for SNWA. The outcome of those hearing could obviate the federal court ruling if the engineer finds there is no way to mitigate.

Simeon Herskovits, an attorney representing many of the plaintiffs in both state and federal courts, said, “We expect this fall’s hearing will more fully reveal the dangers posed by SNWA’s project to senior water rights and the environment in the affected region, as well as the flaws in their analysis of these problems to date.”

Time and money may be on the side of the opponents of the water grab.

It is estimated the groundwater project will take 40 years to complete at a cost of \$15 billion — a cost that would require the tripling of water rates in Clark County. According to an SNWA resource plan the water is not needed until 2035.

Meanwhile, the state has cut a deal with Mexico that nets 54,500 acre-feet of additional Colorado River water for a mere \$7.5 million.

Even though the SNWA claims it needs more water, it continues to issue “will-serve” letters to new residential and commercial developments.

Surely Clark County can find cheaper and less damaging ways to slake its thirst. — TM