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# SNWA may propose changes to state water law

JUNE 30, 2016 BY [DAVE MAXWELL](#)

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A meeting to present some of the current findings and results regarding the continued efforts of Southern Nevada Water Authority to build a pipeline in rural Nevada was held in Alamo last week.

Simeon Herskovits, a New Mexico-based attorney with Advocates for Community and Environment, was on hand along with colleague Iris Thornton. They represent the interests of the Alamo Sewer and Water GID and a



**Dave Maxwell – New Mexico attorney Simeon Herskovits, representing groups opposing the proposed SNWA water pipeline, speaks to a group**

number of other irrigation companies or districts, county and local governments and individual owners fighting against the groundwater development being proposed by SNWA.

**at the Alamo Sewer and Water office last week.**

He said his firm “handles cases to the protection of the environment and rural communities and their way of life and what they are dependent on.”

Herskovits said what SNWA is proposing to do now is change the Nevada water law in order to get back their water rights they lost in 2013.

As reported in the Las Vegas Review-Journal, in February 2013, the Nevada Supreme Court upheld a ruling by District Court Judge Robert Estes “that effectively stripped SNWA’s water rights for the controversial pipeline...”

Estes ruled that State Water Engineer Jason King failed, as required by Nevada water law, to adequately support his decision in 2011 to grant SNWA applications to sink wells in four rural valleys in the state, namely Spring, Cave, Dry Lake and Delamar valleys, to avoid draining those basins and causing conflicts with other water rights holders there and elsewhere. Estes also said detailed monitoring and mitigation programs had not been sufficiently developed to continue allowing the water rights to the authority.

Herskovits told those gathered at the Alamo Sewer and Water office that the pipeline project should be cancelled because “they cannot develop the project in a way that is demonstratively sustainable and viable in terms of not eradicating all other existing water rights in this area, or destroying the environment or destroying the undermining viability of the communities, Alamo included.”

Since 1989, the Review-Journal reported, Las Vegas water officials have been pursuing plans “to import groundwater from as far north as Great Basin National Park to fuel growth and provide a backup supply for a community that gets 90 percent of its drinking water from the overtaxed, drought stricken Colorado River.” That would involve building a pipeline covering over 300 miles, now estimated to

cost some \$15 billion, with construction taking up to 15 years to complete, though water could be delivered from the closest basins to Las Vegas in possibly five years.

However, Judge Estes ruled that SNWA failed to backup its claims with accurate scientific evidence that water really is there in the amounts they claim it to be. He stated, “that the amount of water requested by SNWA would prevent just the White Pine basin alone from refilling itself even after 200 years,” which he said would be “unfair to following generations of Nevadans and is not in the public interest.”

Herskovits said overall the pipeline project “is not sound, because SNWA just cannot scientifically prove the amount of water it claims exists in those basins, really does exist on a sustainable basis in the White River and Great Basin flow systems, or ever will exist. There just are not any vast new water sources way down deep that anybody has yet been able to detect.”

If groundwater were to be taken from the basins, Herskovits said, “in worst case scenarios, the water tables will go down, people’s wells will go dry, springs and wetlands will be eliminated and eventually you won’t be able to even drill deep enough to get water. It likely wouldn’t be able to return to a healthy state for up to 2,000 years.”

He said SNWA has been trying for over 25 years to show that all the water they claim is actually there on a sustainable basis, but have scientifically failed to do so, or to develop a plan for managing the whole project effectively.

He said, “If there’s no water rights for this project, there will never be a project, everybody can agree on that.”

Nevada water law does not allow for a new water appropriation when it might conflict with existing water rights, so Herskovits said SNWA has come up with a new tactic. The tactic is a proposal to change existing water laws.

“What they would do,” he said, “would be to take away the protection from conflicts with existing water rights, or senior water rights, as long as the state engineer says

that sometime there will be monitoring and mitigation...You would not have to prove anything now, just make promises to take care of things sometime in the future, if needed.”

If such a law were passed, he said. “That would change a basic requirement in the law that is generally recognized, and you would not have to present any fundamental, concrete information to prove that you would be harming the environment, just a simple promise not to be harmful would be good enough.”

He said he expects the new proposal will be strongly supported by some Las Vegas legislators, maybe not so much by others, in the 2017 Nevada Legislative session. “It is clearly designed to give Carte blanche to eliminate the obligation for a water rights appropriator, be it SNWA or someone else, to prove conclusively that the water is actually there on a sustainable basis, without destroying those who already have long established senior water rights.”

Herskovits added, “It’s an important issue and would be an unsound change to the core values of Nevada water law. It’s also a danger to all agricultural water rights holders. It might take away the main protection those people have had for the last 150 years. There would be no safeguards, no standards anymore.”

He said state senator Pete Goicoechea is currently chairing a commission to hear public testimony on the proposal.

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