

Water Gab

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NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

NEVADA STATE ENGINEER SAYS “NO” TO SNWA APPS But Approves 3M Plans and Intends to Appeal His Own Ruling

On August 17, 2018, the State Engineer issued the long-anticipated ruling and denied all of SNWA’s pipeline applications in Spring, Cave, Dry Lake, and Delamar (“SCDD”) Valleys. He found that SNWA has not provided evidence that there is sufficient water available at the applications’ points of diversion, or that SNWA’s proposed pumping won’t cause impermissible conflicts with senior water rights or harm to the environment. This is consistent with the arguments made by GBWN and our allies during last fall’s remand hearing on these applications, and with the district court’s instructions and Nevada law. It is also yet another

decided legal victory for GBWN and our allies in the fight against SNWA’s pipeline, and it means that SNWA faces an even tougher fight against the law on top of having no water rights to serve its project.

The ruling, however, was a complicated one. In the course of denying SNWA’s water rights applications, the State Engineer still approved SNWA’s clearly deficient monitoring, management, and mitigation plans, which he held could be implemented at some point in the future if the rest of the ruling is reversed and SNWA is able to obtain water rights for its project. The State Engineer also indicated an intent to appeal his own Ruling on the ground that he disagrees with the courts’ interpretation of Nevada water law and believes that the law should be interpreted



It was a banner year for the 10th Snake Valley Water Festival parade on the Saturday of Labor Day weekend. For more Festival pix, see page 7. The Festival is a community event to raise money for GBWN to continue the water fight.

to allow him to grant SNWA’s applications.

(Ruling continued on page 2)

WATER PROTECTORS SACRED RUN TO BEGIN OCTOBER 1

Indigenous people throughout the Great Basin have a deep respect for water that holds a humble consciousness of protecting this source of life. That is why the Progressive Leadership Alliance of Nevada Action Fund (PLAN Action), along with a diverse committee of members throughout the state, have organized an indigenous led Water Protectors Sacred Run.

Over the past few decades, PLAN Action has been working with the Great Basin Water Network to protect water in the state of Nevada. Our biggest collective target: the Southern Nevada Water Grab, the plan to pump and pipe water from the Great Basin to Las Vegas that has been in the works since 1989.

Both PLAN and GBWN understand that this project would create wealth for developers and corporations at the expense of rural and indigenous communities. Both organizations have dedicated themselves to having these impacted communities lead the fight against

(Water Run continued on page 2)

Inside This Issue

Nevada State Engineer Jason King to Retire ...3

Spring Valley Refuge for Pahrump Poolfish ...4

Water for Coyote Springs Development? ...5

New Owners’ Successor Rights to Continue Protests ...6

Snake Valley Water Festival in Photos....7

Water Gab

(Ruling continued from page 1)

In the 2017 remand hearing on the SCDD applications, the State Engineer was required to recalculate



Simeon Herskovits, attorney with Advocates for Community and Environment in the 2015 parade.

how much, if any, water is sustainably available from each of the four targeted valleys without causing impermissible impacts or conflicts, and to define concrete, quantified standards, thresholds, or triggers for mitigation of impacts prior to granting any water rights to SNWA for the pipeline project.

During the hearing process, GBWN and our allies advocated for the denial of SNWA's applications by the State Engineer because, despite ex-

PLICIT direction to do so by the district Court, SNWA had failed to demonstrate (1) what if any amount of water is available for appropriation in the subject valleys; (2) that its applications would not conflict with existing rights; (3) that its applications would be consistent with the public interest; or (4) that its applications would be environmentally sound with relation to the basins of origin.

Because SNWA chose not to even address these deficiencies in its previous evidence, let alone present any new evidence that would cure these deficiencies, and because the district court explicitly required these deficiencies be remedied, we think it is beyond reasonable dispute that the State Engineer correctly denied SNWA's applications consistent with Nevada law and

the district court's remand decision.

As we noted in previous Water Gabs, the State Engineer's ruling will be appealed to District Court and eventually to the Nevada Supreme Court, which likely will be called on to make the ultimate decision on SNWA's water rights applications for the pipeline project. The deadline for filing an appeal (called a petition for judicial review) of the State Engineer's Ruling 6446 is September 17, 2018. The State Engineer stated that he intends to appeal his own ruling (yes, you read that right), and it seems likely that SNWA also will appeal seeking to reverse the State Engineer's denial of its water rights applications.

GBWN and our allies currently are discussing how to proceed to ensure that the State Engineer's approval of SNWA's monitoring and mitigation plans and his misstatements of law with regard to water availability do not stand and further to ensure that the district court's and Nevada Supreme Court's previous, consistent interpretations of law are upheld. We believe that the law plainly and correctly required the State Engineer to deny SNWA's applications, and that we are in a strong position to defend the State Engineer's denial of SNWA's applications and to correct his misstatements of law and fact related to water availability and monitoring and mitigation in Ruling 6446.

For now, while the case works its way through the courts, **SNWA remains without any water rights to support its project after its fourth bite at the apple.** Meanwhile, GBWN, White Pine County and our allies have garnered yet another victory in our fight against SNWA's ill-conceived multi-billion dollar water grab, and sent them back to the drawing board yet again.

— Simeon Herskovits, Advocates for Community and Environment

(Water Run continued from page 1)

this; that is why PLAN Action's Native Community Organizer, Beverly Harry, has worked to unite the tribal nations throughout the state to organize this run to celebrate the State Engineer's recent decision to halt this project and to show that indigenous people are here to protect our state's water from extractive and non sustainable practices.

The run is planned to connect water protectors from possibly Goshute, Western Shoshone, the Las Vegas Paiute Tribe, Standing Rock, Pineridge, Pyramid Lake and more. Through this 291 mile journey, native runners will carry flags for each sponsor dedicated



(Continued on page 3)

Water Gab

Nevada State Engineer To Retire Before '19 Legislature Begins



Jason King, the Nevada State Engineer, will retire in January, 2019. His retirement was announced by Chairwoman Heidi Swank at the September 7 meeting of the Nevada Legislature's Interim Public Lands Committee where he introduced to the Committee his deputy administrator team consisting of Micheline Fairbank, Adam Sullivan, and Tim Wilson. He stated that the deputy administrators would be present at the 2019 legislative session.

King has served as State Engineer since 2010 and has presided over many contentious hearings and meetings including the SNWA applications in Spring, Cave, Dry Lake and Delamar Valleys as well as declaring Diamond Valley as Nevada's first critical management area, and tackling the overallocation of water in the Pahrump Valley.

He joined the Division of Water Resources in 1991 as a hydraulic engineer and was chief of the water rights section and deputy state engineer before taking on what many consider to be the hardest job in the state as arbiter of water rights disputes and negotiations. We wish him a happy healthy retirement!

(Water Run continued from page 2)

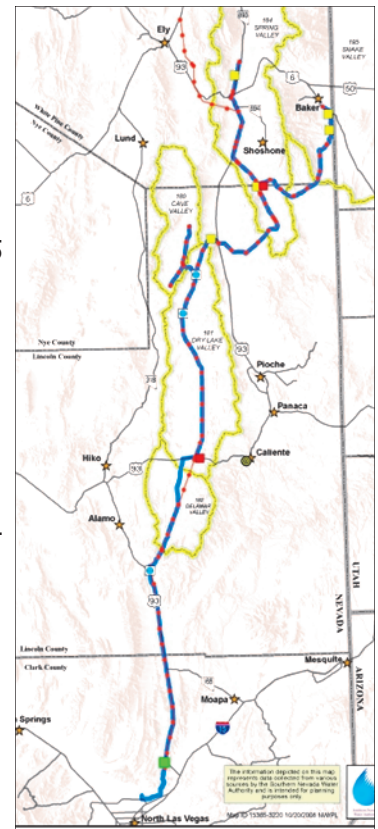
to protecting the Great Basin. Indigenous runners will begin their journey near Baker with a blessing and will end near Las Vegas, following the route where the pipeline was proposed. It is anticipated that runners will complete their sacred run within three (3) days averaging 100 miles a day—each runner running 6-9 miles shifts. The public can support the run through the initial run/walk which will be 2.5-5 miles. During the run Environmental Justice Nights will be held in Northern and Southern Nevada to educate our communities on these issues.

Dates of the run have been set for October 1- 4, 2018. These dates are in conjunction with the UNLV NASA's (Native American Student Alliance) Annual Powwow.

PLAN is seeking support for the run from environmental groups, political representatives, rural ranchers, and Tribes. We are also accepting donations for the run on PLAN's website donation page for the Environmental Justice program. Any additional funds raised will go to continued water protection work.

It is imperative that all residents of Nevada understand that water is life and the importance of protecting our water today. It also imperative that rural and urban communities have just access to water and that we don't sacrifice rural regions to the benefit of urban regions. Through this run we will draw attention to this issue; strengthen the coalition of Indigenous, non-profit, student, and community led groups working together to protect water; and bridge the gap between Las Vegas and rural communities so that we can build a network of people power dedicated to protecting water.

For more info, contact Beverly Harry, PLAN Action Native Community Organizer: bharry@planaction.org. — Kimberly Padilla-Estrada, PLAN



Map of proposed SNWA pipeline which would move up to 200,000 acre feet of water per year to Las Vegas from rural Nevada. The Water Run begins near Baker on Oct. 1 and ends near Las Vegas on Oct. 4.

Water Grab

Pahrump Poolfish Find Refuge in Spring Valley Shoshone Ponds Offer Protection; Water Grab Threat Looms

The Pahrump poolfish (*Empetrichthys latos*) is a small fish which originally was found in springs in the Pahrump Valley of southwestern Nevada. Groundwater overdraft in the valley led to the drying of those springs, and in 1967 it was added to the endangered species list, along with other Nevada native fishes such as the Devils Hole pupfish. It was only through subsequent conservation efforts from the US Fish and Wildlife Service and the Nevada Department of Wildlife that the Pahrump poolfish was given new homes, in the Desert National Wildlife Refuge at Corn Creek, in a pond at Spring Mountain Ranch State Park near Red Rock Canyon, and most pertinent to the Great Basin Water Network, at the Shoshone Ponds in Spring Valley, southeast of Ely. The population at Spring Mountain Ranch has since been eliminated, so now there are just two refugia left for the Pahrump poolfish.



The Shoshone Ponds in Spring Valley are a beautiful oasis nestled among the swamp cedars south of Highway 50. Fed by natural springs channeling snow-melt down from the heights of the Snake Range, the ponds are lush with marsh grasses and attract resident and migratory birds and provide a vital water source for pronghorn, mule deer, and possibly big-horn sheep. And they harbor hundreds or even thousands of Pahrump poolfish.

The Ponds are threatened by Southern Nevada

Water Authority's dangerous water grab. If SNWA is permitted to build their pipeline and pump tens of thousands of acre-feet of water out of Spring Valley, it is all but certain that the springs feeding Shoshone Ponds would go dry. This would eliminate perhaps the last, best natural refuge for the Pahrump poolfish.

The U.S. Fish and Wildlife Service is now conducting a 5-year review on the status of the Pahrump poolfish. Required by the Endangered Species Act, these reviews are intended to guide future species management. However given the anti-wildlife, anti-environment politics which dominate the current administration, there are concerns that 5-year reviews may be a political tool for removing species from the endangered species list.

The Center for Biological Diversity is closely tracking this issue. Any attempts to remove the Pahrump poolfish from the endangered species list will be met with opposition. The poolfish is gravely threatened by SNWA's water grab, and the Endangered Species Act provides powerful protections for the poolfish's habitat, which are essential for our battle against the water grab.

— Patrick Donnelly, GBWN Board Member and Nevada Director of Center for Biological Diversity



State Engineer Holds Workshop on Water for Coyote Springs

On July 24, the Nevada State Engineer (NSE) held a public meeting in Overton on the Lower White River Flow System (LWRFS). This is the only flow system in the state where the NSE determined multiple basins should be managed as one, because they are so connected that pumping in one basin affects water levels – and rights – in another.

State Engineer Jason King used most of the meeting to explain why he would not approve subdivision maps for the Coyote Springs



Development. Water speculators thought of the carbonate rock aquifer in the LWRFS as an almost unlimited supply, filing about 300,000 acre-feet annually (afa) worth of applications in the 80s and early 90s. During 2001 hearings on these applications, NSE Hugh Ricci realized that amount was way too much, and that we knew too little about the flow system and its connectivity. As a result, he put everything on hold and ordered a pumping test of the basins, which happened between 2010 and 2012.

During the test, 10,200 afa was pumped throughout the flow system in both the deep carbonate and shallower alluvial aquifers, with 79 wells and 11 springs monitored. More than half of the pumping, 5,300 afa, was in Coyote Springs. Results showed that the basins were very connected and already on the brink.

At Pedersen Springs and Warm Springs West, for example, there were large and unprecedented declines during the test. To this day, the springs are only partially recovered despite above-average precipitation. A 2006 agreement between the US Fish and Wildlife Service and others to protect the Moapa dace set trigger levels for flow in Warm Springs West that curtail pumping, and the pump test almost reduced flows to the upper trigger level. The decrease in spring

flows mirrors a lowering of groundwater levels – so much for an unlimited supply! Because of the test results, King denied all pending water rights applications in the system.

Groundwater in the LWRFS outflows to the Muddy River. This is important because the river is fully appropriated, and water rights issued under the Muddy River Decree are the most senior in the system.

There are still 40,000 afa of committed groundwater rights in the LWRFS. If the NSE curtailed pumping at 10,000 afa, roughly the amount used during the pump test, all groundwater rights issued since 1981 would be rescinded - including all of Coyote Springs' water! This is why King denied their subdivision map: that increased water use would damage more senior rights on the Muddy River.

The NSE created a hydrologic review team to consider the science around a groundwater management plan. There will also be a working group of stakeholders to put together a conjunctive use management plan. The intent of the working group is to avoid curtailment for the LWRFS. One option (cue alarm bells) - the interbasin transfer of water.



So, while there were positive steps toward the NSE's office using a "conjunctive management" approach that recognizes con-

nections between surface and ground water, there is still a willingness to consider water grabs and other ways to maximize beneficial use. And the connections between other basins, like Cave, Dry Lake, and Delamar Valleys, are not given the same level of recognition and management as the LWRFS.

— Howard Watts, GBWN Communications Specialist

New Owners of Land or Water Rights May Have “Successor” Rights as Protestants Against SNWA

Have you acquired land or water rights from a person or business who filed a protest against Southern Nevada Water Authority’s massive pipeline project in 1989 or 2011? If so, you could be a **successor-in-interest** to that protest, with the right to maintain it before the Nevada State Engineer and in court. For people who fit this description, the way to ensure that you receive legal notices about SNWA’s water rights applications for that project is to file a successor-in-interest protest form with the State Engineer. Filing the form is free and signals your intent to maintain that protest and ensures that your continued opposition to SNWA’s water grab will be reflected in the record.

In 1989 when SNWA’s pipeline applications were filed, hundreds of protests were filed in opposition. When the pipeline applications were republished in 2011, many hundreds more protests were filed. Because almost 30 years have passed since the filing of the original applications and protests in 1989, and almost 10 years have passed since the applications were republished in 2011, water rights associated with the original protests may have changed hands.

Thanks to a lawsuit won by GBWN and its allies in the Nevada Supreme Court and thanks to a bill championed by Senator Settelmeyer, successors-in-interest to land, water rights, or a domestic well associated with a protest to a pending water rights application (like SNWA’s applications in Spring, Cave, Dry Lake, Delamar, or Snake Valleys) may pursue the original protests by filing a successor-in-interest protest form with the State Engineer, available at the following link.

http://water.nv.gov/forms/forms09/Protest_successor09.pdf. There is no fee.

Outside of Las Vegas there is virtually universal opposition to SNWA’s plan to take away rural eastern Nevada’s groundwater. Let’s make sure that widespread opposition is on the record for the State Engineer, the courts, and the world to see by maintaining as many protests to SNWA’s proposed pipe-



GBWN’s short film is available for viewing and sharing via our website and Facebook page. We encourage re-sharing to continue to spread the message that the Water Grab is costly, destructive and threatens rural Nevadans and southern Nevada ratepayers.

line project as possible. If you’re a successor-in-interest to an earlier protestant, and you haven’t already filed one, you should file a successor-in-interest form for all protests your predecessor filed to maintain those protests. The State Engineer’s water rights protest hearing process provides an important opportunity to voice concerns about proposed water development projects, including SNWA’s proposed pipeline project, and to protect existing water rights. There is no fee to maintain existing protests or obligation for individual protestants to participate in any protest hearing.

The original protestants list and copies of their protests are at the following link: <http://water.nv.gov/HearingsDirectories.aspx?mode=CAVEDIRECTORY> under the State Engineer Exhibits tab.

Please contact GBWN if you believe you may be a successor-in-interest to a pipeline protest and would like more information, or if you do file a successor-in-interest protest so that we may update our records. — Iris Thornton, Advocates for Community and Environment

10th Snake Valley Water Festival Celebration: 3 Days of Fun'Raising on Labor Day Weekend

The weather was cooler, the parade was longer, and the ice cream was colder at the Snake Valley Water Festival over Labor Day weekend.

Organizers moved the 10th annual event to combine with Snake Valley Reunion visiting on the three day weekend. The Festival included the same activities as previous years, but with cooler weather, the pace was slower. Ice cream, music and conversation under the trees at Baker Hall was the kickoff to a weekend of fun.

Great Basin Water Network thanks everyone involved, from the organizers, businesses, volunteers, community members and visitors who came to enjoy the weekend and support the cause of the water fight. As you can see in the lower right hand side of this page, the next generation is already fully engaged. Thank you so much!

— Abby Johnson, GBWN Board





Water Gab

**GREAT BASIN
WATER NETWORK**

NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

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



**Get your Snake Valley 2019 Calendar.
Thanks everyone for a Festive Festival! 2019 date TBD.**

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.greatbasinwaternetwork.org.



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