

Water Gab

Volume 7, Issue 2 Summer, 2017



NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

NEVADA WATER LAW: WE WON!

AB 298 Bill to Upends "First in Time, First in Right" Dies in Committee

When we last wrote to you in the Water Gab, we alerted you to the dangers of Nevada Assembly Bill 298 at the Nevada Legislature, which would have rewritten a century of water law retroactively to weaken senior water rights and open loopholes for groundwater mining under the guise of "clarifying" a process for Monitoring, Management, and Mitigation (3M) Plans. Thankfully, a broad group of community members, organizations, local governments, business interests and tribes made their voices heard - the bill was among the top 50 most commented on, with only 3 of the 343 opinions in support. As a result, a bipartisan group of Senators decided to abandon this flawed and controversial bill. While there was talk of reviving the language in a different bill, that effort never came to fruition thanks in part to everybody's continued vigilance.



Thanks to Nevada Rangeland Resource Commission for new signs for the 84" diameter pipe in Baker. View from inside.

In short - we won !

Controversial plans related to curtailment of domestic wells were also abandoned, while some more minor changes were approved. Among the highlights, two good changes were made to water law: AB209 tried to make it easier for water rights holders to conserve in times of scarcity without facing forfeiture under "use it or lose it" and AB138 finally legalized the collection of rainwater by residents and wildlife guzzlers. It is now also the official position of Nevada to manage water conjunctively, recognizing the connection between groundwater and surface water. And the State Engineer must prepare a water budget and calculate the inventory of water for every basin.

We know that SNWA and others will be back next session. GBWN is planning to connect with other concerned groups to put forward ideas that continue to strengthen one of the best state water laws in the country, and will continue to stand against any attempts to undermine principles of sustainability and prior appropriation, and advocate for public input and transparency. — Howard Watts, GBWN Communications Specialist

LEGAL UPDATE: Federal and State Cases in Play BLM EIS Challenge Heard in Federal Court on July 31

Oral argument in our federal case against the U.S. Bureau of Land Management and the Department of Interior challenging the BLM's 2012 decision to grant a right of way to the Southern Nevada Water Authority for its pipeline project was held July 31, 2017, in Las Vegas before Judge Andrew P. Gordon.

The lawsuit asks the Federal District Court to vacate the EIS, ROD, and Right of Way for SNWA's proposed massive groundwater export and pipeline project as inadequate and enjoin any construction activities on the Right of Way, because the BLM and U.S. Department of Interior violated federal environmental laws. This lawsuit is important because it seeks to confirm that the federal environmental review of SNWA's controversial project was fundamentally deficient and inadequate.

GBWN's attorney Simeon Herskovits presented arguments on behalf of a group of Plaintiffs, including GBWN, White Pine County, rural local governmental entities, and citizens groups. Attorneys for co-plaintiffs including the Goshute, Duckwater Shoshone, and Ely Shoshone Tribes, and the Center for Biological Diversity presented argument with Simeon. Arguments were made challenging the BLM's failure to comply with the National Environmental Policy Act, the Federal Land Policy

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Management Act, and the National Historic Preservation Act. Specifically, attorneys for Plaintiffs attacked the BLM's decision to prepare a Programmatic EIS while postponing site specific analysis of impacts to a later date, arguing that such an approach will prevent the consideration of cumulative project-wide site specific impacts and that such site specific analyses should be performed in a single EIS. Attorneys also attacked the BLM's failure to take a hard look at impacts by disregarding impacts that result from water table drawdowns of less than ten feet, by limiting its analysis to a 200 year timeframe, and by failing to properly consider the cumulative impacts of climate change. Additionally, argument was presented challenging BLM's reliance on a non-existent mitigation plan in its analysis of impacts, the BLM's failure to prepare a supplemental EIS in response to new information submitted by Plaintiffs during the EIS comment process, the BLM's failure to comply with the Ely Resource Management Plan, and the BLM's failure to adequately consult with affected Tribes during the EIS process.

Citizens who opposed the project as well as local government officials, members of the press, and SNWA staff filled the courtroom. Thank you to all who attended in support of the Plaintiffs. We are pleased with the way oral argument went, but will have to wait for Judge Gordon's opinion before we know the outcome of the case. We anticipate getting a decision from Judge Gordon prior to the SCDD remand hearing, which is scheduled for late September.

Nevada State Engineer Spring CDD Remand Hearing

This fall, from September 25th through October 6th, the Nevada State Engineer will hold a fourth administrative hearing on SNWA's Spring, Cave, Dry Lake, and Delamar Valley pipeline applications. The remand hearing is the result of the third reversal of the State Engineer's grant of water rights to SNWA by Nevada courts. The State Engineer in the upcoming remand hearing is required to recalculate how much, if any, water is available from each of the four targeted valleys, and to define standards, thresholds, or triggers for mitigation of impacts prior to granting any water rights to SNWA for the pipeline project.

The first round of evidentiary exchanges occurred on June 30, and our hydrologist and attorneys are currently reviewing evidence submitted by SNWA and other parties and preparing rebuttal evidence which will be exchanged with other parties and filed with the State Engineer on August 11. The remand hearing will be held in Carson City in Room 1214 of the Nevada State Legislature, 401 South Carson Street. It will begin at 8:30 a.m. and will run until 4:30 p.m. each day, with the exception of Thursday, October 5. On that day the hearing may not begin until 11 a.m. due to hearing room unavailability. We encourage members of the public to attend.

GBWN has formally requested the State Engineer to schedule oral public comment for a 1/2 day on September 29 at the hearing room in Carson City. We will spread the word if and when oral public comment is scheduled by the

State Engineer. **The address for the submission of written public comment is: State of Nevada, Division of Water Resources, Attn: Susan Joseph-Taylor, 901 S. Stewart St., Suite 2002, Carson City, NV 89701. Comment letters should reference Southern Nevada Water Authority Application Numbers 53987 through 53992, inclusive, and 54003 through 54021, inclusive.** We encourage members of the public to submit written public comment in opposition to the pipeline project.

The two-week remand hearing is labor intensive and costly. We will be sending out a special fundraising appeal to help with the expenses for our attorneys and experts, and for court reporter costs. Stay tuned and thank you for your ongoing support.

Nevada Legislative Update – AB 298 Defeated

GBWN and our allies achieved a significant victory in the legislature this past spring by successfully working to defeat SNWA-backed AB 298. The bill would have loosened the requirements for granting new appropriations of water to permit for the first time in Nevada's history unsustainable groundwater mining and to weaken the requirements for monitoring and mitigation plans, while at the same time placing the burden on existing water rights owners to defend their rights. This victory preserves the long-standing scientifically sound approach to the management of water which has served Nevada well for generations and which is designed to protect the interests of existing water rights holders. The victory is also central to the continued success of our legal campaign, because it will preserve our historically strong legal position in this fall's remand hearing before the State Engineer on SNWA's pipeline applications in Spring, Cave, Dry Lake, and Delamar Valleys.

—Iris Thornton, Advocates for Community and Environment

NSE Proposing Mitigation Regulations For Humboldt River Basin

The State Engineer is beginning the process of drafting regulations for the conjunctive management of the waters of the Humboldt River Basin. A working draft is on the Division of Water Resources homepage. Look under the "recent news" heading. The NSE regulations and PowerPoint explaining the process are on GBWN's website. Expect public workshops this winter, says Rick Felling, deputy administrator of the DWR. The regulations will propose how to mitigate impacts to surface water right holders from groundwater pumping, by supplying other water, or by financially compensating surface water right holders. **Submit comments to Rick Felling: rfelling@water.nv.gov.** We believe these regulations could set a precedent for other parts of the state. Stay tuned. —Abby Johnson, GBWN Board

Utah Update:

Water Strategy Team Delivers 50-year Water Strategy To Governor

After four years and countless meetings, deliberations and drafts, the 41-member Governor's Water Strategy Advisory Team delivered its final report, "Recommended State Water Strategy", to Gov. Gary Herbert at a press conference held July 19.

The 194-page document contains 93 recommendations organized around 11 key questions to help guide water policy so the nation's second driest state can meet the challenges of a changing climate and a population projected to double by 2060. Find the recommendations and the entire report here: <http://www.envisionutah.org/projects/utah-water-strategy>.

Other recommendations included the need to account for and efficiently convert agricultural water to municipal uses when farms are sold for development, the need to allow for and assist farmers to water-bank or lease some of their water rights without losing them, and the need to address keeping sufficient water for the environment/ecology through a stronger in-stream flow statute or public trust protection.

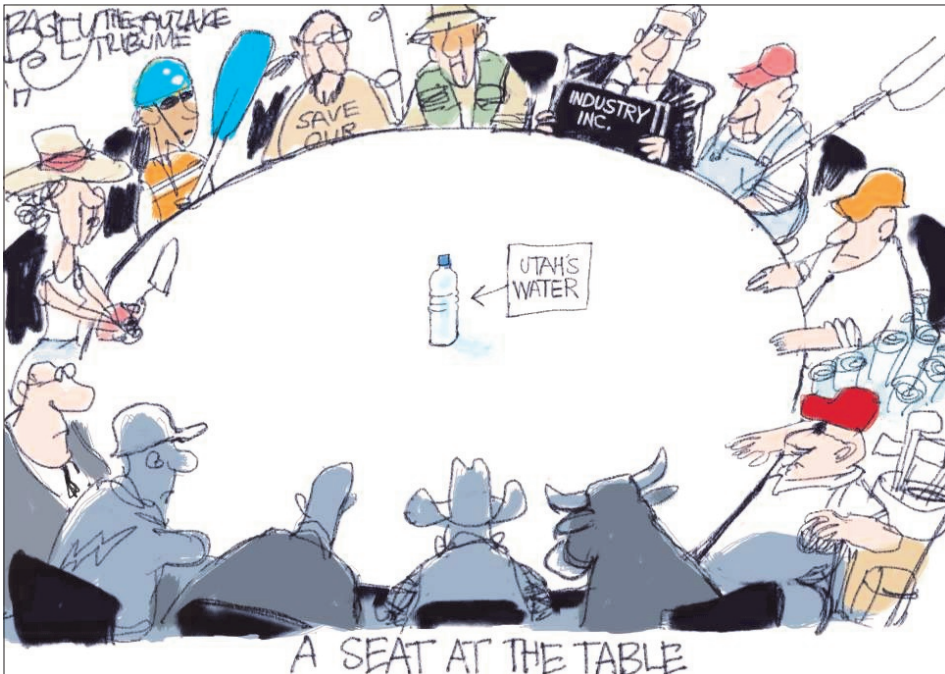
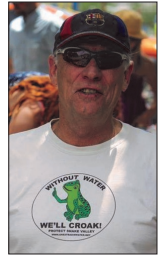
The most serious and unresolved disagreements revolved around the need for, the timing of and the financing of large water supply projects, especially the Lake Powell Pipeline and Bear River Development projects.

In his remarks to the press, Gov. Herbert noted that the report is a "fresh start" for water policy discussions, and that his senior staff will prioritize its recommendations for implementation. He cited 6 principles to guide water policy so that choices made 1) are fiscally prudent and sustainable, 2) assure a sufficient supply of water for a growing population and diverse uses, 3) recognize that water is a limited resource that must be conserved and used wisely, 4) value and price water appropriately, 5) protect water quality, and 6) are informed by and based upon solid data and established facts.

Conservationists vowed to track the state's progress in meeting the report's objectives and recommendations, and to continue efforts to engage the public in water policy debates and decisions.

—Steve Erickson, GBWN Board

Note: Steve Erickson served on the Water Strategy Advisory Team, representing GBWN and the Utah Audubon Council. The report does not specifically address the potential impacts of the SNWA Groundwater Development Project on Snake Valley.



Many thanks to Pat Bagley and the Salt Lake Tribute for permission to reprint.

As expected in addressing water issues, the Advisory Team's discussions were complicated and often contentious, with consensus around some recommendations and disagreement on others. What emerged was strong support for an emphasis on conservation, an acknowledgement of the reality of climate change that will likely mean less snow and less precipitation overall, and a commitment to produce more comprehensive and accurate water data and to make science-driven, fact-based policy choices.

Water Gab

A Tribute to Dean Baker

Dean Baker passed away on May 13, 2017. Gary Perea, his stepson, was one of three speakers at Dean's memorial on June 24. This is an excerpted version of his tribute to Dean.

I was twelve when Dean became my stepdad. It would be impossible for me in a short period of time to explain the impact Dean had on my life. I want to share just one and probably the most meaningful way he influenced my life.

And that would be the importance of education and continuing to learn throughout life. Watching Dean and how he would interact with people and how he would problem solve different situations was amazing.



The last situation was of course the SNWA Pipeline. His love of debating an issue was fully tested on this. I remember a conversation back in 1989 when the Las Vegas Valley Water District first applied for the water. This may surprise some of you, but Dean made the comment back then, to the effect that maybe we could learn something about water and water drilling from the project. That was typical Dean; he would not immediately oppose something without first considering it. He would look at something from all angles and where the information led him would be where he stood. With the SNWA pipeline he looked at the project from all sides and considered what the good and bad points were. He learned a lot about water in Snake Valley between 1989 and 2003. Baker Ranch drilled many holes looking for water and Dean spent many hours on a backhoe trying to develop springs. Having done this and by trying to understand SNWA's reasons for the pipeline he was able to point out the fallacy of their thinking. He was one of the first to point out the project would not only hurt us but also the people of Las Vegas because the amount of water SNWA is looking for is simply not here.

As a teenager, watching Dean, I learned how a person can earn respect by not only what they say, although I learned a lot from his stories, but by their actions. Dean was always motivated to try different things. He was not afraid of failure, because failure is only a learning experience. I can't count the number of time I would mess up and Dean would say "what did you learn" or "I bet that was a good learning experience."

When Dean passed away, it was in the middle of the graduation season. Because he had such an effect on me with leaning and education I found it a little ironic. During most graduations, we hear speakers give advice on how the graduates can be successful

in life. They say thing such as: Don't stop learning. Don't be afraid to fail. Go out and make your mark on the world. Remember where you came from. When one door closes, another one will open. And finally, while you are doing all this don't forget to have fun.



On this last one, I think back to the first summer after Dean became my stepdad, during the time the town softball games were going really well. Each Sunday afternoon we would get together and choose up teams and play until dark. One Sunday someone started a water fight by throw a cup of water on someone. It was hard to have a real water fight, because there was no running water at the ball field. So people would throw water from ice coolers and water bottles. After that first water fight, the next week, people brought buckets of water to throw.

From this point forward, for the rest of the summer each softball game ended with a water fight. Dean was not going to be outdone. One Sunday, while everyone else brought their 5 gallon buckets, Dean pulled into the ball field with a 1000 gallon water tank behind his truck. Watching Dean fend off all the people with his water hose was a sight to see.

It is easy to say that Dean did not stop learning. He was not afraid to fail. He went out and made his mark on the world. He remembered where he came from. And he enjoyed Life.

On May 13, 2017 Dean had his final graduation and did it with Honors. I will miss him.

— Gary Perea



Dean Baker: Water Hero

Eastern Nevada rancher Dean Baker's water bucket list included a bucket. A real metal twenty foot tall bucket. Dean devised the larger-than-life symbol for parades and rallies, and as an icon for Water Grab opposition. The Las Vegas Water Grab – politely known as the Southern Nevada Water Authority (SNWA) Clark, Lincoln and White Pine Counties Groundwater Development Project – surfaced in 1989 when Las Vegas filed on all the unappropriated groundwater in large swaths of eastern and central Nevada. That included Snake Valley which straddles the Nevada Utah border. Dean Baker's family ranch is located in Snake Valley in sight of Wheeler Peak and in the sights of SNWA's rapacious water pipeline overreach.

It was a bold move for Las Vegas in 1989, and if it weren't for Dean Baker's toe-to-toe engagement with project proponents, and his willingness to work with anyone concerned, water might be going south today. But it isn't.

Most people's bucket lists are fun: France, the Pyramids, a cruise to Alaska. But Dean Baker's water bucket list was different.

Engage SNWA on their own turf: In 2003, Dean Baker was invited to be a "stakeholder" in SNWA's Integrated Water Planning Advisory Committee to work on Las Vegas' water needs. For two years, Dean attended meetings in Las Vegas and endured the schmoozing of an assigned political heavyweight whose mission was to psyche Dean out and get him to sell his ranch and water rights to SNWA. (In 2008 Emily Green's five part series on water in the Las Vegas Sun recounting this experience and other Dean water adventures which serve as reference for this article.) Dean told them they needed an independent hydrology committee to determine whether the water is actually available, before spending billions to build the pipeline. The final report included his written recommendation but it was ignored.

Negotiate with SNWA: A provision in federal law required that before SNWA could take water from Snake Valley, Nevada and Utah had to agree on the division of the waters of Snake Valley. Nevada's negotiating

team consisted of SNWA and state officials – no representation of White Pine County or Snake Valley. Dean Baker, with ranching interests on both sides of the line, was invited to join the Utah negotiating team. It was a secret and controversial process. Again Dean attended many meetings. Again, he faced the schmoozer. Ultimately, negotiations ceased after a Nevada Supreme

Court decision favored water grab opponents and Utah's governor backed away.

Say NO to SNWA: After SNWA bought ranches in Spring Valley they wanted Dean's water rights. With the support of his three sons who now operate the ranch, they agreed not to sell, no matter the price.

Stand in SNWA's shoes: Dean Baker was a thinking man. He thought a lot about SNWA's ambitious overreach to take water in eastern Nevada because he worked the land and water every day. He knew the water SNWA planned to pipe isn't there. And he admitted the ranch's own irrigation had dried up some springs. He needed to deliver the message to southern Nevada that the water pipeline project is a bad deal – for them.



Dean Baker and his brother Carl attach a flag to the bucket.

Send a message: He invited legislators, reporters, anyone interested to take "Dean's water tour" of Snake Valley. And using the bucket as a billboard, he crafted a message. "SNWA Pipeline = \$15 Billion. Economic and Un-natural Disaster. Water Grab Will Bleed Las Vegas Ratepayers and Eastern Nevada Dry." It's a natural backdrop for news coverage and a message that rings truer as the years pass.

Dean Baker died on May 13, 2017. After a nearly 30 year struggle, the water is still where it is. SNWA hasn't given up, but pipeline plans are deferred while they fight to regain water rights in Spring Valley. Snake Valley water applications are still pending. Dean did as much as he could for as long as he could for a just cause. That's a water bucket list completed. Rest in peace Dean, and keep an eye on the pivots.

— Abby Johnson, GBWN Board

Note: This op-ed originally appeared in the Nevada Appeal on May 17, 2017.

Water Tour Educates, Amazes New Water Protectors



Farrel Lytle

The Great Basin Water Tour was a great success! 11 people crammed into a van from Las Vegas, while over 25 left from Reno. I drove the Southern leg, and on the first day we stopped at the Coyote Springs golf course where graded housing plots wait for a spigot off the water grab pipeline, Pahrnatagat National Wildlife Refuge to learn about managing water in the desert, and Farrel Lytle's home in Lincoln County's Eagle Valley to see sub-irrigated meadows threatened by the draining of nearby interconnected aquifers. Participants marveled at the beautiful scenery and the lakes and lush vegetation, and I discussed the history of the fight as we traced the pipeline's proposed path.



After a night in Ely we visited Hank Vogler's ranch in Spring Valley and learned about some rude neighbors to his south - SNWA. The Reno leg, spear-headed by our friends at PLAN and Great Basin Resource Watch, studied issues related to water and mining, and we converged in Spring Valley at the sacred Shoshone swamp cedar grove where Delaine Spilsbury explained the reason why the grove is sacred to Native Americans. Following that, the whole group came to Baker and participated in the Snake Valley Festival while also finding time to hike, see the stars, and get a ranch water tour from Dave and Craig Baker. Many people on this tour had never seen eastern Nevada before, and one person went



Delaine Spilsbury



Hank Vogler

camping for the first time! By connecting with the land and the people, we have added a diverse and mostly young group to the ranks of Great Basin water protectors. We plan to continue holding these tours occasionally to educate and engage urban residents and community leaders.



Dave Baker

One of the many great outcomes of our water tour was media coverage. Heidi Kyser of KNPR's Desert Companion magazine came up in the Las Vegas van, producing two blog posts during the trip, writing an article featured in the July issue: <https://knpr.org/desert-companion/2017-07/striking-balance>, and speaking on the radio



Baker Ranch Water Tour

for 20 minutes about her experience and the water fight. We appreciate her cramming in with us and spending time to tell our stories. And we are preparing to tell our own story as well. Videographer Kyle Matheney chronicled the southern route for GBWN while Fil Corbett videoed the northern route for PLAN. We also want to thank Patagonia, whose grant funds helped GBWN make the tour possible.



—Howard Watts, GBWN Communications Specialist

Snake Valley Festival 2017 Celebrates Community and Water



Fundraising for Great Basin Water Network to battle SNWA's attempts at a water grab is a high priority for the residents of Snake Valley. Members of the diverse communities in the valley have come together every year for nine years now in a festival that is family oriented fun-raising and fundraising. The festival for 2017 was held in June 16 and 17 and was the biggest moneymaker on record! Many thanks to all who attended and gave so much support to Great Basin Water Network. Efforts will continue throughout the year with various enjoyable events to raise money to continue the fight. Mark your calendars to join us at the 2018 festival—at a new time of year. **The 10th Annual Snake Valley Festival will be Labor Day weekend, August 31-September 3, 2018.**

—Lynne Hoffman, Snake Valley Festival Organizing Committee



How To Stay Involved: Spring CDD Hearing and Beyond

Spring CDD Rehearing: In addition to our day in Federal Court on July 31st (see Legal Update) we have a new round of hearings this fall on SNWA's water rights applications for Spring, Cave, Dry Lake, and Delamar valleys following remand by the Nevada District Court. Hearings are planned for 2 weeks: from September 25 through October 6. There may be a day for public comment, and we're hopeful that the hearings will again be streamed and saved online for folks to view. We encourage those who can make the pilgrimage to Carson City to come and speak up if public comment is allowed. We'll keep you posted as we get more details.

Staying in Touch with GBWN: The best way to stay in touch and get action alerts in between Water Gab newsletters is to join our new email list! We promise not to abuse your inbox. You can now sign up on our website - www.greatbasinwater.net - right under links to check in with us on social media, where we post a lot of news and live coverage of water meetings. While you're there, check out our new monthly online giving option, and ways to contribute to GBWN when you make purchases via Amazon Smile and Giving Assistant.



Water Gab

**GREAT BASIN
WATER NETWORK**

NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

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2018
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Get Them Now!



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



Mark Your Calendars: September 25-October 6, 2017 State Engineer's Hearing on Spring CDD in Carson City

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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