

Water Gab

Volume 5, Issue 2 Fall, 2015



NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

LEGAL UPDATE: Nevada Supreme Court Dismisses Appeals, Affirms Remand SNWA Still Has No Right to Use Water For Export from Eastern Nevada



Simeon Herskovits, attorney for GBWN and White Pine County, in Festival Parade '15

In the months since our last *Water Gab* there have been significant good developments in the Nevada State Supreme Court and steady progress in our federal lawsuit against both the BLM and SNWA.

Nevada State Court Developments

In February the Nevada Supreme Court dismissed SNWA's and the Nevada State Engineer's original appeals of the State District Court's ruling, which invalidated the water rights approved for SNWA's Groundwater Development and Pipeline Project (the "Pipeline Project"). When we reported that news in our last issue, the Court had not yet ruled on petitions for writs of mandamus that SNWA and the State Engineer filed to circumvent procedural requirements for their appeals and get at the same issues. On May 21, 2015, the Court denied both those petitions, directing the State Engineer and SNWA to proceed on remand as ordered by Senior District Judge Estes.

The dismissal of all SNWA's and the State Engineer's efforts to get Judge Estes' decision reversed is an important victory in our ongoing fight to prevent the Pipeline Project from being approved or implemented. The Supreme Court refused to second guess the District Court's conclusions that the State Engineer committed profound legal and analytical errors and SNWA's evidence was plainly deficient. This has the practical effect of requiring SNWA and the State Engineer to produce evidence proving the

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SNWA Changes Tone After Third Straw Completed Projects 1 Million More People With Existing Water Supply

Southern Nevada has finally finished its final intake pipe for Lake Mead, coming in at almost a billion dollars. With a new pumping station, this straw will be able to suck water from the lake at "dead pool," a point at which water would stop flowing from Hoover Dam. This would leave downstream users up a creek, end power generation at the Dam, and turn the lake into little more than a stagnant soup of algae and silt, but with the ability to keep pumping in such an apocalypse scenario, Southern Nevada Water Authority has changed its tone on issues related to water supply, growth, and even the Water Grab Pipeline.

Recently the Water Authority released a new Integrated Resource Plan. Based on the lake level they can now reach, and projected gains in conservation, SNWA projects that they can survive about 50 years on their current developed water supplies, and add a million more people, even with continued droughts! This doesn't include the Water Grab, and in fact the pipeline isn't even mentioned in the new resource plan, replaced instead by a few paragraphs on water rights or applications in various rural valleys, with no mention of the snaking behemoth that would suck that water down to Las Vegas. We always

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sustainable availability of water and establishing quantitative thresholds and triggers to ensure that SNWA's Management, Monitoring and Mitigation (3M) Plan verifiably will avoid or effectively mitigate harmful impacts before water rights can be approved for the Project. Both SNWA and the State Engineer have stated on the record that they cannot produce such evidence or support such conclusions. While

THE SCIENTIFIC EVIDENCE ... UNIFORMLY SHOWS THERE SIMPLY IS NOT ENOUGH WATER SUSTAINABLY AVAILABLE FROM THE GROUNDWATER SYSTEMS BEING TARGETED TO SUPPORT THE PIPELINE PROJECT.

they now undoubtedly will assert the contrary, the scientific evidence that already has been produced uniformly shows that there simply is not enough water sustainably available from the groundwater systems being targeted to support the Pipeline Project. The evidence also already makes it clear that complying with the requirements for an adequate 3M Plan would make it impracticable to pump sufficient water to justify the Project.

This conundrum for SNWA was cemented by the Nevada Supreme Court's September 28th decision in the Kobeh Valley Ranch (KVR) case, which addressed a nearly identical monitoring and mitigation issue. In the KVR decision the Court resolved the issue in the way we have argued for, reinforcing the

requirements imposed by Judge Estes. While the KVR ruling was in a separate case, it is binding legal precedent which, in effect, reaffirms Judge Estes' interpretation of the law on this issue.

Federal Case Progress

Our federal case against the Pipeline Project alleges failure to comply with a number of federal laws in the administrative review process that resulted in the BLM's approval of the Pipeline Project. This is a "record review" case in which each side submits competing summary judgment motions and the court relies on the administrative record to decide the outcome.

After delays related to the compilation and review of the voluminous administrative record underlying the BLM's approval, we have begun briefing the merits of this case. On October 30, 2015, we and our allies in the case filed opening summary judgment motions and briefs. The BLM and SNWA will file their opposing motions and briefs in January, 2016; we will file our final briefs in March; and the other side files their final briefs in May. We expect oral argument to be scheduled within a few months of the completion of briefing, and will keep you posted as we learn more next spring and summer. Look for the briefs and filings on GBWN's website. Click on "litigation" on the home page or go to: www.greatbasinwaternet.org/litigation.htm. ●

—Simeon Herskovits, *Advocates for Community and Environment*

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thought the Water Grab was urgently needed for growth? Or was it for drought security?

That math may seem a little funny, but it shows how confident SNWA is in their new intake line. And to seemingly prove how flush the valley is with water right now, SNWA has leased struggling California 150,000 acre-feet (half of Nevada's annual Colorado River allotment!) over the next two years. And why not? SNWA can buy the water back when it needs it, it has a shiny new pipe 200 feet underwater, and in the mean time the lease money will help them pay bills including the ongoing subsidies for their failed ranching experiment in Eastern Nevada, which includes sheep trespassing onto Great Basin National Park, lawsuits alleging cooked books and mismanagement, and angry neighbors upset that ranching losses can be covered by rate-payer dollars. There is never a dull moment keeping trying to follow SNWA's dizzying and ever-shifting logic. ●

—Howard Watts III, *GBWN Communications Specialist*

2016 Snake Valley Calendar



The 2016 Snake Valley Calendar is now available for purchase at the Border Inn, or call or email Susan Wetmore: 775/234-7265 or sywetmore@gmail.com. Quantity discounts available; check GBWN's website. All proceeds of the Snake Valley Calendar benefit GBWN & help support efforts to protect the natural resources, wildlife, and economy of the Snake Valley. And it is a darn pretty calendar to keep you company into the New Year. Thank you for your support.

Drought Forum Proves Dry as a Bone as El Nino Looms

Governor Sandoval's Nevada Drought Forum process filled a substantial portion of GBWN's summer/fall months. Many questions lingered as the meetings began: Would the voices of all communities and stakeholders be heard? What would the outcomes be, and were they already pre-determined by the water bosses? Perhaps most importantly, would real public education, community engagement, and concrete actions come out of the meetings, or would it just be a big public relations waste of time?

Despite being proactive in asking to be included in updates about the Forum, we only learned about the first meeting after the fact. This proved an ominous sign about the lack of public involvement. The meetings that followed featured different invite-only sectors chosen by the Forum members (mostly state agency heads). Anybody not on "the list" had to make public comment at the beginning or end of an 8-hour-long session. No efforts were made to gather community feedback or conduct discussions outside of these marathon hearings. GBWN was invited to speak at the Forum as well as the 3-day Nevada Drought Summit held at the Nevada Legislature.

At the final meeting, the "public" was noticeably absent. A Draft Report had been sent to Committee members but not posted or even printed in advance of the meeting. No one had anything to say at the beginning of public comment because no one knew this draft existed or what was

in it. The committee discussed and voted on various sections of the Draft Recommendations, accepting them all with small changes...and THEN public comment was requested again AFTER the report had been adopted. We made sure they were put on notice for this major process failure.

The report summarizes current and planned actions for water conservation, changes to Nevada water law, monitoring and research data, financial and technical assistance, supply augmentation and long range planning, and information sharing and public outreach. Several people considered this last suggestion the most important. How does the Governor set the



Drought Forum committee discusses changes to its draft report which was not available to the public prior to the meeting.

"message" about conservation, and how will he implement the public education? With the completion of the report, these questions are now in Governor Sandoval's hands.

Obviously many questions remain. Who will pay for all these suggestions/recommendations?

Will the public continued to be included in the education process? Will the Legislature accept and vote to support water law changes? This will be where you can be heard. How will future land use plans work in conjunction with known available, sustainable water resources? Will Nevada learn to live within its water resources?

One thing all sides agree on is that one wet winter shouldn't stop us from charting a more sustainable water future. The real actions that Nevada takes will depend on the amount of pressure we put on the powers-that-be to abandon water theft for aggressive conservation and link population growth to available water. Go to <http://drought.nv.gov> to review the Draft Nevada Drought Forum Recommendations Report. ●

— Howard Watts III and Susan Lynn, GBWN

2015 Nevada Legislature Doesn't Change Nevada Water Law

In the last *Water Gab*, we reported in the midst of the 2015 Legislative session about possible changes to Nevada's water law. Since Nevada only meets in odd years, the four month frenzy is a big deal. Here's the short version of what happened. SB 65, the State Engineer's bill to modernize Nevada water law did not pass. Neither did SB 81, dealing with severely over-appropriated basins such as Diamond Valley and Pahrump; nor SB 485 to require vested water right holders to file with the NSE. The only water bill to pass was **AB 198** which requires the Legislative Committee on Public Lands conduct a study of water conservation and alternative sources of water for Nevada communities during the interim. We are actively watching developments with the Legislative Commission and Public Lands Committee to learn how this study will be conducted. ●

— Susan Lynn, GBWN



Above: Abby Johnson of GBWN is interviewed at Washoe Lake about drought and the water pipeline project by Dennis Golden for the Stewards of the Range series on KNPB public television in Reno, expected to air in the Spring of 2016.

Water Gab

Nevada Agriculture Is Conservation Partner, Not Enemy

September, 2015

Last month, the Nevada Drought Forum asked to hear from agriculture about the impacts of the ongoing drought, what actions farmers and ranchers have taken to deal with those impacts, and what actions we'd like to see from the state in the short and long term.

As we head into this month's state Drought Summit, it's important to correct some misconceptions. Agriculture, especially in California, has been in the media hot seat lately for the amount of water it uses. Pick your enemy: almonds or alfalfa, milk, meat, or melons. Anything but drip irrigation is considered a waste of water. I was heartened to see that in recent public opinion surveys, residents haven't bought into these skewed perspectives, and support conservation to preserve local agriculture and the environment.

SOME FOLKS PIT AGRICULTURE AGAINST THE ENVIRONMENT BUT WE DEPEND ON THE HEALTH OF THE LAND TO STAY IN BUSINESS.

First off, there are some simple facts we need to face. Everybody needs to eat, and cutting back the agricultural industry means people will no longer be able to afford healthy food for their families. Perhaps most importantly is the fact that the water of the West has already been allocated, and in most cases over-allocated. Water

systems are interconnected, and a diversion at one point has ripple effects. There simply is no new water, or easy answer, left.

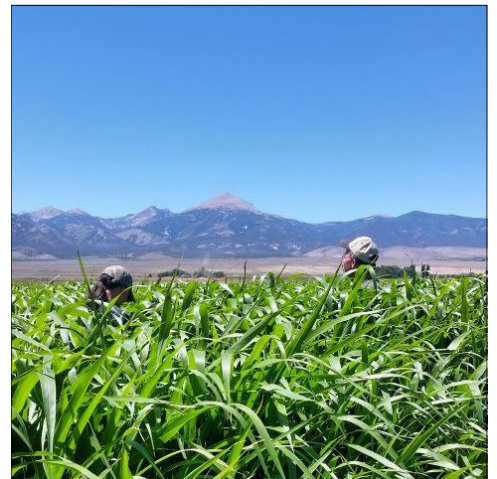
Some folks pit agriculture against the environment, but we depend on the health of the land to stay in business. Any destructive or unsustainable practices hurt not just the environment, but also the livelihoods and homes of family-owned, family-operated farms and ranches.

Water cuts for agriculture, or the conservation measures we take, often happen quietly, outside of the public's or media's view. Two of our ranches saw the mountain streams that fed them dry up a couple of years back. When a basin is stressed in Nevada, the State can make cutbacks. Lovelock has a zero percent allocation right now. Smith and Mason valleys may see 50% cuts, and because of how Nevada's water rights work, that means the newest operations will get nothing. Try to wrap your head around being told you have no water to work with for a year.

Some have talked about reducing the land in production. Grazing is a beneficial use on many western lands that are too rugged for farming, controlling potential fuel for wildfires. When we irrigate and grow feed for our cattle, we're sustaining for a couple of months a herd that

can forage on non-irrigated land the rest of the year. That's a smart investment if you ask me. And we've already seen cattle numbers drop by 30% during the drought, another conservation measure that's often overlooked.

When it comes to growing alfalfa for export, more and more dairy farms and even ranchers need feed now, thanks to the drought. Keeping that land in production in good years means that in difficult times like these, we can keep more of those supplies close to home for those who need them.



You'll never meet a farmer or rancher who thinks their water is more important than the basic needs of all people, urban or rural. But water and food are both necessary for life. We all need to work together and share the difficult choices in order to keep the West a bountiful and beautiful place for our children and grandchildren. ●

—Tom Baker, GBWN Board

Editor's Note: GBWN helped distribute this guest column which was published in September, 2015 in the Elko Free Press, Ely Times, Moapa Valley Progress, Nevada Appeal, Progressive Rancher, Reno News and Review, and Vegas Inc/The Sunday.

Utah Support Helps Sustain Water Grab Opposition

Millard and Juab Counties Support Water Network Efforts

Great Basin Water Network has in the past found strong allies in Millard, Juab, and Salt Lake Counties in Utah as well as White Pine County in Nevada, the Corporation of the Presiding Bishop, the Confederated Tribes of the Goshute Reservations, and the Ely and Duckwater Shoshone Tribes. Along with GBWN, the Utah counties have been in the forefront of the battle to defeat Southern Nevada Water Authority’s massive groundwater development and pipeline project.

In October, Annette Garland, representing the GBWN Board of Directors, attended commission meetings in Juab and Millard Counties to express the organization’s appreciation for the commissions’ past and continuing support. Several commissioners spoke of their efforts to prevent the building of the pipeline that could potentially drain Snake Valley. Rick Carlton, Juab County Commissioner, expressed the Commission’s appreciation of Governor Gary Herbert’s support on the issue. “We are involved in the litigation in Nevada,” he said. “I think this

county was a big contributor to the governor not signing the agreement with Nevada. We appreciate your grassroots efforts. A few people can make a big difference.”

Annette reported that GBWN is requesting funds from the Utah State Legislature through the Constitutional Defense Council to be used for the organization’s ongoing legal battles. Both Millard and Juab Counties Commissions offered to write letters of support to be presented when representatives from GBWN request those funds.

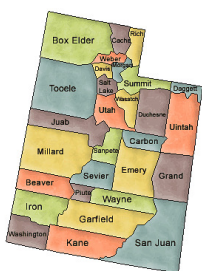
She also supplied the commissions with the spring issue of *The Water Gab* and information about the group’s website greatbasinwater.net and the Great Basin Water Network page on Facebook. She asked them to bookmark the

Amazon Smile website, designate GBWN and shop. That way they could personally donate to GBWN at that site as well as sending their donations directly to Great Basin Water Network’s mailing address or giving at the website.

On a related note, GBWN Board Member Steve Erickson reports that he updated the Utah Water Development Commission on the status of our legal efforts in both the Nevada state courts and the federal NEPA complaint. He also briefed the WDC on the latest developments in Nevada, including the news that SNWA has agreed to provide 150,000 acre feet of “intentionally created surplus” water in Lake Mead for the next two years to the Metropolitan Water District of Southern California in exchange for \$44.4 million. Utah policy-makers have shunned such cooperative arrangements in the management of the Colorado River, preferring instead to pursue developments like the Lake Powell pipeline to max out Utah’s 1.4 million afy allocation. ●

— Annette Garland and Steve Erickson, GBWN Board

“WE APPRECIATE YOUR GRASS-ROOTS EFFORTS. A FEW PEOPLE CAN MAKE A BIG DIFFERENCE.”
— RICK CARLTON, JUAB COUNTY COMMISSIONER



PROTECTING NEVADA
FARMS AND RANCHES

Raising More than Food,
Sustained by
Great Basin Water



REGULATORY & RESEARCH & COOPERATION
NRRC
NEVADA RANGELAND RESOURCES COMMISSION



GREAT BASIN
WATER NETWORK

greatbasinwaternetwork.org

With the help of a grant from Nevada Rangeland Resources Commission to GBWN, the above ad will appear in *Desert Companion*, the magazine of southern Nevada public radio listeners, with readership of 175,000+ per month.

SNAKE VALLEY WATER FESTIVAL '15

Thanks to all the participants near and far who made the Snake Valley Festival '15 a success. The annual festival raises money for community preservation by supporting Great Basin Water Network's efforts to defeat the Water Grab. To everyone involved for a successful fun'raiser: Thank you from Great Basin Water Network! **Mark your calendars for Water Festival 2016: June 17-19, 2016. Info: ProtectSnakeValley.org and greatbasinwaternet.org.**



GBWN's Social Media Presence Provides and Accesses Current News

If you long for the *Water Gab's* straight talk in between issues, you have new options to keep up with us and the latest news! We now have an active Facebook page with fresh stories almost every day, as well as a Twitter account. Being on Twitter has allowed us to connect with policy makers and the press to lift up various issues, from the unregulated bottling of "Real Water" out of the Las Vegas tap to the lack of public participation and transparency during the Governor's Drought Forum. It's also the best way to find out the details of a meeting you can't attend in person, with us and others capturing the essence of debates, hearings, and votes...140 characters at a time. If you're online, take the leap and "like" or "follow" us now! If you already do, remember we need your help to spread the word. Encourage your friends and family to check us out. We're at www.facebook.com/GreatBasinWaterNetwork and on Twitter at [@GreatBasinWater](https://twitter.com/GreatBasinWater). And of course, the website: www.greatbasinwaternet.org. ●

— Howard Watts III, GBWN



No Water, No Life; No Grain, No Beer: The Coaster was introduced at the Great Basin Beer Tasting and is seen throughout Snake Valley and beyond, under beverages of all kinds.

Spilsbury Speaks Up At Drought Forum

Rick Spilsbury, a GBWN board member and resident of McGill, Nevada, was an active public participant in the Governor's Drought Forum. Despite the distances involved and challenges with telecommunications, Spilsbury submitted three sets of public comments on his own behalf. Here are some excerpts of his comments:



Rick Spilsbury pours samples at the Snake Valley Festival beer tasting of beers and ales made with Great Basin water.

There is absolutely no representation on the Forum from the locals who will be harmed by water transfers such as the Water Grab and no one from Central Nevada Regional Water Authority. You will have essentially failed if the Forum's conclusions are to keep permitting water wasting mining practices, ignore the fact that photovoltaic and wind power generation utilize essentially no water, advocate the killing of as many trees as we can so we can take their water, and gut Nevada Water Law so as to drain Nevada's ancient aquifers as soon as possible. We shouldn't be gutting Nevada Water Law so that the water greedy can waste more now. We should redefine Nevada Water Law so that there will be more water for future generations. We all know that with Global Warming, the West could end up with a drought that lasts hundreds of years.Seawater desalination facilities obviously have a much more reliable water supply than unproved wells in the desert. And by trading desalinated sea water for more water from the Colorado River, there is no need for a multibillion dollar pipeline. Southern Nevada has the opportunity to pioneer a new way of thinking about water that could change the whole outlook for the West. Southern Nevada doesn't have to go this alone. Other Colorado River states could pitch in for a desalination plant for a proportional amount of the extra water from the Colorado River. This Drought Forum appears to be looking for ways to find more water so that we can continue on with business as usual. Desalination simply means more water. ●

SOUTHERN NEVADA HAS THE OPPORTUNITY TO PIONEER A NEW WAY OF THINKING ABOUT WATER...

— Rick Spilsbury, GBWN Board



Water Gab

**GREAT BASIN
WATER NETWORK**

NEWS FROM THE GREAT BASIN WATER NETWORK HEARTLAND

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*2016
Snake Valley Calendars
Get Them Now!*

2016 Snake Valley Calendar



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

**Mark Your Calendars:
Snake Valley Water Festival is June 17-19, 2016**

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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Follow us on [@GreatBasinWater](https://twitter.com/GreatBasinWater)



Bookmark the Amazon Smile website, designate GBWN & shop. Amazon will donate to GBWN.



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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: Tom Baker, Steve Erickson, Annette Garland, Simeon Herskovits, Abby Johnson, Susan Lynn, Rick Spilsbury, Howard Watts III. Photo credits: Gretchen Baker, Janille Baker, Annette Garland, Dennis Ghiglieri, Abby Johnson, Molly Reil, John Walker, Howard Watts III.

A grant from the Nevada Rangeland Resources Commission helped to pay for the Water Gab newsletter. THANK YOU!