

**IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA**

IN THE MATTER OF APPLICATIONS 53987)
THROUGH 53992, INCLUSIVE, AND 54003)
THROUGH 54021, INCLUSIVE, FILED TO)
APPROPRIATE THE UNDERGROUND)
WATERS OF SPRING VALLEY, CAVE)
VALLEY DRY LAKE VALLEY, AND)
DELAMAR VALLEY, (HYDROGRAPHIC)
BASINS 180, 181, 182 AND 184), LINCOLN)
COUNTY AND WHITE PINE COUNTY,)
NEVADA.)

**INTERIM ORDER
ON PRE-HEARING SCHEDULING**

On September 14, 2016, the State Engineer held a Status Conference regarding the above-referenced water right applications. The Status Conference was held in reference to the December 13, 2013, decision issued by Senior Judge Robert E. Estes, sitting for the Seventh Judicial District Court of the State of Nevada in and for the County of White Pine, in the matter of *White Pine County et al. v. Jason King*, Case No. CV1204049. The decision remanded the matter of Applications 53987 through 53992, inclusive, and Applications 54003 through 54021, inclusive, held in the name of the Southern Nevada Water Authority (SNWA), to the State Engineer for further consideration. No action was taken by the State Engineer on the above-referenced water right applications during the course of various appeals and writ petitions to the Nevada Supreme Court.

Judge Estes' decision remanded certain portions of the State Engineer's Ruling Nos. 6164, 6165, 6166 and 6167 concerning the granting of water rights to the SNWA in Spring Valley, Cave Valley, Dry Lake Valley, and Delamar Valley to the State Engineer for:

1. The addition of Millard and Juab counties, Utah in the mitigation plan so far as water basins in Utah are affected by pumping of water from Spring Valley Basin, Nevada;
2. A recalculation of water available for appropriation from Spring Valley assuring that the basin will reach equilibrium between discharge and recharge in a reasonable time;
3. To define standards, threshold or triggers so that mitigation of unreasonable effects from pumping of water are neither arbitrary nor capricious in Spring Valley, Cave Valley, Dry Lake Valley, and Delamar Valley, and;

4. To recalculate the appropriations from Cave Valley, Dry Lake Valley, and Delamar Valley to avoid over appropriations or conflicts with down-gradient, existing water rights.

The Status Conference was held to discuss the following issues:

1. Whether an additional administrative hearing is necessary or whether the matters can be reconsidered based on the evidence already in the record;
2. Whether additional work needs to be accomplished or evidence developed prior to reconsideration by the State Engineer or any additional administrative hearing;
3. Timing for the exchange of additional evidence, if necessary; and
4. Scheduling of any additional administrative hearing, if necessary.

The following appearances were made during the Status Conference: Dana Walsh, Paul Taggart, and Robert Dotson appeared on behalf of SNWA; Paul Echo Hawk and Scott Williams appeared on behalf of the Confederated Tribes of the Goshute Reservation; Paul Echo Hawk appeared on behalf of the Duckwater Shoshone Tribe, and Ely Shoshone Tribe; Simeon Herskovits and Iris Thornton appeared on behalf of Great Basin Water Network, et al., White Pine County, and Nye County; Severin Carlson and Paul Hejmanowksi appeared on behalf of the Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-day Saints (CPB); and Mark Ward and John Rhodes appeared on behalf of Millard County, Utah, and Juab County, Utah (Utah Counties). Jerald Anderson on behalf of the Eskdale Center was in attendance, but did not formally participate in the Status Conference. No appearance was entered on behalf of the Long Now Foundation or any other Protestants. All parties present were heard and given an opportunity to discuss the four above-mentioned Status Conference issues.

By letter dated September 12, 2016, counsel for the Great Basin Water Network, et al., White Pine County, and Nye County asserted that no additional hearing is necessary to fulfill the directives of the District Court concerning the State Engineer's responsibilities on remand. Other parties at the Status Conference were not in agreement that an additional hearing was unnecessary.

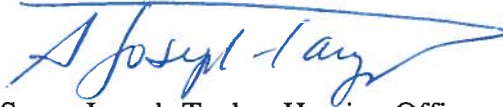
The State Engineer finds and orders the following:

1. An additional administrative hearing is necessary to provide the parties the opportunity to fully address the issues remanded.

2. The scope of the remand hearing will be limited to the specific issues identified in the Judge Estes' Ruling, and only new evidence relating to those issues will be considered in addition to the existing record.
3. **On or before October 14, 2016**, the parties shall identify documents that are not currently admitted exhibits in the administrative record that the parties propose should be admitted into the record as exhibits for the upcoming hearing. For example, copies of decisions by the Nevada Supreme Court in the various appeals and writ petitions. **Any objections to admission of the identified documents are due on or before October 24, 2016.** If no objections are received regarding an identified document, the State Engineer will assign the document an exhibit number in numerical sequence to the existing exhibit list and admit the document into evidence. If there are objections to any document or the State Engineer determines any said document will not be admitted, the parties will be notified of the State Engineer's determination on admission of the remaining identified documents by November 30, 2016. If such notice is required, it will only be served on those parties who made an appearance at the Status Conference.
4. The State Engineer will schedule the hearing for a time period within the last week of September 2017 and the first two weeks of October 2017. The State Engineer will endeavor to provide notice of the hearing schedule and evidentiary exchange dates by November 30, 2016.
5. The parties shall submit proposed schedules for initial and rebuttal evidentiary exchange dates (including for SNWA's proposed Monitoring, Management and Mitigation Plan) **on or before October 14, 2016.**
6. The Confederated Tribes of the Goshute Reservation, Duckwater Shoshone Tribe, and Ely Shoshone Tribe may file a motion regarding federal agency hearing participation and party status **on or before October 14, 2016.**
7. The SNWA may file a motion **on or before October 14, 2016**, regarding whether a protestant who did not appear or participate in the proceedings before Judge Estes or in the Nevada Supreme Court proceedings can participate in the remand hearing. SNWA conceded that the Utah Counties are proper parties to participate in this proceeding.
8. The CPB may file a motion regarding the availability of pre-hearing depositions **on or before October 14, 2016.** The State Engineer notes that NAC § 533.160 provides that prehearing discovery may be conducted in compliance with a stipulation between the parties or upon order of the State Engineer. The CPB may also file a motion regarding presentation of written direct testimony of expert witnesses in lieu of live direct testimony during the hearing **on or before October 14, 2016.**

9. Oppositions to these motions are to be filed in the Office of the State Engineer and served on the other parties **on or before October 24, 2016**. Replies to any Oppositions are due to be filed in the Office of the State Engineer and served on the other parties **on or before November 3, 2016**.
10. The parties are encouraged to agree on initial and rebuttal evidentiary exchange dates (including for SNWA's proposed Monitoring, Management and Mitigation Plans), and will **notify the State Engineer regarding any agreements reached by November 15, 2016**.

Respectfully submitted,



Susan Joseph-Taylor, Hearing Officer
Deputy Administrator

Dated this 3rd day of
October, 2016.

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