

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 JASON KING, PE, in his official capacity)
3 as the NEVADA STATE ENGINEER, and)
4 the NEVADA DEPARTMENT OF)
5 CONSERVATION AND NATURAL)
6 RESOURCES, DIVISION OF WATER)
7 RESOURCES, and SOUTHERN)
8 NEVADA WATER AUTHORITY,)

Case No. 64815

District Court Case No. CV-1204049
Consolidated with CV-1204050

Electronically Filed
Feb 25 2014 03:55 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

9 Appellants,)

10 vs.)

11 MILLARD COUNTY, UTAH and JUAB)
12 COUNTY, UTAH, et al.,)

13 Respondents.)

14 Affirmation pursuant to NRS 239B.030
15 The undersigned affirms that this document
16 does not contain the social security number of
17 any person.

18 **Response to State of Nevada and Southern Nevada Water Authority Docketing Statements**

19 Pursuant to NRAP 14(f), Respondents White Pine County, et al., and the Confederated
20 Tribes of the Goshute Reservation (“Respondents”) hereby respond to the docketing statements
21 filed by the Nevada State Engineer (“SE”) and Department of Conservation and Natural
22 Resources, Division of Water Resources (collectively “State of Nevada”) and the Southern
23 Nevada Water Authority (“SNWA”) (collectively “Appellants”). Respondents strongly disagree
24 with the inaccurately presented account of issues on appeal in paragraphs 9 and 12 of
25 Appellants’ docketing statements. Respondents respectfully suggest that reading the District
26 Court’s Decision shows that the actual issues on appeal are:

27 1. Whether the District Court properly found that the SE acted arbitrarily and capriciously
28 in “violating his own standards” by permitting SNWA to engage in unsustainable groundwater
mining in Spring Valley at the expense of following generations of Nevadans.

2. Whether the District Court properly found that the State Engineer acted arbitrarily and
capriciously in prematurely granting SNWA’s applications, relying on a monitoring and

1 management plan devoid of “objective standards” to prevent or mitigate impacts “without
2 knowing the impacts to existing water right holders and [without] a clear standard to identify
3 impacts, conflicts or unreasonable environmental effects so that mitigation may proceed in a
4 timely manner.”

5 3. Whether the District Court properly found that the SE acted arbitrarily and capriciously
6 in allowing a “double appropriation” by permitting SNWA to appropriate groundwater in three
7 upgradient basins in the White River Flow System that already is appropriated by existing water
8 rights holders in the downgradient basins of the same interbasin flow system.

9 4. Whether the District Court properly found that the SE acted arbitrarily and capriciously
10 by failing to include the entire area affected by pumping within the area covered by the
11 monitoring and management plan.
12

13 Respectfully submitted this 25th day of February, 2014,
14

15 /s Iris Thornton
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing **Response to State of Nevada and Southern Nevada**
3 **Water Authority Docketing Statements** was filed electronically with the Nevada Supreme
4 Court on the 25th day of February, 2014. Electronic Service of the foregoing document shall be
5 made in accordance with the Master Service List as follows:
6

- 7 Paul EchoHawk
- 8 Curtis Berkey
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- 12 Severin Carlson
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- 14 Paul Taggart
- 15 Gregory Walch
- 16 Dana Walsh
- 17 Joel Henriod
- 18 Jerry Snyder
- 19 Cassandra Joseph
- 20 Daniel Polsenberg

21 I further certify that on the 25th day of February, 2014, I served, via USPS first class
22 mail, a complete copy of the foregoing **Response to State of Nevada and Southern Nevada**
23 **Water Authority Docketing Statements** on the following attorneys of record who are not
24 registered for electronic service:
25

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/s/ Noel Simmons

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