

**BEFORE THE STATE ENGINEER, STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES**

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, DELAMAR )  
VALLEY, AND DRY LAKE VALLEY )  
HYDROGRAPHIC BASINS (180, 181, 182 )  
AND 184), LINCOLN COUNTY AND )  
WHITE PINE COUNTY, NEVADA. )

**CLOSING STATEMENT  
OF GBWN, ET AL.**

Protestants Great Basin Water Network,<sup>1</sup> 2nd Big Springs Irrigation Company, Keith Anderson, Craig Baker, Dean Baker, Thomas Baker, Baker GID, Baker Ranches, James and Donna Bath, Bath Lumber Company, Govert Bassett, Walter Benoit, Border Inn, Carter-Griffin, Inc., Max & Diane Chipman, Citizens Education Project, Louis Cole, Defenders of Wildlife, Kristine Fillman, Patrick Fillman, Gardner's Quarter Circle 5 Ranch, Jo Anne Garrett, Kena Gloeckner, Patrick Gloeckner, Great Basin Business and Tourism Council, Kathy Hiatt, County of Inyo, Abigail Johnson, Linda Johnson, League of Women Voters of Salt Lake City, Robert Lewis, Lund Irrigation & Water Company, Orvan Maynard, Roderick McKenzie, Nevada Farm Bureau, Panaca Irrigation Company, Gary and Jo Ann Perea, Preston Irrigation Company, Launce Rake, William and Kathy Rountree, Toiyabe Chapter of the Sierra Club, Amelia Sonnenberg, Sportsworld, Terrance and Debra Steadman, Utah Audubon Council, Mildred Valencia, David Von Seggern, Mark Wadsworth, Lois Weaver, County of White Pine and City of Ely, and Debra Whipple ("GBWN et al."), by and through their attorneys, Advocates for Community and Environment, and pursuant to the State Engineer's Amended Third

Informational Statement Regarding Southern Nevada Water Authority Water Right Applications

<sup>1</sup>Over 250 individuals and entities signed onto the Great Basin Water Network's protest. A list of these parties is attached to this written closing as Exhibit A.

in Spring, Cave, Dry Lake, and Delamar Valleys (“Amended Third Informational Statement”), hereby respectfully submit their written closing argument.

### **INTRODUCTION**

As parties and attorneys from all sides have agreed, the State Engineer’s decision concerning the Southern Nevada Water Authority’s water rights applications in Spring, Cave, Dry Lake, and Delamar valleys that are at issue in this proceeding will be one of the most important water rights decisions in this century and probably in the history of Nevada. That is because SNWA is seeking to appropriate essentially the entire amount of recharge that each of these large valleys receives annually, and pump it hundreds of miles away to serve as an additional supply for the greater Las Vegas area in Clark County. As such SNWA’s proposed groundwater development project, or use, would permanently divert massive amounts of groundwater from these valleys. The State Engineer should deny SNWA’s applications in their entirety because the evidence clearly demonstrates that SNWA cannot develop this groundwater without running afoul of Nevada water law and policy on a number of grounds, as explained below.

With regard to Spring Valley, the evidence clearly demonstrates that SNWA’s proposed pumping will amount to a devastating groundwater mining project, under which the groundwater system would not even begin to approach equilibrium for thousands of years. SNWA’s proposed pumping would draw down the water table by many tens of feet, eventually drying out most if not all of the non-perched springs that gave the valley its name and that sustain a variety of wildlife species. Along with the springs, wetlands and riparian areas will be dried out, destroying additional crucial wildlife habitat. As the water table drops, the depth to water will increase to such a degree that even the hardiest of phreatophytes will be killed off through most

of the valley. The same drawdown from SNWA's proposed pumping will give rise to conflicts with existing water rights in Spring Valley. In addition, the drawdown that SNWA's proposed use would cause will create an increased risk of dust emissions from both the presently moist playa areas in the valley and other areas where current vegetation is killed off.

With regard to Cave, Dry Lake, and Delamar Valleys (the "CDD Valleys"), the evidence clearly demonstrates that all of the water SNWA has applied for would come from interbasin flow in the White River Flow System that already is necessary to satisfy preexisting water rights in downgradient discharge points and wells within that interbasin flow system. As a result, SNWA's proposed pumping would directly conflict with existing water rights and would jeopardize a number of springs, groundwater dependent resources, and wildlife populations and habitat areas in downgradient basins such as Pahrnagat Valley and Moapa Valley. Thus, in these downgradient valleys within the White River Flow System the drawdown caused by SNWA's proposed use would cause the same unreasonable environmental impacts and impermissible conflicts with existing rights that would be caused in Spring Valley.

With regard to Spring Valley, the CDD Valleys, and the impacted downgradient valleys in the White River Flow System, an additional effect of SNWA's proposed groundwater pumping will be to undermine existing economic uses and activities, as well as to unduly future economic development and growth not only in the targeted valleys themselves but in the communities in surrounding valleys whose economies are inextricably interconnected with and dependent on the ability to use these valleys and their water dependent resources.

Despite the fact that SNWA's own model and other models, including Dr. Tom Myers' model, all predict widespread drawdowns of roughly the same magnitude as a result of SNWA's proposed pumping, SNWA attempts to sidestep the grave implications of this evidence by simply

asserting that the basic consensus of such model predictions should be disregarded. SNWA even went so far as to leave its own model runs of more than 75 years out of its evidentiary presentation. While SNWA would have the State Engineer disregard the overwhelming evidence in the record concerning the lack of available unappropriated water in the targeted basins and the significant impacts and conflicts that would result from SNWA's proposed pumping, Nevada water law requires that the State Engineer take that evidence into consideration and deny SNWA's application.

In addition to obfuscating the hydrologic evidence, SNWA attempts to obfuscate the evidence concerning environmental impacts and conflicts with existing water rights by advancing monitoring and mitigation plans that lack any quantified goals, thresholds or triggers for mitigation measures, identification of specific mitigation measures, or standards by which to measure the effectiveness of whatever mitigation measures might be implemented. Absent such concrete specifics, SNWA's purported monitoring and mitigation response to the problematic impacts of its proposed pumping is simply not a substantial or reasonable basis for the State Engineer to approve SNWA's applications and proposed use.

As explained further below, SNWA also has failed to demonstrate either that it has a genuine need for the water it seeks through these applications or that it has the financial ability to afford this massively expensive project.

As indicated above, GBWN has presented its protest case and now presents this written closing on behalf of more than three hundred individuals, businesses, governmental entities, and citizens' groups from every corner of Nevada, including southern Nevada, and neighboring states. These many, diverse parties are gravely concerned over and passionately opposed to SNWA's applications and the groundwater development project that is the proposed use

associated with those applications. For the reasons set forth in this written closing we all urge the State Engineer to deny SNWA's applications in order to safeguard the long-term viability of the water resources in the four targeted valleys and the hydrologically connected downgradient basins, to protect existing water rights holders and the environment in the affected basins, and southern Nevada from an unsustainable project that it cannot afford and does not need.

**1. There Is No Genuine Need for SNWA's Proposed Pipeline Project (NRS § 533.370(6)(a)) Because Future Demand Likely Will Be Much Lower Than SNWA Has Projected and Viable More Cost Effective Alternatives Make the Pipeline Unnecessary**

The interbasin transfer statute requires the State Engineer to make a determination that there is a genuine need for water in another area of the state before it is transported out of the basin of origin. NRS § 533.370(6)(a). SNWA's self serving presentation supporting the purported need for this project is based on unreasonably inflated projections, and refuses to consider a number of more cost effective alternatives that would eliminate the need for the proposed project. A careful review of SNWA's evidence reveals that indeed, there is no genuine need for the proposed pipeline project and the applications should be denied on that ground alone.

**A. SNWA's Population Projections Are Unreasonably High and Are Based on Outdated Data:**

Because future demand is a function of population and per capita use, the population numbers advanced by SNWA are critical to the determination of need for the proposed pipeline project. SNWA population projections are unreasonably high and are based on outdated data, which inflates SNWA's future demand projections. SNWA's population projections are taken from their 2009 Water Resources Plan and have not been updated to reflect the recent economic downturn, which has halted growth in southern Nevada. Transcript Vol. 2, at 358 (Sept. 27, 2011) (Holmes Cross). SNWA also has self-servingly chosen to use the Center for Business and

Economic Research's ("CBER's") population projections for Clark County, but uses the Nevada Demographer's more conservative population projections for rural Nevada. The use of CBER's numbers as a basis for population projections in southern Nevada misleadingly inflates SNWA's projected population numbers. SNWA's unreasonably high population projections should not be adopted by the State Engineer to support the purported need for the proposed pipeline project.

**B. The Implementation of a More Effective Conservation Program Comparable to Other Western Cities Would Eliminate the Need for the Proposed Pipeline Project:**

An examination of SNWA's per capita water use is essential to the determination of genuine need for additional water supplies. This is because a reduction in per capita use alone could eliminate the need for the proposed pipeline project. However, SNWA continues to refuse make a genuine attempt to aggressively reduce per capita use in its service area, opting instead for pursuing additional water supplies.

Although SNWA dedicated hours of testimony to the presentation of SNWA's conservation plan's various components, SNWA failed to engage in an assessment or evaluation of the effectiveness of any of these programs and does not dispute the fact that there is room for significantly greater water savings. Even though SNWA agrees that there is room for additional water savings, the conservative conservation target of about 10% set by SNWA for year 2035 of 199 gallons per capita per day (gpcd) lags behind other cities in the west. Transcript Vol. 23, at 5099-103 (Nov. 9, 2011) (Gleick Direct). Indeed many western cities have already achieved 199 gpcd. *Id.* at 5099. Despite the fact that SNWA has engaged in some significant positive conservation efforts, the real fundamental point is that they have not done nearly as much as other western cities, and that they readily could do a much better job of implementing conservation measures and programs. So, it is questionable whether SNWA can fairly be said to have effectively implemented an adequate conservation program.

Consistent with SNWA's approach throughout this hearing of self-serving selective presentation of information, SNWA's conservation presentation focused on the number of conservation programs implemented by SNWA member agencies. While on the surface it may appear that SNWA has implemented similar conservation programs as other cities around the west, the real point is quality and effectiveness of those programs, not the number of programs implemented. Indeed, most of SNWA's programs are barely or poorly implemented, that they have not been implemented to the degree that similar programs in other cities have (i.e., having a rebate "program" is not the same as actually offering lots of rebates), and they have not been effective.

But the real point is that there are ample additional conservation measures and programs that are readily available more quickly and more cheaply than the pipeline project, and that would eliminate some or all of the purported need for the pipeline project. In his testimony Dr. Gleick pointed out one glaring example where, despite Mr. Bennett's claim to the contrary, SNWA's own public information demonstrates that there are three times as many acres of turf left, available for conversion, as have been converted already, and there is substantial additional outdoor landscaping water use that could be dramatically reduced. Transcript Vol. 23, at 5108-10 (November 9, 2011) (Gleick Direct).

Not only could SNWA implement more aggressive turf removal programs,<sup>2</sup> SNWA's water rate structure fails to encourage conservation, especially when compared with other

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<sup>2</sup> SNWA has also refused to consider increased indoor conservation as a viable means of reducing consumption on the basis of a return flow credit argument. Yet the point remains that if SNWA is able to deliver less water to each household, more households can be served with the same amount of diverted water, which would decrease transportation costs and provide water for more homes. Transcript Vol. 23, at 5111-13 (Nov. 9, 2011) (Gleick Direct). The fact also makes it clear that SNWA's outdoor conservation program is all that much more critical to

western cities. Despite the fact that SNWA's conservation manager has conceded that demand for water is elastic and that consumers respond to rate increases, SNWA's rate structure remains one of the most conservative in the west. Transcript Vol. IV, at 920 (Sept. 29, 2011) (Bennett Direct). There can be no debate that implementation of a more aggressive rate structure would decrease demand, and, combined with an effective conservation program, could eliminate the need for the pipeline project.

While SNWA would suggest that recent water rate increases have resulted in aggressive rate structures, the figure SNWA used to make this point, Figure 4-1 of SNWA Exhibit 004, was misleading. While the tiers represented in the figure appear to increase steeply and the recent rate increases appear to be significant, when SNWA member agencies' water rates are evaluated in comparison with other western cities, it is clear that they remain some of the least aggressive in the west. See Hidden Oasis Report, at 23, Figure 9 (GBWN Exhibit 072). The only justification for failing to institute more aggressive rate structures was that such a change could have unintended consequences, including decreasing water use to the point that SNWA cannot finance the pipeline project that would fuel this unnecessary wasteful use. Transcript Vol. IV, at 920 (Sept. 29, 2011) (Bennett Direct).

The data are clear: despite SNWA's existing programs; despite their improvement since 2007; their water use is still far higher than other western cities, they still do not focus conservation efforts on indoor water use, despite the proven effectiveness and savings, and their outdoor programs (which they pride themselves on) have stalled. The bottom line is that if SNWA were to take conservation seriously, the pipeline project would be unnecessary.

### **C. Potential Lake Mead Shortage Provides No Justification for the Pipeline Project**

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SNWA's water portfolio, and in order to effectively implement its conservation program, more aggressive outdoor conservation must be pursued.

When the growth boom ended in Southern Nevada, SNWA shifted its rationale for the Groundwater Development Project to a need to diversify its Colorado River-dependent portfolio because of the threat of drought drying up Lake Mead, and indeed the testimony presented in this hearing focused on this potential shortage. However, the protocols developed by the Colorado River Basin States and the federal government call for cuts of only 13,000 to 20,000 acre-feet annually (afa) in the SNWA allocation from the river in the event drought causes the water levels in Lake Mead to decline. Other basin states would face similar percentage reductions in their allocations. Those cuts, which would preserve access to the river for all users, would be, for Southern Nevada, far smaller than the conservation measures already achieved in metropolitan Las Vegas.<sup>3</sup> This means that even in the event of a deepening drought, Southern Nevada water users would not be seriously affected. Indeed, they have already conserved their way out of crisis and there is room for far greater conservation.

**D. There Are Viable Cost Effective Alternatives to the Pipeline Project That Would Eliminate the Need for the Proposed Pipeline Project**

During the hearing SNWA did its best to avoid discussion of the potential for desalination as an alternative to the pipeline project. However, advances in technology have dramatically reduced the cost of desalinated water, and cities around the country and world are increasingly looking to desalination as a cost effective water source. In fact, SNWA itself is pursuing desalination, but chose to downplay its desalination activities in this hearing. SNWA's refusal to present desalination as a potential viable component of its water resource plan is merely an attempt to create the appearance that the proposed pipeline project is the only option, when in fact it is the least cost effective of several alternatives, including desalination, conservation, and Colorado River negotiations. Indeed, as Richard Holmes conceded, if the

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<sup>3</sup> SNWA Water Resource Plan 09, 45-46 (Dec. 2009) (SNWA Exhibit 209).

State Engineer finds that there is no water available in rural eastern Nevada and the pipeline is not permitted, Southern Nevada will find a way to get the water. Transcript Vol. 2, at 375 (Sept. 27, 2011) (Holmes Cross).

SNWA has cobbled together a self-serving and misleading presentation of purported future demand and need for the proposed pipeline project that relies on inflated population numbers and an inadequate conservation program. When these two components of need are examined more closely, however, it is clear that the picture presented by SNWA suggests a far greater need than the numbers support. The fact that the future demand is much lower than SNWA suggests, combined with the fact that potential Lake Mead shortages will not result in the catastrophic cutbacks SNWA alludes to makes it clear that there is no genuine need for the proposed project. This is especially true given the alternatives such as desalination that SNWA is also exploring. Because there is no genuine need for the proposed pipeline project, the applications should be denied on that ground alone.

**2. SNWA Has Not Demonstrated a Good Faith Intention or the Ability to Construct or Finance the Proposed Pipeline Project (NRS § 533.370(1)(c)(1), (2))**

As a prerequisite to permitting any water to support SNWA's proposed pipeline project, the State Engineer must make a determination that SNWA has the ability to actually construct and finance the proposed project. NRS § 533.370(1)(c)(1), (2). SNWA's own experts estimate that SNWA's proposed pipeline project could cost over \$15 billion to construct and finance. SNWA Exhibit 383, at 35. This estimate falls into a concept or feasibility study estimate category, where the current project definition is between 1% and 15% of full project definition. Summary of Cost Estimate, at 2 (SNWA Exhibit 195). SNWA concedes that "[t]here is substantial uncertainty about many aspects of the proposed project. *Id.* Thus, the actual construction cost could be up to 50% higher than the estimate. *Id.* See also Transcript Vol. 2, at

378 (Sept. 27, 2011) (Holmes Cross). Mr. Bonow conceded that there is roughly a one to one relationship between a construction cost increase and the overall cost including financing.

Transcript Vol. 13, at 2923-25 (Oct. 12, 2011) (Bonow Cross). Thus, if the actual construction cost is 50% higher than projected, the cost to construct and finance the project will be 50% higher than projected.

Moreover, the \$15 billion projected by Hobbs and Bonow does not include operating costs or the cost of SNWA's monitoring and mitigation program, which would be substantial. For example, the Los Angeles Department of Water and Power ("LADWP") pays roughly \$5 million to Inyo County on a yearly basis and spends more than that on its Monitoring and Mitigation program. Transcript Vol. 23, at 5323-24 (November 9, 2011) (Harrington Staff Questions). Thus, SNWA's ability to finance report provides only a portion of the overall cost of the project. Even so, it is clear that SNWA's ability to finance the construction alone is tenuous. Transcript Vol. 22, at 4891 (November 8, 2011) (Leurig Staff Questions).

Financing the project depends on multiple factors,<sup>4</sup> including the ability to maintain a revenue stream sufficient to meet debt obligations. In order to finance construction of the project alone, Hobbs and Bonow project a debt service ratio of about 1 to 1 for over a decade. See id. at 4857 (Leurig Direct). As noted by Protestants' witness Sharlene Leurig, "[t]hat is an extremely slim margin, and it's one that is even slimmer if you consider that that's assuming that demand

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<sup>4</sup> Among the factors contributing to the ability to finance is the interest rate SNWA will be able to secure when refinancing. Hobbs and Bonow assume an interest rate of 6.25%, Transcript Vol. 13, at 2864 (Oct. 12, 2011) (Bonow Direct), which is representative of historically low interest rates seen in recent years. The assumption that interest rates will remain at historic lows into the future is unsupported. Additionally, should investors be less willing to purchase SNWA bonds as a result of the proposed capital intensive pipeline project's impact on SNWA's debt service ratio, SNWA's ability to secure a favorable interest rate could be placed in jeopardy. See Transcript Vol. 22, at 4854-55. An increase in interest rates could significantly affect the overall cost of the project. See GBWN Exhibit 115, at 3 (Leurig Rebuttal Report).

stays fixed within that time frame based on its current levels. Id. at 4858. This debt service ratio leaves little room for error.

SNWA's revenue is directly related to water use or consumption and the "sensitivity of SNWA's revenues to actual demand is quite significant, given its price structure." Id. at 4850. Hobbs and Bonow assume that demand for water is inelastic, and that demand will remain the same even if prices increase substantially, to nearly three times the current average water bill. This assumption allows SNWA to project an increasing revenue stream as a result of water rate increases. And yet Mr. Bennett, SNWA's conservation manager, conceded that raising the rates too much could have the unintended consequence of revenue shortfall. See Transcript Vol. IV, at 919-21 (Sept. 29, 2011 (Bennett Cross)). See also Transcript Vol. 22, at 4847 (Leurig Direct). Indeed, given the well known fact that demand for water is not inelastic, "the difference between the projected revenue growth and actual revenue growth could be substantial." (Leurig Direct). "[W]hat makes this such a pernicious problem is that, while SNWA has the ability to raise rates to cover its cost and is committed to doing that, further increasing rates could have the effect of further decreasing demand, and that creates very significant difficulties in their ability to assure a given revenue stream over time." Id. at 4851. This point was echoed by Mr. Bennett who suggested that water rate increases were not effective conservation tools because they could have the unintended consequence of driving demand so low that revenues would not cover operating costs. See Transcript Vol. IV, at 919-21. In this case, it would be "very probable that the water rates themselves would have to increase beyond what is proposed in the ability to finance report." Transcript Vol. 22, at 4850.

Given that Hobbs and Bonow project an ability to finance at the slimmest of margins based on a constant demand curve and historically low interest rates, and given that this ability to

finance does not take into account the fact that the project construction costs could very well be 50% greater than projected, that monitoring and mitigation costs will be significant, and that demand for water could very well decrease substantially with price increases that will be necessary to finance the project, the Hobbs and Bonow report represents an unrealistic picture of SNWA's ability to actually finance this project. It is clear that given the added costs of monitoring and mitigation and the multiple assumptions made favoring SNWA's ability to finance, it is unlikely that SNWA will actually have the ability to finance this project and the applications should be denied pursuant to NRS § 533.370(1)(c)(1) and (2). Moreover, to permit a project that does not have a realistic chance of being constructed and could place a significant burden on Southern Nevada's economic viability would not be in the public interest.

**3. The State Engineer Should Deny SNWA's Applications Because the Hydrologic Evidence Demonstrates that there is No Significant Amount of Unappropriated Water Available In the Four Target Basins and SNWA's Proposed Use Would Conflict with Existing Rights and Protectable Interests in Domestic Wells**

SNWA's approach to addressing the availability of unappropriated water and the potential impacts on existing water rights was basically one of obfuscation and distortion. While SNWA introduced voluminous reports and printed materials and lengthy testimony, quantity is not a substitute for quality, and both quality and completeness were sorely lacking in SNWA's evidence. In addition, despite SNWA's repeated refrain of protestation at any suggestion that any of its scientific testimony or reports could be slanted in anyway, the evidence demonstrates that the contrary is true, undermining SNWA's claims about the availability of unappropriated water and lack of significant effects on existing rights or the environment.

To begin with, all of SNWA's scientific evidence was prepared after the fact in order to support application amounts that were set by SNWA in the late 1980s. The vast majority of SNWA's evidence was prepared by employees and long-term contractors of SNWA, who simply

are not disinterested or objective scientists. In addition, at frequent junctures critical subjective judgments were made by these witnesses that uniformly had the effect of producing water where it conformed to the amounts and locations previously selected by SNWA long ago and preventing water from flowing in directions or to places that would undercut SNWA's applications. The sheer uniformity of SNWA's witnesses' testimony to the effect that every component of the water budgets for the target basins works out just so as to support the amounts of water applied for by SNWA is too implausible to be reasonably accepted.

The testimony of SNWA's geology witness, Dr. Peter Rowley, is an example of the result-oriented overreaching that plagues SNWA's entire case. Dr. Rowley testified at length in a very self-complimentary vein about the voluminous geologic work he and his partner had performed in these basins for SNWA, but it became apparent during the course of his testimony that he did not in fact have any substantial evidence that fundamentally altered the picture of the relevant geology in any of the basins in question. Areas where interbasin flow has previously been considered permissible remain so, and virtually all of his analysis and testimony concerning "likely" flow patterns remains unverified by pump testing. In addition, Dr. Rowley plainly overstated the role of particular faults as essentially complete barriers to groundwater cross flow virtually perfect conduits of groundwater in exactly the quantities to precisely the areas SNWA's seeks. Similarly, SNWA's principal hydrology witness, Andrew Burns, based his judgment that interbasin flow out of Spring Valley is practically nonexistent in the northern part of the valley and at the very low end of estimates in the southern part of the valley largely on a student's masters thesis that is framed from beginning to end as an argumentative piece in favor of reducing outflow estimates so that SNWA can export more water from Spring Valley. When asked about this fact, Mr. Burns professed not to be aware that the student paper was expressly

written to justify increased water rights for SNWA in Spring Valley. Transcript Vol. 7, at 1536-40 (Oct. 4, 2011) (Burns Cross).

Perhaps the most blatant obfuscation at the heart of SNWA's hydrology case was SNWA's attempt to run away from its own model and the results of its own modeling efforts. On the one hand, SNWA's witnesses testified that the predictive model they developed for use in preparing the Environmental Impact Statement for the same Groundwater Development Project was superior to other models, and argued in particular that Dr. Myers' Spring Valley model should not be relied on because it was not as elaborately documented as SNWA's model. See Transcript Vol. 9, at 1902-06, 49 (Oct. 6, 2011) (D'Agnese Direct). Yet on the other hand, they repeatedly tried to persuade the State Engineer and his staff to disregard the predictions of its own model. SNWA's witnesses even argued that the State Engineer could not use SNWA's model for the very purpose it was developed and used in the BLM's Draft EIS, namely to predict likely hydrologic impacts and drawdown of the water table throughout the hydrologically connected basins in the region affected by SNWA's proposed pumping. Transcript Vol. 9, at 1906-09 (Oct. 6, 2011) (D'Agnese Direct). SNWA cannot rationally be allowed to have it both ways. The evidence in the record plainly demonstrates that, while it is flawed in some regards and has certain limitations, SNWA's model and other models, including Dr. Myers', that have been developed to project the impacts of SNWA's proposed pumping in part or all of the affected region are useful tools that the State Engineer should employ to predict in at least general terms impacts are likely to occur and the order of magnitude or rough degree of severity of such impacts in affected areas. The irony of SNWA's inconsistent and blatantly skewed approach to the use of its own model, is that the evidence shows that SNWA's model produces projections that are broadly similar to those produced by Dr. Myers' and other models. See

Transcript Vol. 24, at 5388-90 (Nov. 10, 2011) (Bredehoeft Direct); Transcript Vol. 19, at 4259-60 (Nov. 3, 2011) (Myers Direct). The clear implication of this general consensus among different models as to the geographic scope and magnitude of impacts from SNWA's proposed pumping is that the State Engineer can rely with some degree of confidence on those projected impacts. By the same token, it would be irrational to disregard these predictions.

In the same vein, SNWA's refusal to present any model runs extending beyond 75 years was nothing more than a patent attempt to hide from the uniform evidence of ever graver impacts as SNWA's proposed groundwater development project continues to operate into the indefinite future, which is what the water rights SNWA has applied for would permit and which the overwhelming weight of the evidence indicates. Indeed, SNWA witness Patricia Mulroy likened SNWA's supposed entitlement to this project to Rome's ability to build and rely on its aqueduct system, a water supply system that has been in operation for two millennia. Transcript Vol. 1, at 92 (Sept. 26, 2011) (Mulroy Direct). Reinforcing the fact that this proposed project must be viewed as much longer term than 75 years, no SNWA witness was willing to commit to any limit whatsoever on the duration of SNWA's proposed pumping. Accordingly, SNWA's refusal to offer any evidence whatsoever concerning potential impacts beyond 75 years completely undercuts its case concerning both the availability of water and the proposed use's likely environmental impacts and conflicts with existing rights.

#### **A. Spring Valley**

With regard to Spring Valley, despite the conflicting evidence concerning interbasin flow, the evidence demonstrated a general consensus from all modeling that the system will not come into anything approaching any reasonable definition of equilibrium for at least several millennia. See Transcript Vol. 18, at 4103-18 (Nov. 2, 2011) (Myers Direct). Under any

reasonable interpretation of Nevada water law and traditional water policy, SNWA's proposed use would constitute unsustainable and impermissible groundwater mining.

In addition, the models all concur that there will be a significant magnitude of drawdown which will spread throughout the valley, eventually resulting in the drying up of springs and wetlands through most if not all of Spring Valley. As the witnesses for Protestant Long Now Foundation testified, this drawdown will affect playa areas in Spring Valley that presently are moist, and could well give rise to substantially greater dust emissions in the Valley, affecting human and animal health, as well as Spring Valley's important scenic and recreational values. See Transcript Vol. 28, at 6276-338 (Nov. 17, 2011) (Robinson Direct). In addition, this many tens of feet of drawdown caused by SNWA's proposed pumping will create irreconcilable conflicts with existing rights such as those associated with the Cleveland Ranch.

While SNWA's proposed hydrologic monitoring and mitigation plan for Spring Valley could mask these long-term effects for a few decades, in the long run it amounts to nothing more than rearranging the deck chairs on the deck of the Titanic as the ship goes down.

With regard to interbasin flow into and out of Spring Valley, the evidence clearly shows that flow is permissible into Spring from Steptoe and out of Spring to Hamlin and southern Snake Valley. It also is clear that both the gradients and some other evidence indicate that there is at least some flow. It also is clear that there is great uncertainty about the amount of flow and that the system is not well understood. In such a situation the only responsible and rational approach to take is a conservative one that errs on the side of protecting the long-term viability of the resource.

## **B. Cave, Dry Lake, and Delamar Valleys**

With regard to Cave, Dry Lake, and Delamar Valleys, the uncontested testimony of Drs. Bredehoeft and Myers established that virtually all of the recharge in those valleys is accounted for by interbasin flow in the White River Flow System, which flows out of those three targeted basins and into downgradient basins where that interbasin flow is completely appropriated at downgradient discharge points such as the Muddy River Springs, the regional springs in Pahrangat Valley, and longstanding wells. The dangers of allowing water in the White River Flow System that already has been appropriated to be double appropriated already has been recognized by the State Engineer in Order 1169. It ultimately would be disastrous to water rights holders and the environment in those hydrologically connected downgradient basins To allow SNWA to appropriate and transfer any part of the interbasin flow out of Cave, Dry Lake or Delamar Valleys, when the evidence clearly indicates that such interbasin flow is accounted for by existing water rights at downgradient points of discharge or diversion.

**4. SNWA's Proposed Pipeline Project Would Be Detrimental to the Public Interest (NRS § 533.370(5)) and Would Be Environmentally Unsound With Regard to the Targeted Basins (NRS § 533.370(6)(c)) Because It Would Cause Severe Environmental and Economic Harm to the Targeted and Hydrologically Connected Basins**

Pursuant to NRS 533.370(5), an essential part of the State Engineer's evaluation of SNWA's applications is an evaluation of whether granting the applications and permitting the proposed use would "threaten[] to prove detrimental to the public interest." The public interest is a broad criterion that comprises a range of concerns that has evolved over time. Ruling 5726, at 37-43 (Apr. 16, 2007) (Spring Valley Ruling). As SNWA has conceded and the State Engineer has previously held, the public interest includes a requirement that the proposed use not cause unreasonable environmental harm resulting from hydrologic depletion as a result of the appropriation and export of the water, including effects on downgradient basins – such as White River Valley, Pahrangat Valley, Moapa Valley, and Snake Valley – that depend on inflow from

the basins of origin as well as those basins of origin themselves. See e.g., Transcript Vol. 9, at 2081 (Oct. 6, 2011) (Marshall Direct) (referencing the Biological Monitoring Plan area of interest). See also Ruling 5875, at 23- 25 (July 9, 2008) (Cave, Dry Lake, and Delamar Valleys Ruling). Such unreasonable environmental harms include undue impacts on wildlife populations and habitat and on air quality that would harmfully affect human health and significant recreational and aesthetic values in the affected areas as a result of the drawdown of groundwater tables and spring flows in both the basins of origin and those basins that are hydrologically connected and downgradient from the basins of origin. See Ruling 5726, at 37-43; Ruling 5875, at 23-25. For the basins of origin Nevada's interbasin transfer provision articulates the standard as "whether the proposed action would be environmentally sound," but that phrase has not been defined with any more precision than the general language concerning what would be unreasonable in terms of environmental impacts outside the basins of origin. Accordingly, GBWN will address the issue of potential environmental impacts in both the basins of origin and the hydrologically connected downgradient basins together.

Similarly, meaningful consideration of the public interest necessarily involves an evaluation of the relative economic benefit and detriment that would result from the applications and proposed use being approved. While Nevada's interbasin transfer provision describes this for the basins of origin as not unduly limiting future growth and development, it is plain that the State Engineer's consideration of the public interest must include consideration of the economic implications for the broader areas affected by SNWA's proposed use, particularly for the communities in the surrounding valleys whose economic wellbeing and future prospects are inextricably intertwined with that of the basins of origin. This was conceded by SNWA witness Richard Holmes, Transcript Vol. 15, at 3438 (Oct. 14, 2011) (Holmes Cross), and indeed forms

the basis of SNWA's entire public interest presentation, which essentially amounted to an argument that Clark County is the most populous and economically powerful part of the State and therefore should get the water it seeks in these applications. Accordingly, as with the environmental component of the public interest evaluation in this case, GBWN will address the issue of potential economic impacts in both the basins of origin and the surrounding economically interconnected communities together.

In addition, GBWN agrees fully with the Tribal Protestants that potential harm to significant cultural and historic resources and values also must be considered as part of the public interest. This includes the spiritually sacred and culturally important sites and resources in Spring Valley to which tribal members and the Tribal Protestants' other witnesses testified. It also includes the archaeological, historic, cultural and scenic sites comprised within the Great Basin National Heritage Area, about which parties, including Denys Koyle, spoke during public comment. E.g., Transcript Vol. 10, at 2245 – 2247 (Oct. 7, 2011). While SNWA's presentation in support of its applications simply ignored the question of potential impacts to significant cultural and historic resources in the affected area, GBWN will address that issue within its discussion of the public interest below.

**A. The Proposed Pipeline Project Will Cause Severe Environmental Harm to Both the Basins of Origin and Hydrologically Connected and Downwind Basins**

Consistent with its approach in other areas of its case, SNWA sidestepped the issue of environmental impact by presenting no real evidence on predicted environmental effects, by unrealistically limiting any projections it did choose to make to 75 years, and by basing its entire environmental impact analysis on a monitoring and mitigation program, which is very unlikely to be effective and a loose reliance on NEPA and other federal environmental laws as

environmental safeguards. So, the agency presented no actual evidence on environmental soundness of the proposed project, and the SE should deny the applications for that reason alone.

The fact is that Models all agree that drawdown will be severe and will spread over a vast area of eastern rural Nevada and will extend into western Utah. See Transcript Vol. 24, at 5388-90 (Nov. 10, 2011) (Bredehoeft Direct). There is no way to escape the fact that these drawdowns will have catastrophic impacts to wildlife and plant communities in the affected region, including those in national wildlife refuges and state wildlife management areas, and have the potential to cause serious additional dust emissions in a number of the affected valleys that will create serious air quality issues possibly extending as far as the Wasatch front. Impacts to Great Basin National Park, a pristine and irreplaceable national resource, will also be likely.

SNWA downplays these impacts and sidesteps the reality by attempting to rely on a vague, undefined monitoring and mitigation plan and vague references to protection provided by Federal environmental laws.

**1. NEPA and Other Federal Environmental Laws Do Not Provide a Justification for Failing to Properly Evaluate and Make a Finding as to the Environmental Soundness of the Proposed Pipeline Project**

The existence of Federal laws such as NEPA and the ESA do not, as SNWA repeatedly has suggested, permit the State Engineer to abdicate his legal duty to evaluate whether granting SNWA's applications and permitting the proposed use would have unreasonable environmental impacts, as required under Nevada State law.

SNWA's suggestion that the State Engineer simply rest his environmental soundness determination under the public interest and interbasin transfer statutes on the BLM's compliance with NEPA is unsupported by law and would make a mockery of the State Engineer's statutory duty under Nevada water law. It is clear that the BLM's compliance with NEPA's procedural requirements does not relieve the State Engineer of his substantive statutory duty to evaluate the

environmental soundness of SNWA's applications. See Keith v. Volpe, 118 F.3d 1386 (9<sup>th</sup> Cir. 1997) (holding that NEPA's procedural requirements could not be used to justify overriding state substantive law). Cf. 42 U.S.C. § 4334 (compliance with NEPA does not relieve federal agencies of the statutory duty to comply with criteria or standards of environmental quality). Indeed, because NEPA is merely a procedural statute, the State Engineer's substantive duty to evaluate the environmental soundness of the project is critical.

Moreover, a failure to properly fulfill the State Engineer's statutory duty to evaluate the public interest and environmental soundness under NRS § 533.370 on the basis of the BLM's NEPA compliance would violate well recognized canons of statutory construction by rendering the provisions superfluous. See Corley v. U.S., 556 U.S. 303, 129 S.Ct. 1558, 1566 (2009) ("A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant"); TRW Inc. v. Andrews, 534 U.S. 19, 31, 122 S.Ct. 441, 449 (2001) ("It is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant"); D. Ginsberg & Sons v. Popkin, 285 U.S. 204, 208, 52 S.Ct. 322, 323 (1932) ("The construction contended for would violate the cardinal rule that, if possible, effect shall be given to every clause and part of a statute").

In addition, the State Engineer should not be misled by SNWA's repeated mischaracterizations of NEPA and misrepresentations of NEPA's legal requirements and safeguards. Specifically, SNWA's witnesses asserted during the hearing that the State Engineer need not consider what degree of monitoring and mitigation actually would be necessary to ensure that unreasonable environmental harms do not result from SNWA's proposed pumping because NEPA requires that the BLM to impose just such monitoring and mitigation measures

on SNWA's proposed Groundwater Development Project. Indeed, when pointedly challenged on this supposed requirement under NEPA, SNWA's "environmental compliance" expert witness pointedly reaffirmed this patent untruth. Either this is a demonstration of SNWA's, and its witnesses', ignorance of the actual law, or it is a demonstration of SNWA's determination to mislead the State Engineer about the content of federal law in order to undermine your ability to make a sound, informed decision concerning the environmental aspects of these applications and the proposed use they relate to.

Contrary to what SNWA has suggested, neither NEPA nor its implementing regulations, including the CEQ regulations, ever have required any agency to impose monitoring or mitigation measures as a precondition to completing its NEPA review process and permitting the proposed action. Not only have the statute and regulations never imposed such a requirement, for almost 25 years, the express binding rule from the United States Supreme Court has been in the plainest of terms that NEPA imposes no such requirement at all. Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 352 (1989).

**2. SNWA's Monitoring and Mitigation Program Does Not Support a Finding of Environmental Soundness Because It Has Little Hope of Being Effective and Is Premised on Managed Succession**

As the premise for its monitoring and mitigation program and environmental soundness argument, SNWA proposes that the basins will be managed for a controlled succession of the current communities of plant species to ones that are less water dependent. The assumption is that such succession is not only manageable but that it is environmentally sound. However, the reality is that even if SNWA is able to effectively implement a managed succession program, wetlands will be lost, along with the biodiversity they support. Transcript Vol. 19, at 4165-72 (Nov. 3, 2011) (Deacon Direct). Additionally, sub-irrigated meadows will disappear, swamp cedars may die, invasive species will take over, and bare ground and dried playas will increase

dust emissions. See id.; Transcript Vol. 18, at 3973-83 (Nov. 2, 2011) (Patten Direct); Transcript Vol. 28, at 6276 -338 (Nov. 17, 2011) (Robinson Direct). Such a result clearly is not environmentally sound and managed succession should not be the starting point for any analysis of what may or may not be environmentally sound under Nevada Law.

Even assuming the best Monitoring and Mitigation program, it is doubtful that SNWA could develop the requested quantity of water in an environmentally sound way or that they could even achieve managed succession as contemplated. As Dr. Bredehoeft testified, "I certainly think you can monitor what's going on in a valley like Spring Valley. I think you can monitor the system. The ... question is what the hell do you do? So you see an impact. What are you going to do . . . shut the thing down?" Transcript Vol. 24, at 5409 (Nov. 10, 2011) (Bredehoeft Direct). SNWA claims that pumping can be managed by changing pumping locations to avoid impacts, essentially kicking the can down the road. Id. at 5379-80. SNWA also contemplates artificial recharge projects for springs and wetlands, a tool that has had limited success in Owens Valley where there is far greater recharge available for such projects. Transcript Vol. 23, at 5261 (Nov. 9, 2011) (Harrington Direct). The reality is that all models show massive drawdowns in basins with very limited annual recharge. There is no way to escape impacts when the scale of the impacts is so massive. Managed succession contemplated by SNWA's Monitoring and Mitigation program simply is not possible in this context.

In support of its monitoring and mitigation program, SNWA introduced a great deal of testimony and material in an attempt to demonstrate that the agency has gathered and is gathering a variety of types of baseline data. The fact that SNWA has gathered large quantities of data does not mean that this data is the right kind of data or is of the quality necessary to effectively manage the ecosystems that would be affected by the proposed pumping. Although

the Protestants have never disagreed that collecting baseline data is worthwhile, baseline data alone, even if of the kind necessary for effective management, is not enough to ensure that a monitoring and mitigation program could be effective. As Drs. Harrington, Patten, and Deacon all testified, Adaptive Management does not mean that you simply learn as you go. SNWA must do the necessary work *up front* to establish objective, quantified triggers or thresholds and targets or goals before you can say you have a plan that is concrete and specific enough to either implement or evaluate. Transcript Vol. 23, at 5271-72 (Nov. 9, 2011) (Harrington Direct); Transcript Vol. 18, at 4058-59 (Nov. 2, 2011) (Patten Direct); Transcript Vol. 19, at 4163-64 (Nov. 3, 2011) (Deacon Direct).

Even if the State Engineer were to accept that managed succession as a tool could be environmentally sound, SNWA has set no goals to ensure that such management will be possible or capable of effective implementation. Protestants' witness Dr. Harrington testified that setting goals up front is critical to "effective" adaptive management. Transcript Vol. 23, at 5271 (Nov. 9, 2011) (Harrington Direct). Dr. Patten testified that "there's a lot more to adaptive management than people think and it's not learned by doing." Transcript Vol. 18, at 4058 (Nov. 2, 2011) (Patten Direct). SNWA's Monitoring and Mitigation program cannot be considered to be an adaptive management program, because it includes none of these goals and has not established any triggers or thresholds for the maintenance of ecosystems.

Not only does the Monitoring and Mitigation Program lack goals and triggers, the decisionmaking process contained in the plan is consensus driven. Because SNWA has a seat on each panel, team, or group, SNWA has an effective veto over any decision to modify pumping or provide for mitigation. Moreover, none of the affected rural communities or affected rural water rights owners has a seat at the table. The program also lacks a sufficient timeline to ensure that

action will be taken in a timely fashion. The plan's vague reference to third party intervention is not mandated by any provision in the plan and it is unclear to GBWN, et al. exactly how a dispute would be handled and resolved, if at all. Thus, as Dr. Bredehoeft noted in his testimony, when a dispute arises, it will be up to the State Engineer or private citizens to hold SNWA accountable. See Transcript Vol. 24, at 5409-10 (Nov. 10, 2011) (Bredehoeft Direct). Because there is no provision for funding to the affected rural communities, private citizens will be financially prohibited from defending their rights. See Transcript Vol. 24, at 5545 (Nov. 10, 2011) (Rountree Direct); Transcript Vol. 24, at 5508-09 (Nov. 10, 2011) (Gloeckner Direct).

SNWA's attempt to avoid discussion of the inevitable potentially catastrophic environmental impacts of the proposed pipeline project is based on the assumption that such a massive withdrawal can be effectively managed using a variety of monitoring and mitigation techniques is preposterous and should not be relied on by the State Engineer as justification for a finding of environmental soundness. The fact is that if the groundwater is permitted, SNWA will be granted a water right in perpetuity. To suggest that the pipeline could be shut down after it is built is preposterous. But that is exactly what would be required to ensure adequate protection of existing rights, the environment, and rural eastern Nevada communities.

**B. The Proposed Pipeline Project Will Cause Severe Economic Impact and Harm to Communities in Both the Basins of Origin and Adjacent Basins**

In an attempt to sidestep the fact that the proposed pipeline project is predicted to have devastating impacts to the basins of origin and surrounding basins that depend on the basins of origin, SNWA focused its economic impacts presentation on the relative scale of the economies of Southern Nevada and eastern Rural Nevada, advancing an offensive, inaccurate portrayal of economic activity and the viability of ranching and farming in the affected rural areas. This portrayal is at odds with the reality that many people do ranch in these very areas, and are

expanding or planning to expand their ranching operations. So SNWA's suggestion that there is no viable economic activity in the basins of origin or surrounding basins dependent on the basins of origin is contradicted by the reality that people have, do, and will continue to pursue ranching in these areas. The testimony of multiple protestant witnesses, including Jim Garza, Gary Perea, Kena Gloeckner, Katherine Rountree, Roderick McKenzie, Nancy Brown, Doug Busselman, Craig Spratling, and John Wadsworth makes it clear that there is significant economic activity in both the basins of origin and in surrounding communities that depend on the basins of origin. Provisions must be made for the continued viability of these communities in order to ensure that the public interest criterion of Nevada water law is satisfied.

SNWA's discussion of impacts to rural economies in eastern Nevada also fails to take into consideration the interdependence of economic activity and the scale of the economies. An analysis that focuses only on the direct dollar amount lost due to the pipeline project fails to disclose the reality that in many rural areas, where there is only one store, one gas station, or one convenience store, a decrease in business could, in fact, drive those businesses out of business. In rural communities, where there may be only one of a particular business, such closures likely would lead to the obliteration of the town where these businesses once existed. So the question is not whether a small percentage decline in economic activity is permissible. The question before the State Engineer is whether it is permissible to wipe out entire communities for the benefit of Southern Nevada.

The fact is that the specter of SNWA's applications alone has been enough to suppress economic activity in the basins of origin and in surrounding communities. While SNWA hoards water that will sit on the shelf until some unknown future date when the project may or may not be built, see Transcript Vol. 1, at 97 (Sept. 26, 2011) (Mulroy Direct), eastern rural Nevada's

economy has been and will continue to be strangled by the potential construction of the proposed project. See Transcript Vol. 22, at 4987-89 (Nov. 8, 2011) (Kilkenny Direct); Transcript Vol. 24, at 5550 (Nov. 10, 2011) (Rountree Direct). Permitting a project that may never in fact be built clearly is not in the public interest of the State of Nevada as a whole. And if it is, in fact, built, it will spell the end of rural Nevada Communities.

Finally, given that affected communities face the possibility of extinction should the pipeline go forward, it is critical that a provision be made, as has been done in Owens Valley, for financial support to the counties and water rights holders in the affected areas so that they may fund economic development projects and defend their rights if necessary. Without such a provision, affected water rights holders will be left unable to defend their property rights.

Transcript Vol. 24, at 5545 (Nov. 10, 2011) (Rountree Direct); Transcript Vol. 24, at 5508-09 (Nov. 10, 2011) (Gloeckner Direct).

It is clear that the substantial drawdowns predicted by all models will have a severe impact on the economies of the effected rural communities. SNWA has made no provision for the maintenance of these communities and has not provided any of them with a seat on any of the monitoring and mitigation teams. Instead, SNWA's approach is to downplay the significance of the people who live in these communities to the State of Nevada as a whole. The people who live in rural eastern Nevada are treated by SNWA as sacrificial lambs who must move aside in order for Las Vegas to prosper. This offensive approach should be rejected by the State Engineer, who is charged with evaluating the public interest for Nevada as a whole and not just the public interest for Southern Nevada.

**C. The Proposed Pipeline Project Will Cause Severe Impact and Harm to Cultural Resources and Values in Both the Basins of Origin and Adjacent Basins**

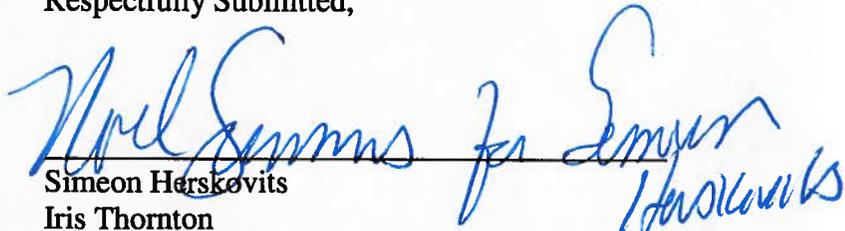
It is clear that SNWA has not even considered the potential impact of its proposed pipeline on Native American cultural resources, sites, or water use. Not one SNWA witness suggested that even the most cursory assessment of such impacts was undertaken. Such a failure to evaluate impacts to these resources is offensive to the State of Nevada's duty to evaluate the public interest implications of SNWA's proposed project. A rigorous evaluation of such impacts should be required before any water is permitted.

### CONCLUSION

For all the reasons discussed above, GBWN, et al. urges the State Engineer to make the best decision for the long term future of all Nevadans and deny SNWA's water rights applications.

DATED: December 22, 2011.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Iris Thornton for Simeon Herskovits". The signature is written over a horizontal line that separates the signature from the typed name below.

Simeon Herskovits

Iris Thornton

Advocates for Community and Environment, Inc.

P.O. Box 1075

El Prado, NM 87529

Telephone: (575)758-7202

Facsimile: (575)758-7203

*Attorneys for Protestants*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this **CLOSING STATEMENT OF**

**GBWN, ET AL.** was served on the following, on this 22<sup>nd</sup> day of December, 2011.

Dana Walsh  
Southern Nevada Water Authority  
1001 S. Valley View Blvd. MS#485  
Las Vegas, Nevada 89153

Nye County  
George Benesch  
190 W. Huffaker Lane, Suite 408  
Reno, Nevada 89511-2092

Corporation of the Presiding Bishop of the Church of  
Jesus Christ of Latter-day Saints  
Severin A. Carlson  
Kaempfer Crowell, Renshaw, Gronauer & Fiorentino  
50 West Liberty Street, Suite 900  
Reno, Nevada 89501

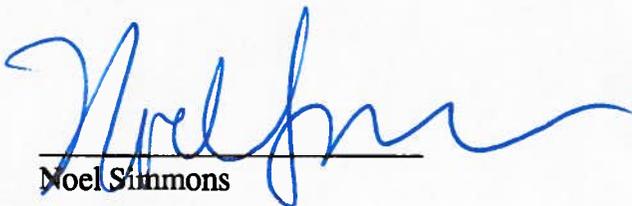
Juab County and Millard County, Utah  
J. Mark Ward  
Utah Association of Counties  
5397 Vine Street  
Murray, Utah 84107

EskDale Center  
Jerald Anderson  
1100 Circle Drive  
Garrison, Utah 84728-5011

Henry C. Vogler IV  
HC 33 Box 33920  
Ely, Nevada 89301

Confederated Tribes of the Goshute Reservation,  
Duckwater Shoshone Tribe and Ely Shoshone Tribe  
Mark Echohawk and V. Aaron Contreras  
505 Pershing Ave., Suite 100  
Pocatello, Idaho 83205

Long Now Foundation  
Laura Welcher  
Director of Operations  
Fort Mason Center  
Building A  
San Francisco, California 94123

  
\_\_\_\_\_  
Noel Simmons

**Exhibit A**  
**Entities and Individuals Who Signed On To GBWN's Protest**

|     | <b>Entity Name</b>                            |
|-----|---|
| 1.  | 2nd Big Springs Irrigation                    |
| 2.  | Alder Ranches                                 |
| 3.  | Baker Ranches Inc.                            |
| 4.  | Center for Biological Diversity               |
| 5.  | Citizens Education Project                    |
| 6.  | Coalition of Nat'l Park Service Retirees      |
| 7.  | Garland Family Trust                          |
| 8.  | Great Basin Business & Tourism Council        |
| 9.  | Great Basin Chapter of Trout Unlimited        |
| 10. | Indian Springs Civic Assoc.                   |
| 11. | Lund Irrigation and Water Co.                 |
| 12. | Maynard Well Drilling                         |
| 13. | Native Community Action Council               |
| 14. | New Age Gardeners                             |
| 15. | Pioche Public Utilities                       |
| 16. | Rafter Lazy C Ranch                           |
| 17. | Round River Conservation Studies              |
| 18. | Strawberry Creek Ranch                        |
| 19. | Unitarian Universalist Green Sanctuary Com.   |
| 20. | Unitarian Universalist Social Justice Council |
| 21. | Utah Audubon Council                          |
| 22. | Willow Springs Ranch                          |
| 23. | Willow Springs Ranch                          |

|     | Individual Name |             |
|-----|-----------------|-------------|
|     | Last            | First       |
| 1.  | Adler           | Bill        |
| 2.  | Adler           | Meshell     |
| 3.  | Alder           | Deana       |
| 4.  | Alder           | Diane       |
| 5.  | Alder           | Renee       |
| 6.  | Alder           | Ed          |
| 7.  | Alexander       | Annette     |
| 8.  | Anderson        | Wendy       |
| 9.  | Andreasen       | Mark        |
| 10. | Baker           | Dean        |
| 11. | Baker           | Sylvia      |
| 12. | Bassett         | G.L.        |
| 13. | Bates           | Marlene     |
| 14. | Bates           | Jerald      |
| 15. | Bates           | John        |
| 16. | Bath            | Tom         |
| 17. | Bell            | Cynthia Lee |
| 18. | Bell III        | Edward John |
| 19. | Benezet         | Louis       |
| 20. | Bilbao          | Nancy       |
| 21. | Blackett        | Marjorie    |
| 22. | Blackett        | Marlow      |
| 23. | Bledsoe         | Bruce       |
| 24. | Bradfield       | D. Dane     |
| 25. | Brauer          | Ann         |
| 26. | Brauer          | Jim         |

Closing Statement of GBWN et al.  
Exhibit A

|     |             |             |
|-----|-------------|-------------|
| 27. | Brean       | Marie A.    |
| 28. | Burbano     | Dariana     |
| 29. | Carling     | Ella        |
| 30. | Carlson     | Louise M.   |
| 31. | Carson      | Charles     |
| 32. | Carson      | Keith       |
| 33. | Carson      | Paula       |
| 34. | Carson      | Doug        |
| 35. | Cheaney     | Frank       |
| 36. | Childs      | Angela      |
| 37. | Childs      | Glen        |
| 38. | Chipman     | Diane       |
| 39. | Chipman     | Max         |
| 40. | Christanson | George      |
| 41. | Christanson | Linda       |
| 42. | Clayton     | F Martin    |
| 43. | Coetze      | Robert      |
| 44. | Coffman     | Marjorie    |
| 45. | Coffman     | William R   |
| 46. | Cole        | John S.     |
| 47. | Cole        | Gary Austin |
| 48. | Cole        | Lardon      |
| 49. | Dailey      | Chris       |
| 50. | Deacon      | James       |
| 51. | Delmue      | Pete T.     |
| 52. | Delucia     | Blake       |
| 53. | DiCianno    | Rom         |
| 54. | Douglass    | Veronica    |

|     |              |            |
|-----|--------------|------------|
| 55. | Douglass     | George     |
| 56. | Duff         | Don        |
| 57. | Dunbar       | Gerald     |
| 58. | Egge         | Norton     |
| 59. | Egge         | Erma       |
| 60. | Eldridge     | Bruce      |
| 61. | Elmer        | Gary Q.    |
| 62. | Fairchild Jr | Vernon     |
| 63. | Farnsworth   | Shelby K.  |
| 64. | Feldman      | Mary       |
| 65. | Ferris       | Ilene C.   |
| 66. | Fields       | Genevieve  |
| 67. | Fillman      | Pat        |
| 68. | Fisher       | James      |
| 69. | Free         | Albert M.  |
| 70. | Frilot       | Shari      |
| 71. | Furtek       | Robert     |
| 72. | Gardner      | Brent      |
| 73. | Garland      | Annette    |
| 74. | Garland      | Cecil      |
| 75. | Garrett      | Nate       |
| 76. | Garrett      | Carolyn    |
| 77. | Geary        | Susan      |
| 78. | Geary        | Don        |
| 79. | Gladman      | Patricia   |
| 80. | Gloeckner    | Kena       |
| 81. | Gloeckner    | Patrick J. |
| 82. | Gust         | Sally      |

|      |           |           |
|------|-----------|-----------|
| 83.  | Hadder    | John      |
| 84.  | Hamilton  | Shawn     |
| 85.  | Hamilton  | Bryan     |
| 86.  | Hansen    | Anita     |
| 87.  | Hardy     | Lisa      |
| 88.  | Harvey    | Tonia     |
| 89.  | Higbee    | Varlin S. |
| 90.  | Hill      | Kathy     |
| 91.  | Hill      | Ken       |
| 92.  | Hillhouse | Lill      |
| 93.  | Hilton    | Amanda    |
| 94.  | Holland   | Erik      |
| 95.  | Hooper    | Corenzo   |
| 96.  | Hooper    | Milton    |
| 97.  | Hooper    | Jeanine   |
| 98.  | Hornbeck  | Rhonda    |
| 99.  | Horner    | Margaret  |
| 100. | Howard    | Jesse J.  |
| 101. | Hubbard   | James     |
| 102. | Hulse     | James W.  |
| 103. | Hunt      | Carol J.  |
| 104. | Jenkins   | M         |
| 105. | Jewett    | Glenn A.  |
| 106. | Johnson   | Brent     |
| 107. | Johnson   | Linda     |
| 108. | Jones     | Donna K.  |
| 109. | Juetten   | Susan     |
| 110. | Keeran    | Georgia   |

|      |            |                    |
|------|------------|--------------------|
| 111. | Keeran     | Bill               |
| 112. | Klukkert   | Steve              |
| 113. | Kolstad    | Norman             |
| 114. | Latimer    | Ryan               |
| 115. | Lee        | Jeri               |
| 116. | Leeder     | Nancyann           |
| 117. | Leonard    | Rowena             |
| 118. | Lesperance | Anthony            |
| 119. | Lewis      | Claire             |
| 120. | Lewis      | Elaine             |
| 121. | Lewis      | Wes                |
| 122. | Lewis      | April              |
| 123. | Lewis      | Earl               |
| 124. | Liebsack   | Montie and Norman  |
| 125. | Lloyd      | Mick               |
| 126. | Lloyd      | Lynne              |
| 127. | Lynn       | Susan              |
| 128. | Lytle      | Cory               |
| 129. | Lytle      | Toni               |
| 130. | Lytle      | Farrel and Manetta |
| 131. | Lytle      | Donna              |
| 132. | Lytle      | Ken                |
| 133. | Magner     | Ginger             |
| 134. | Mandes     | Drala G            |
| 135. | Mandes     | James              |
| 136. | Marasco    | Terry              |
| 137. | Marsh      | Carl               |
| 138. | Mashborn   | Jay                |

|      |           |                  |
|------|-----------|------------------|
| 139. | Matlin    | Thelma           |
| 140. | Maynard   | Orvan            |
| 141. | McDermott | Ryon             |
| 142. | McKenzie  | Carol J.         |
| 143. | McKenzie  | Rod              |
| 144. | McRaney   | Skyler           |
| 145. | Messovia  | Joe              |
| 146. | Messovia  | Lorie            |
| 147. | Mills     | Rebecca          |
| 148. | Moon      | Larry            |
| 149. | Morrison  | Brian            |
| 150. | Mrowka    | Rob              |
| 151. | Murphy    | Chrissandra      |
| 152. | Murray    | Patrick J.       |
| 153. | Nappe     | Leontine         |
| 154. | Nichols   | Betty            |
| 155. | Nichols   | Robert           |
| 156. | Nickerson | Robert and Joyce |
| 157. | Nyborg    | Mitzi            |
| 158. | Ockert    | Gene             |
| 159. | Okelberry | Michael          |
| 160. | Olsen     | Gary             |
| 161. | Oppenheim | Georgia          |
| 162. | Pattee    | Sherrill         |
| 163. | Pense     | Margaret         |
| 164. | Perea     | Gary and JoAnn   |
| 165. | Pete      | Charlene         |
| 166. | Pete      | Clell            |

|      |                   |             |
|------|-------------------|-------------|
| 167. | Pete              | Mary Lillie |
| 168. | Pete              | Tommy       |
| 169. | Peterson          | Mary        |
| 170. | Phillips          | Cecelia D.  |
| 171. | Potorti- Thornton | Grace       |
| 172. | Purdy             | Nita        |
| 173. | Rake              | Launce      |
| 174. | Rankin            | Laura       |
| 175. | Rastegar          | Roya        |
| 176. | Rawlings          | Merle       |
| 177. | Reil              | John        |
| 178. | Reil              | Molly       |
| 179. | Renfro            | Melissa     |
| 180. | Rigney            | Deanna      |
| 181. | Roberts           | Ben         |
| 182. | Rogers            | Mark E.     |
| 183. | Rothfuss          | Ed          |
| 184. | Rowleg            | LaVon       |
| 185. | Sanders           | Tom         |
| 186. | Sargent           | Ellen       |
| 187. | Saysavanh         | Bounthay    |
| 188. | Scanland          | Rob         |
| 189. | Schaffer          | Kristen     |
| 190. | Sharp             | David       |
| 191. | Sheppard          | Nomi        |
| 192. | Skoubye           | Angela      |
| 193. | Skoubye           | Nathan      |
| 194. | Spendlove         | Shannon     |

|      |            |                     |
|------|------------|---------------------|
| 195. | Spilsbury  | Delaine             |
| 196. | Spilsbury  | Richard A.          |
| 197. | Spotleson  | Carl                |
| 198. | Steadman   | Dellice             |
| 199. | Steadman   | Debrah              |
| 200. | Steadman   | Terry P             |
| 201. | Steadman   | Betty               |
| 202. | Steele     | Melvin              |
| 203. | Stever     | Larry               |
| 204. | Stever     | L. Ryan             |
| 205. | Stirling   | Ross                |
| 206. | Tadena     | Tino                |
| 207. | Taylor     | Valeria             |
| 208. | Terhune    | Beverly             |
| 209. | Thompson   | Jennifer            |
| 210. | Timm       | Raymond             |
| 211. | Toy-Smith  | Vicki               |
| 212. | Upton      | Randy               |
| 213. | Wadsworth  | John                |
| 214. | Walker     | Dora                |
| 215. | Walker     | John                |
| 216. | Walker     | Sandra              |
| 217. | Wheeler    | Christopher         |
| 218. | Wheeler    | Darwin              |
| 219. | Whipple    | John                |
| 220. | Wilcox     | Sharon              |
| 221. | Williamson | Lee                 |
| 222. | Willis     | Glee                |
| 223. | Wilson     | William R and Holly |
| 224. | Winston    | Mary E.             |

Closing Statement of GBWN et al.  
Exhibit A

|      |        |         |
|------|--------|---------|
| 225. | Winter | Stephen |
| 226. | Wray   | Mark    |
| 227. | Zelch  | Glennon |