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September 22, 2009

Honorable Gary R. Herbert
Governor, State of Utah
Utah State Capitol Complex
350 N State Street, Suite 220
PO BOX 142220
Salt Lake City, UT 84114-2220

Dear Governor,

Please find enclosed the comments made by the citizens of Nevada and Millard County in regards to the Snake Valley Water Draft Agreement Hearing held September 8, 2009 in Delta, Utah. Also, a copy of the presentation that UAC Attorney Mark Ward presented, as well as a copy of the Utah Farm Bureau News by Leland Hogan and comments from Harvey Hutchinson, who was unable to attend the meeting due to his recent spinal surgery.

Sincerely,

A handwritten signature in blue ink, which appears to read "Kathy Y. Walker". The signature is fluid and cursive.

Kathy Y. Walker
Millard County Commission Chairman

Enclosures - Mark Ward's presentation, Snake Valley Water Draft Agreement comments, copy of Utah Farm Bureau News letter by Leland Hogan, and comments from Harvey Hutchinson

09222009:mr

MILLARD COUNTY COMMISSION PUBLIC HEARING
 THE 8th DAY OF SEPTEMBER 2009
 Millard County Fair Grounds, 187 S Manzanita, Delta, Utah

Public Hearing to discuss the Snake Valley Water Draft Agreement.

PRESENT: Kathy Y. Walker Chairperson
 Daron P. Smith Commissioner
 Bart A. Whatcott Commissioner

 Richard Waddingham County Attorney
 Marki Rowley Deputy County Clerk

ALSO PRESENT: Mark Ward Utah Association of Counties (U.C.) Attorney
 Diane and Max Chipman Las Vegas, NV
 Dorothy Morrison Columbus, OH
 Julia Sharp Delta, UT
 Pam Layman Oak City, UT
 Fred S. Tolbot Abraham, UT
 Dough Turner Southern, UT
 James Kallin Sutherland, UT
 Clayton Jeffery Delta, UT
 Scott Anderson Delta, UT
 Linda Gillmor Delta, UT
 Amy Odonaghue Deseret News
 John and Anita Hansen Garrison, UT
 Clay H. Cummings Fillmore, UT
 Brian Allen Fish Springs National Wildlife Ref., Dugway, UT
 Dean Baker Baker, NV
 Marjorie S. Jenkins Meadow, UT
 Shermon Tolbert Hinckley, UT
 Jerald and Marlene Bates Garrison, UT
 Paul J. Stephenson Delta, UT
 Lavar Cox Delta, UT
 Shawn Gonder Oak City, UT
 Clyde and Nan Bunker Delta, UT
 Steve Walker Delta, UT
 Robins McPherson Lynndyl, UT
 Andy Nickle Delta, UT
 Patrick Painter Nephi, UT
 Paul Caso Fillmore, UT
 Betty Jo Western Delta, UT
 Jeanie Owens Fillmore, UT

Dean Draper Hinckley, UT
 Steve Erickson Salt Lake City, UT
 Craig Greathouse Delta, UT
 Gary Perez White Pine County Commissioner
 Karl Jenkins Meadow, UT
 Kay Wheeler and Darwin Wheeler Garrison, UT
 Jerald Anderson Garrison, UT
 David Starlin Eskdale, UT
 Ed Uehling Las Vegas, NV
 Carrie C. Stephenson Delta, UT
 Layne Tolbert Abraham, UT
 Blaine Ipson Delta, UT
 Robert D. Nielson, Lynndyl, UT
 Russell Greathouse Lynndyl, UT
 Daniel Anderson Oak City, UT
 Gayle Bunker Delta, UT
 Beverly DeWyze Delta, UT
 Ladd Holman Millard Co. Water Cons. Board, Leamington, UT
 Ron Draper Delta, UT
 Wade Tolbert CUPHD, Hinckley, UT
 Ida L. Tolbert Hinckley, UT
 Jim Raufman Black Rock, UT
 Stephen W. Martin Delta, UT
 Emery Polelonema Six County AOG, Richfield, UT
 Todd Turner Delta, UT
 Jim Nickle Delta, UT
 Jolinda Nickle Delta, UT
 Megan Greathouse Lynndyl, UT
 John Keeler Manti, UT
 Cynthia Kaufman Black Rock, UT
 Leo Stott Meadow, UT
 Todd Thorne Six County AOG
 Deborah Callister SLC, UT
 Trent Wilde Millard County, UT
 Pete Shields and Shirlee Shields Delta, UT
 Ken Hill Wendover, UT
 Bob Meinhardt Delta, UT

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, posted at the principal office of the Millard County Commission, posted on the Utah Public Notice Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, as required by law, the following proceedings were had:

Commissioner Walker called the meeting to order at 7:00 p.m. after a brief welcome and explanation of what the meeting will be about.

After a Presentation given by Mark Ward, UAC Attorney, Public comment was heard.

Lavar Cox, Hinckley Utah, asked why Southern Nevada Water Authority (SNWA) is part of the negotiating committee, when it is a water user. "It's like having the fox in the henhouse." This agreement should be between two states, deciding what the historical use is. He said that SNWA needs to be out of the decision making. There should be an agreement between Utah and Nevada but it needs to be based on historical use. He wanted to know if this is a government for the people, of the people and by the people, or is it a government by politicians. If it is a government by the people, then the people have already spoken under historical use. They have said no to SNWA. White Pine County, Millard County and any resident in Snake Valley have said no. We need to pay attention to that particular "NO" because that is the historical use of those who use the water. He is very thankful for the work that the Millard County Commissioners have done on this.

He said that he talked to a representative from the state of Utah about having SNWA in the agreement process and they said that Nevada will not come to the table without them. Mr. Cox says he calls their bluff.

Paul Stephenson, Delta Utah, said that the presentation may have changed his mind on some of the things, but not all of them. He said that he has been thinking about this for sometime and has come to the conclusion, as most of the people have, that he does not want legalized theft of the water in the west valley. He cannot imagine what was in the minds of the commission to allow an engineer from Nevada to make any decision regarding this matter. That makes him not trust this process from the start. This should have been done by qualified residents of another state, not of Utah or Nevada. Mr. Stephenson says that we need to get to work and find a way to stop the theft of the water. The County Commissioners, if they can, should stop all drilling if that water will be going into Nevada.

There are endangered species in the West Desert such as the Bonneville Trout. If the Sahara Club doesn't want to bring suit he says that we should start organizing and bring lawsuits right now. If we do nothing we will have no water in the west valley, leaving the area unhealthy to live in. The air will not be fit to breath. He has already noticed the amount of trees that have died. He says that Mud Lake has dried up as well.

He is also concerned with the pumping of the water that could cause the aquifer to decrease. He says that the rocks above the aquifer are kept up somewhat by the pressure of the spring. If you empty the springs there will be a big hole there. If this is done what will happen? Will the rocks move and cause earthquakes from Nevada to the Wasatch Front. Have they thought about that? Mr. Stephenson says we need to start calling and writing letters to the legislature until this thing is abandoned.

Steve Maxfield, Kanosh UT, said that he has gone through the professional papers and the empirical evidence that was included in the barcass study. There is no extra wet water to divide

between the two states. In one of the professional papers from the 1995 United States Geological Survey (USGS) 1409D shows the basin and the inner-flow in question and puts it further out. It goes to Utah Lake and Great Salt Lake . This year we had a wet spring. Lake Powell came up 12 feet (ft). They thought it would come up 30 ft. They thought that Great Salt Lake would come up 1 ft but it went down 1 ft. We are talking about the water that is going underground. He called it the “underground Colorado River”. These rights and historic uses have already been transferred into interbasin. He thinks that we will have an impact of a minimum 20,000 acre feet a year (af/y) from Spring to Snake Valley. When we look at that, that is what will affect the historic use. As we are looking at Snake Valley and the wet water, the water isn’t there. The pumping in Snake Valley has already drawn down the water table and has gone through transevaporation.

This agreement lacks the proper signatures of authority as well as the parties to the agreement. There is a provision in the agreement that states no third party can bring any action against this agreement. He questioned who this is protecting, the states, or the people. The people are the direct water users and this is our one chance to protect our water.

He thinks that definitions are the most overlooked damning thing in this document. He made comment on definitions 2-8 and 2-9. We are not talking about wet water that flows in the ditches that we are trying to give away. We are talking about water that plants, native and non-native, are using to survive, and water that is already allocated in other basins all the way into great basins. There isn’t any water to split. He also has concerns with the transbasin flow, the mitigation, the right to farm and the people’s rights as it is/or isn’t said in the agreement.

Megan Greathouse, Lynndyl Utah, said she has some doubt as to whether the water is there. She said that SNWA would have to wait ten years to develop the water, but at that point they would be able to develop 30,000 af/y. She thinks that if this is allowed it should be developed gradually not in that big of an acre amount. Their addendum to the contract allowed for ecological issues which include hydrologic studies every year or less if they agree upon it. This is given them a loophole to not monitor the groundwater situation as closely as it should be. Also, anyone that is adversely affected by water pumping, appeals to SNWA . There are things that are inherently wrong with that. They are the one getting the water and you are going to go to them and say, “You’ve hurt me help me”. That will not be an affective method. There is an interstate board that you can go to beyond that, but at that point the damage may already be done. She also thinks a \$3,000,000 mitigation fund, looking at the number of acres and talking legal battles doesn’t allow adequate money to compensate.

John Keeler, Utah Farm Bureau, said that at this point there doesn’t appear to be a pressing need for Utah to sign this agreement. The Nevada State Engineer has set Spring of 2011 as his evidence for submission deadline and the hearings on Snake Valley in the fall of 2011. With so many unanswered questions that have been talked about - recharge, hydrologic connection, on-going drought and fairness - Governor Herbert and the State of Utah Water Rights Officials should put this draft agreement on hold and insist on a more fair and equitable split for Utah. As Congress has mandated, an agreement between Utah and Nevada is a worthy goal, but not as an expense to Utah.

Attached is a letter from the Utah Farm Bureau News.

John Hansen, Garrison Utah, said that the well that currently runs his home was drilled after

1989. According to page 5 of the agreement that talks about water rights prior to 1989 he will lose his water that runs to his house. He wanted to thank the Millard County Commissioners for the effort they have put forth in this matter. He said he doesn't like to speak against people but, he thinks that so far the state representatives have put this together "cowardly" and not standing up for the people that they represent. According to this agreement, Nevada wanted the water so they could grow more, and this stops all the growth in Utah because there is no more water to be taken. We have to be the ones to prove damage and that expense is all on us. If there is any damage then pumping should stop and SNWA should be the one proving that they haven't caused any damage, not us proving that they have caused damage. So far as he can see Las Vegas hasn't had to go through as many sacrifices as they have put us through. There are still a lot of lawns, parks, golf courses, swimming pools and all kinds of places that they could start making sacrifices, before they have to "rape" us up here. SNWA has full representation, the people and Snake Valley have no representation other than through the Commissioners and this shouldn't be the way.

Marge Jenkins, Meadow Utah, said that they came to a meeting here a couple of years ago that started off with a film presentation of all the wonderful aspects of Las Vegas and moving to Las Vegas. They commented that they would like to increase their housing by 15,000 new homes and told of all the wonderful recreational aspects, in particular, their 63 golf courses. We know that grass uses the greatest amounts of water. She thinks that if Las Vegas will cut down to about 10 golf courses then we could think about giving them water. Until they do, she says "No water"!

Pam Lyman, Oak City Utah, she wanted to make sure that everyone got a questionnaire.

Ron Draper, Delta Utah, said this is a complex issue. He came to this meeting to see what he could learn. He said that Millard County extends all the way out to Snake Valley and we need to do whatever we can to preserve our water rights for our county. We need water to do whatever we need to do; housing, residential use, commercial use and farming. He has a little bit of pessimism with Millard County having about 12,000 residents vs the millions of residents of Las Vegas. It seems like a very small David against a very large Goliath. Overall, he thinks that we need to do all that we can to preserve our Millard County water rights.

Ed Uehling, Las Vegas NV, said that he wanted to comment on the integrity of the SNWA and the Las Vegas Valley Water District. Several years ago they wanted to increase the sales tax because they said they were unable to raise the water rates. That was not true. Since they increased the sales tax, which produces about \$50,000 to \$100,000 a year for the water district, they have raised the water rates tremendously as well as the connection fees. Then during the first 6 months of the year they published several false advertisements, one of which was, there is a drought in the Colorado River. There is not a drought in the Colorado River. There is 6,000,000 af/y. There is only a drought of common sense with brain cells and political will. Nevada is only supposed to get 300,000 af/y out of the Colorado River, but they are actually taking more and that is why the lake is going down. The rest of it goes to farms in Southern California and Arizona. They are using irrigation techniques that were used back in the times of the Romans which is a huge waste of water. There are many things that can be done to trade that water. They could build desalting plants on the ocean and trade with the city of San Diego and the city of Tijuana or the farms of the Imperial

Valley. Doing this they would be able to get hundreds and thousands of af/y.

He says that he is very unhappy with the representation made by the SNWA. This agreement is not the only solution. At a meeting held in Las Vegas on August 20, 2009 there were 50-70 solutions presented. The director of the water district had her back to all the presenters and only looked at a few who complimented her. She refused to listen to any of the presenters and was incapable of expressing even one idea that was presented at the meeting. He says that it is very dangerous to make any agreement with SNWA.

Cecil Garland, Juab County, said that everyone is right on with what they are saying. He has worked with the water for 35 years. There is no surface water in Snake Valley. He finally got Mike Styler, Director of the Division of Natural Resources, to admit that. Boyde Clayton admitted as much, but he said "We've been using the water all this time, now it's Nevada's turn." Mr. Garland said that isn't what he thought the law was based on. He sees it this way: if there is no surface water in Snake Valley then all the water that is being pumped out is under valid water rights. If you start taking that water from Lake Valley to Step-Toe to Spring Valley to Snake Valley then that water will be taken from our water rights. He said that the greatest harm this agreement has done to the water users who are fighting against this, is an official declaration or a quasi-official declaration that somehow or another because water comes out as a resource or recharge it gives Nevada the right to 50% of the water. The water that they are talking of is "paper water, fictional water". When we talk about lowering the water table feet, we who live in Snake Valley, are talking about inches and inches hurt us and dry up springs! He had about 40 springs on his property. He remembered so well when he first came to his place how the springs flowed. The kids went swimming in the hole, now the springs have all dried up. The water table has fallen about 10 ft. The springs are drying up; the vegetation is also drying up and dying. He doesn't need computer models to tell him this because he already knows. This has to stop. If they are saying put it off for ten years, then put it off for the ten years. The problem is that in ten years Nevada will have all of its viable applications lined up and ready to go, and Utah will be standing there scratching their backside and picking their nose wondering what the heck happened. They will have nothing because options are what matters. Utah better not give up their options. If we give up our options we will have nothing.

Terri Marrasca, Baker Nevada, said that based on the science and Mark Ward's presentation, not only will the water table drop in Utah but there will be a back flow. If SNWA wants to pump as much water as they propose, the water that they pull out of the ground will have to not only come from lowering the table but from a back flow to feed that pumping. This analysis will come out in the near future. The agreement should have as much as a \$50,000,000,000 bond because in Owens Valley LA Water and Power had to put up \$551,000,000 to mitigate air problems and \$65,000,000 to restore the Owens River. The financial impact on Utah is so far more than \$3,000,000 which is supposed to be a fund that is re-fed. To guarantee Utah's protection, Las Vegas or SNWA should put up a huge amount of money that is guaranteed to Utah.

On the issue of trust, during the Spring Valley hearings and the time leading up to the hearings, Pat Mulroy, SNWA, had a campaign that said, "We are environmental stewards. We will protect the environment in Spring Valley." At the same time, SNWA lawyers went to the State Engineer of Nevada and said they want to eliminate environmental considerations scenic and recreational values from the hearing. So you have this rhetoric that was discussed. Before that,

SNWA says one thing, and in the meantime they go to the state engineers and say lets get rid of this stuff that we say in our add that we will protect. This is on the public record and we all understand what we are dealing with.

Clayton Jeffery, Delta Utah, said that water runs downhill and that seems to be our problem. Some of the things that are bothering him is that this agreement has three parts to it: Nevada, SNWA and Utah. It boils down to if Utah has an issue, it will be turned over to SNWA or Nevada. They are saying if you have an objection they will write it down and say okay you have had your say, so what. Its like "hooten in the wind". There needs to be some teeth in this thing, any fool knows that if you take water out of the bottom the top goes down. If we have to make an agreement we shouldn't be in any sweat to do it. This should be a tentative thing.

Shawn Gonder, Oak City Utah, said that this is going to set precedence for years to come on political water issues. Why can't I transfer water from Garrison to Oak City and drill a well, they are transferring water out of state from Snake Valley, Utah to Las Vegas, Nevada. He heard someone from Millard County say why are we fighting this water issue, this doesn't affect us anyway. It really does affect us. He feels that if Nevada wants the water then they should put up the bonds for the damages or the extension of the wells for Snake Valley. If they pump even 12,000 af of water from the lower aquifer that took thousands of years to form, it will affect all springs. Do we know how much af/y pumping affects Burbank, Fish Springs, Indian Peaks, etc. You can see over the years what happens when you stop recharging the water. It has caused a lot of slews to dry up.

Within the past year the Delbert Young place by Big Springs added more pivots and now Needle Point Spring on the mountain home range has dried up. Where is the excess water there.

Is Utah trying to make amends with Nevada so they can pipe Lake Powell to St. George and not have Nevada dispute that project. Why do you think Lake Powell and Lake Meade's water level went down. Is there political movement of water to say that we need more water. He really thinks that Utah needs to handle this wisely because it will have a lasting affect.

Dorothy Morrison, Columbus Ohio, and a former Millard County resident said that the thirsty tentacles of the South West are already reaching into the Great Lakes area. This is a pivotal battle ground. She came to support this and encourage Utah to fight the fight.

Robert Nielson, Lynndyl Utah, agrees with what Clayton Jeffery said. Mr. Nielson served on the Millard County Water Conservatory District for 25 years; 18 of those years he was the president of the board. It seems strange to him that Nevada could take as much water as Utah. He took a class from the University of Utah taught by a water law attorney. The attorney very definitely stated that the water that is within the state of Utah belongs to Utah and the water that is in the State of Nevada belongs to Nevada. Far more of Snake Valley is in Utah than in Nevada, so far more of the water should be allotted to Utah.

Going back to Millard County's water history, his father was one of the first people to drill an irrigation well between Lynndyl and Leamington. When the Delta companies found out there was water along the river between Lynndyl and Delta, they immediately filed suit for ten large wells. Mr. Nielson's father and the other farmers already had their permits filed and were already drilling. The

state engineer at that time was Hubert Humphry. He was very definite that each party who was drilling a well only had 17 years to drill the well.

They found out that in Millard County there are two stratas of water: the upper water strata and the lower water strata. The upper water strata only goes to about 650 ft. The lower water strata starts at about 700 ft and goes to as much as 1200 ft. The farmers of Lynndyl, Leamington and Oak City area came to an agreement with the Delta farmers that Delta would not perforate their wells above 600ft and the farmers of Lynndyl, Leamington and Oak City would not perforate their well lower than 520ft. This was strictly adhered to by Hubert Humphry. He went to the point of having a representative from his office come out and inspect the perforation of the wells as they were drilled. The majority of the wells in the Lynndyl, Leamington, and Oak City are drawn from the upper water aquifer. They are adhering to what the state engineer had told them and they don't have any trouble with it. Mr. Nielsen wants to work out an agreement like this with Nevada so they will not be allowed to take more water than is allotted to them. This should all be worked out legally and there shouldn't be any big hurry to get it done right now. The people in the state offices shouldn't be in such a big hurry to settle and come to an unfortunate agreement.

Kane Hill, Partoun Utah, thanked the Commissioners for having the meeting and for all the work they have done. They are kind of an inspiration to all of us out there. So far the negotiations have been taken place in secret and haven't had public scrutiny. He wants to wire into the agreement throughout the monitoring that the data and the decisions that follow the data be public. Whenever they have a meeting they should allow the presence of the public, or at least get the minutes of the meeting publicized no later than 7 days after the meeting takes place. If the public could have a view of the process it would take it out of the realm of secrecy. Some places in the agreement say that Utah will pay certain costs and a few places that say SNWA will pay certain costs, if their board approves it. He thinks that it should be hardwired into the agreement that SNWA should pay all costs incurred in association with this agreement.

Gerald Anderson, Eskdale Utah, wanted to applaud the commissioners for the work they have done. He also liked the letter from the Farm Bureau. He said that it defines the people in Snake Valley. These are things that the negotiating team should of had access to and been given the chance to debate in public or at least get public input. The way this agreement is structured may protect the way of life as it is now, but it doesn't leave a future for Snake Valley. The water is already allocated. There is nothing left with which to do anything.

If this agreement goes into effect the way it is stated, then there will be no additional future economic value for Millard County from Snake Valley. It will not be possible for Snake Valley to be more than it is today. Snake Valley has a tremendous amount of developable resources whether it is agriculture or tourism, but it has to have an environment that is attractable to potential economic development.

Allan Biadgy's statement was, "There won't be a green spot left in Snake Valley after this is done". That is a pretty clear indication of what the future of Snake Valley will be under this agreement, as it's stated. The agreement itself addresses the desire to establish an equitable and a cooperative arrangement for the administration of the water resources in Snake Valley. Mr. Anderson also said that the work Mark Ward presented gave us a new idea of what the term "equitable" really should mean when we talk about sharing resources. For that reason alone this

agreement needs to be halted in its tracks. It has to be resurrected as a phoenix from its ashes or it has to be completely reformed as something that is equitable.

The second point is being cooperative. The level of cooperation of this agreement is among the signatory parties between the state of Nevada, the state of Utah, their natural resource departments, their state engineers and the proponent of taking the resource out of the valley. When SNWA is a signatory to the party they become a principal and we just can't get the elephant out of the room. The fact that it is cooperative for the agencies doesn't do anything for the people who live there.

One of his concerns with this agreement is, while it may accomplish nothing in terms of administering the resources or protecting the vegetation or any of the natural resource value of Snake Valley, it will create an administrative load on the people who live and work there now. From that standpoint alone, he doesn't see enough in this agreement that it can stand on its own. He can't identify that it solves or addresses its own stated goals nor does it do anything of value for the people of Utah. He thinks that we should just step back.

Kathy Hill, North Snake Valley, thanked the commissioners for giving people the opportunity to talk about their concerns. She especially thanked Mark Ward for laying out the problems with the 50/50 split. There was one part that she feels was not looked at close enough and that is just the sheer science of letting Nevada access 36,000 af/y. Nature doesn't allow for that. It's like a bathtub that has been installed wrong and the drain end is upstream from the downstream. They are going to try and capture water that is already being used for another purpose. The purpose right now is phreatophytes. Most of the phreatophytes are in north Snake Valley. Pumping water from the southern end will destroy the phreatophytes on the north end of Snake Valley as a result of ground water mining. The water is going to continue to draw down for several years after they stop the pumping.

There is not any protection in this agreement at all. There is some mitigation, but it is not protection for Utah water right users. She can foresee ranchers in Snake Valley loosing all their water in their wells. There is mitigation by SNWA giving them paychecks. They will become on the dole by SNWA. They will pump our water down and then say they can bring in new water. She foresees that they will be waiting on the dole for SNWA and waiting for water trucks to bring them water. That is what this agreement allows and this is totally unacceptable.

Gary Perea, Baker NV, appreciates the work that Millard County has done. The good that this has done is it has brought people together that would not normally work together. The one thing he wants to touch briefly on is the allocations of water. He agrees with the residents of Snake Valley that there is no extra water. The water table is going down now. He would like to see in the agreement that both Utah and Nevada each get 10,000 af/y of unallocated water, then Utah gets 10,000af/y and Nevada gets 25,000 af/y of the reserved water. Utah and Nevada both have power over that water. 10,000 af/y is probably still to much but at least it will be a starting point, and would still give 10 years to look at the science. Neither state water engineer should be able to permit water in any given year of more than 1,000af/y. This will give at least 10 years to measure the withdrawal of that water. This should be a gradual step; not taking so much water all at once. There are positives and negatives to both having and not having an agreement.

Millard County's Concerns With the Snake Valley Draft Agreement

How Much Groundwater Rightly Belongs to
Each State?

Principle Number 1 Wet Water

- BARCASS says total recharge = 132,000 af/y
- But Utah & Nevada say it's: 108,000 af/y
- Millard County Agrees

Three Governing Principles

Five Important Facts

Principle Number 2, Look Down *and* Up Stream

- Draft agreement: Look at Snake Valley
Only
(but they unofficially look downstream too)
- Millard County: Fine, Only Look at Entire
Groundwater Flow System
- Congress: Agree With Millard
County

Three Principles

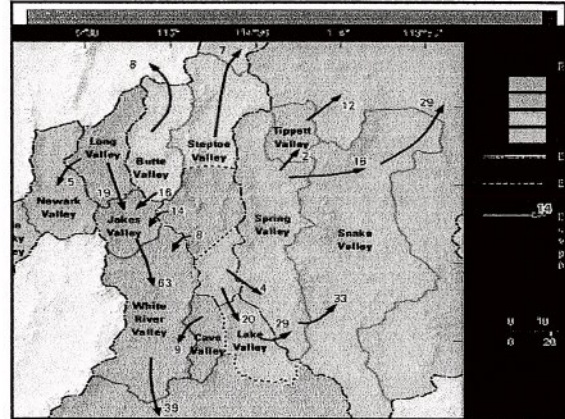
1. Focus on Water That's Wet
2. Account for Downstream And Upstream
Effects
3. Geography and History Rule

2004 PUBLIC LAW 108-424 Section 301(e)(3)

- "Prior to any transbasin diversion from
ground-water basins located within both
the State of Nevada and the State of
Utah, . . .

2004 PUBLIC LAW 108-424
Section 301(e)(3) (cont'd)

- . . . the State of Nevada and the State of Utah shall reach an agreement regarding the division of those interstate groundwater flow system(s) from which water will be diverted and used by the project.”

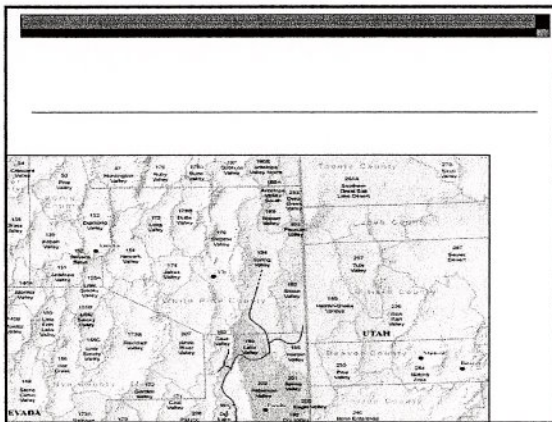


It's Not Rocket Science

- Before you divert from an interstate basin
- You divide the interstate flow system

Three Principles

1. Focus on Water That's Wet
2. Address Downstream And Upstream Effects
3. Geography and History Rule



Main Factor

Where is the Land That Depends on Groundwater?

1. Where is Groundwater Put to Beneficial Use for:
 - Crops, Pasture & Forage
 - Municipal
2. Where Does Nature Use Groundwater for:
 - Plants
 - Wildlife

Main Factor

Where is the Land That Depends on Groundwater?

1. Where is Groundwater Put to Beneficial Use for:
 - Crops, Pasture & Forage
 - Municipal
2. Where Does Nature Use Groundwater for:
 - Plants
 - Wildlife

Millard County Protest Paragraph 6

“the appropriation of the water . . will further threaten springs, seeps and phreatophytes which provide water and habitat critical to the use and survival of wildlife, grazing livestock and other surface existing uses.”

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

In the Matter of Application Number 54022
Filed by Jane Vance Valley Water Dist. Protest
on October 17 1985, to appropriate the
waters of Underground Sources

County of Millard County

Millard County Protest Paragraph 6

“the appropriation of the water . . will further threaten springs, seeps and phreatophytes which provide water and habitat critical to the use and survival of wildlife, grazing livestock and other surface existing uses.”

2. Upon information and belief, Protester asserts that there is not sufficient unappropriated groundwater in Snake Valley to provide the water sought in Application No. 54022, and all other pending applications involving the utilization of surface and ground water from that basin.

3. Upon information and belief, Protester asserts that the appropriation of this water, when added to the already approved appropriations to dedicated users in the Snake Valley Basin, will exceed the annual recharge and safe yield of the basin. Appropriation and use of this magnitude will lower the water table and degrade the quality of water from existing wells, cause negative hydraulic gradient influences, further cause other negative impacts and will adversely affect existing rights adverse to the public interest.

4. That the groundwater sought in Application No. 54022 interferes with existing water rights in the subject basin.

5. The granting or approval of the Instant Application would conflict with or tend to impair existing water rights in the Snake Valley Basin in that it would exceed the safe yield of the subject basin and unreasonably lower the static water level and sanction water wasting.

6. That the appropriation of the water sought in the Instant Application, when added to the other pending applications and to the already approved appropriations and dedicated uses in the Snake Valley Basin, will lower the static water level in Snake Valley Basin, will adversely affect the quality of the remaining ground water and will further threaten springs, seeps and phreatophytes which provide water and habitat critical to the use and survival of wildlife, grazing livestock and other surface existing uses.

Millard County Protest Paragraph 6

“the appropriation of the water . . will further threaten springs, seeps and phreatophytes which provide water and habitat critical to the use and survival of wildlife, grazing livestock and other surface existing uses.”

FOR THE FOLLOWING reasons and on the following grounds, to wit:

attached sheet

I hereby request that the application be granted

and for such value as the State Engineer deems just and proper.

Signature: Michael R. Taylor

Name: Michael R. Taylor

Address: P.O. Box 218
Willmore, UT 84631

before me this 15th day of July, 1992.

State of Utah

County of Hilland

FOR MUST ACCOMPANY PROXY. PROXY MUST BE YIELD IN DUPLICATE. ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Groundwater Dependent Acres

Utah:	220,779	<u>84%</u>
Nevada	41,364	<u>16%</u>

Source: USGS Utah, Calculating BARCASS Data

- ### Five Facts
- Discharge
 - Historic Use
 - Recharge
 - Impacts *to* Fish Springs Downstream
 - Impacts *from* Spring Valley Pumping Upstream

Discharge In Acre Feet of Water

Utah:	108,085	<u>82%</u>
Nevada	24,162	<u>18%</u>

Source: USGS Utah, Calculating BARCASS Data

- ### Fact #1: Discharge
- Two Ways to Look at It:
- Acres That Depend on Groundwater
 - Acre Feet of Water Discharged on Those Acres

Fact #2: Historic Use

Depletion Based on 1989 or Earlier Groundwater Rights:

Utah:	35,000	<u>74%</u>
Nevada	12,000	<u>26%</u>

Source: Utah Negotiating Team

Fact #3, Recharge

Utah 40%

Nevada 60%

Source: Utah Negotiating Team

Spring to Snake Valley Interbasin Flow

Spring to Snake Valley Estimated Interbasin Flow: 49,000 af/y
(95% range 30,000 – 60,000)

33,000 around southern flank of Snake Range

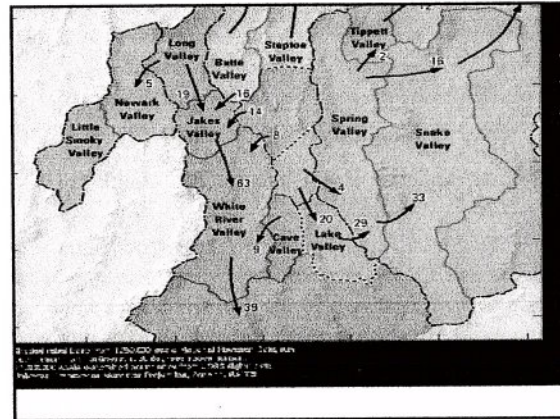
16,000 Further North

Source: BARCASS Figures 41, 46

Fact # 4 Re Downstream Impacts

To Protect Fish Springs Snake Valley Consumption Should Be Reduced 20,000 af/y

Source: Utah Negotiating Team



Fact #3 Re Upstream Impacts

Two Questions:

What is the Spring Valley to Snake Valley Interbasin Flow?

How much will Spring Valley Pumping Reduce that Flow?

Reduction to Interbasin Flow Caused By Spr. V. Pumping

Absent Further Scientific Study, Assume Interbasin Flow Will Drop 16,000 af/y

Which is Roughly Half of the Interbasin Flow South of the Snake Range

Five Facts - Review

Discharge *Utah 82% / Nev. 18%.*
 Historic Use *Utah 74% / Nev. 26%*
 Recharge *Nevada 60% / Utah 40%*
 Fish Springs Allowance:
 20,000 af/y
 Spring Valley Pumping Allowance:
 16,000 af/y

Draft Agreement – The Actual - A Closer Look

	<u>Utah</u>	<u>Nevada</u>	
Allocated	35,000	12,000	
Unallocated	<u>5,000</u>	<u>36,000</u>	
Total	40,000	48,000	88,000
	45%	55%	
Spring V. Pump (16,000)			
Net	24,000		
(11,000 af deficit cuts into allocated water rights)			

Draft Agreement – Actual

	<u>Utah</u>	<u>Nevada</u>	
Allocated	35,000	12,000	
	74%	26%	
Unallocated	5,000	36,000	
	12%	88%	
Total	40,000	48,000	88,000
	45%	55%	

Draft Agreement - 108,000 af Forcing The 36,000 Nevada Number

	<u>Utah</u>	<u>Nevada</u>	
Allocated	35,000	12,000	
Fish Springs	20,000		
Spr. V. Pumping		16,000	
Unallocated		<u>36,000</u>	
Total		64,000	108,000

Draft Agreement – The Spin

	<u>Utah</u>	<u>Nevada</u>	
Allocated	55,000	12,000	
<i>(20,000 Fish Springs Allowance is Thrown In)</i>			
Unallocated	5,000	36,000	<i>7 to 1 Nev.</i>
Reserve, Dry	<u>6,000</u>	<u>18,000</u>	<i>3 to 1 Nev.</i>
Total	66,000	66,000	132,000
<i>(No Charge to Nevada For Spring Valley Pumping Impacts)</i>			

Draft Agreement - 108,000 af Forcing The 36,000 Nevada Number

	<u>Utah</u>	<u>Nevada</u>	
Allocated	35,000	12,000	
Fish Springs	20,000		
Spr. V. Pumping		16,000	
Unallocated		<u>36,000</u>	
Total	44,000	64,000	108,000

**Draft Agreement - 108,000 af
Forcing The 36,000 Nevada Number**

	<u>Utah</u>	<u>Nevada</u>	
Allocated	35,000	12,000	
Fish Springs	20,000		
Spr. V. Pumping		16,000	
Unallocated	<u>(11,000)</u>	<u>36,000</u>	
Total	44,000	64,000	108,000
	41%	59%	

Split 108,000 According to Historic Use

	<u>Utah</u>	<u>Nevada</u>
74/26	79,920	28,080
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	24,940	80

What is a Fair Split of the Wet Water?

Draft Agmt.	<i>59/41 for Nevada?</i>
Discharge	<i>82/18 for Utah?</i>
Historic Use	<i>74/26 for Utah?</i>
Recharge	<i>60/40 for Nevada ?</i>
Some other Average??	
Reduce Nevada's Allocation 16,000 to Account for Spring Valley Impacts ?	

**Split 108,000 Averaging Discharge &
Historic Use**

	<u>Utah</u>	<u>Nevada</u>
78/22	79,920	23,760
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	24,940	(4,240)

Split 108,000 According to Discharge

	<u>Utah</u>	<u>Nevada</u>
82/18	88,560	19,440
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	33,560	(8,560)

Split 108,000 According to Recharge

	<u>Utah</u>	<u>Nevada</u>
40/60	43,200	64,800
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	(11,800)	36,800

Split 108,000 Averaging Discharge & Recharge		
	<u>Utah</u>	<u>Nevada</u>
61/39	65,880	42,120
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	10,880	14,120

Splits Under Draft Agreement
(Utah/Nevada)

Reduce Budget to 88,000 af to protect Fish Springs, but make no allowance for Spring Valley Pumping: 45/55

Budget at 108,000, charge both states for inter-basin effects, but force 36,000 allocation to Nevada: 41/59

Either way, it eats 11,000 into Utah's senior water rights

Split 108,000 - Weighted Average 2x Discharge & 1x Recharge		
	<u>Utah</u>	<u>Nevada</u>
68/32	73,440	34,560
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	18,440	6,560

Summary – Range of Other Splits (Utah/Nevada)	
Discharge:	82/18
Historical use:	74/26
Avg. Discharge & Historical Use:	78/22
Recharge:	40/60
Avg. Discharge & Recharge:	61/39
Weighted Avg. 2x Discharge & 1x Recharge:	68/32
Avg. Discharge, Hist. Use, Recharge	65/35

Split 108,000 - Average Discharge Historic Use & Recharge		
	<u>Utah</u>	<u>Nevada</u>
65/35	70,200	37,800
Fish Springs	(20,000)	
Spr. V. Pumping		(16,000)
Already Allocated	<u>(35,000)</u>	<u>(12,000)</u>
Remaining for Allocation:	15,200	9,800

- State Negotiating Team Urged Millard County to Support Draft Agreement. Reasons Given:
- Predictable, Matter is Settled
 - Environmental Protections
 - Ten Year Delay, Time For More Science
 - Agreement Can be Changed if New Science Warrants It
 - Can't Go to Court Until You're Harmed, By Then It's Too Late
 - Contractual Remedy Process, Could do Worse in Court

Survey

Should Nevada Have to Account for Impacts
from Spring Valley Pumping?

If so, how much: 16,000 af/y ___ Other ___

Survey (cont'd)

What is a Fair Split of Water (Utah/Nevada)

Weighted Avg. 2x Discharge & 1x Recharge:	68/32
Avg. Discharge, Hist. Use, & Recharge	65/35

Survey (cont'd)

What is a Fair Split of Water (Utah/Nevada)?

Draft Agreement (No Acct for Spring Valley Pumping)	45/55
Draft Agreement (Acct for Spring Valley Pumping)	41/59

The End

Questions

Comments

Survey (cont'd)

What is a Fair Split of Water (Utah/Nevada)?

Discharge:	82/18
Historical use:	74/26
Avg. Discharge & Historical Use:	78/22
Recharge:	40/60
Avg. Discharge & Recharge:	61/39



Utah Farm Bureau NEWS
September Edition
President's Column

PROTECT UTAH'S SNAKE VALLEY WATER

By Leland Hogan

Almost four years of negotiations have yielded a draft agreement related to the water management of the Snake Valley that sits on the border between the nation's two driest states – Utah and Nevada. The draft agreement has drawn the ire of rural legislators, environmental activists, Millard County officials and organizations concerned with protecting the state's sovereign waters.

Snake Valley, secluded and quiet is just what Cecil Garland likes. However, their agricultural water and ranching heritage have become the epicenter of a raging debate between Utah and Nevada. Groundwater within the Snake Valley basin is coveted by Southern Nevada Water Authority (SNWA) to meet the growing needs of the nation's gambling Mecca – Las Vegas.

The two states are mandated by Congress to come to agreement regarding the allocation and management of the Snake Valley basins groundwater resources. According to the Department of Natural Resources Executive Director Mike Style, "The goal of the agreement is to protect the way of life of the water users in Snake Valley."

Utah and Nevada seems to always be in some kind of drought. Will SNWA's proposal inflict additional pain on the region's farmers and ranchers if the trans-basin water transfer is ultimately approved? In the arid west, sides are quickly taken when it comes to the region's most limiting factor.

Water is the lifeblood of the West. The availability of water is critical to our rural economies and farm families. Even the slightest lowering of the groundwater resource will hurt Utah family farmers and ranchers. Water resources depleted by the SNWA ultimately means increased costs to the area's farmers and ranchers.

In comments to the Governor's Office, Bureau of Land Management, Utah Legislature and Utah's Congressional delegation, Utah Farm Bureau called on the state officials to protect Utah's sovereign water. The draft agreement proposes splitting 132,000 acre feet deemed "sustainable" by the US Geological Survey's Basin and Range Carbonate Aquifer System Study (BARCASS). Farmers in the area note that when they "turn on the pumps" for summer irrigating, water levels quickly drop and artesian wells dry up. Does BARCASS overstate the recharge reality and what will be the impact of 20,000 or 30,000 acre feet leaving the basin?

Fact is, over 80 percent of the Snake Valley groundwater dependent acres are located in Utah.

Harvey Hutchinson
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Professional Engineer, General Manager
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Alpine, UT 84004
801-368-2695
westernh20@msn.com

September 8, 2009

Harvey Hutchinson of Western Water LLC has identified Millard County as a potential Bio-Fuel Center with hundreds of thousands of acres of fuel crops. SITLA land in Millard, Juab, Iron and Beaver Counties (Western Side) but primarily in Snake Valley area. In looking for water rights, Mr. Hutchinson found that SITLA has water rights that are “apertinant” to associated SITLA land.

Western Water’s concern is that water associated with SITLA ground on the West Desert has not been considered by Utah in water totals.

Harvey Hutchinson will sue the State Trust Fund Trustee for mismanagement if SITLA water on West Desert is not considered in the water totals.

Dean Draper, Hinckley Utah, says in reading the agreement as it is written now there are no teeth. There are will's and may's when there should be shall's. It is an unfunded agreement. There are no enforcements to be had as written. He talked of a town called Carigo that has a steam ship that once floated but now it is embedded in the lake covered with dust. The prospect of having all of that water drained from our valley would mean that Snake Valley would look like Sevier Lake.

An aspect of the agreement that was not considered was that SNWA has the propensity to buy ranches and file for water which they would allegedly have the right to move water from one basin to another. In the agreement to keep them from purchasing water existing allocated rights prior to 1989. If they had a willing seller to transfer that water down to the Lincoln County line. Interstate transfer of water is supposed to stop at the state line. This needs to be investigated and included in the agreement. There are rumors that there might be as much as 20,000 af of water already allocated in Snake Valley by Utah that could be up for sale. This needs to be investigated to see if there is some way to preclude it from transfer and have it addressed in the agreement. Those who have proposed this agreement have viewed this as a way to take SNWA applications for 50,000 af/y in the valley and drop it immediately to 36,000 af/y. That is a net loss of 14,000 feet right up front. If the state engineer of Nevada allocated 50% as set forth in the agreement and drops it to 18,000 af/y, the hydrologic studies would make it so they would have very little to begin with. The idea being that "there is no extra water". The agreement is a good idea to protect both states but it needs to be redone and needs to address these other issues.

Dean Baker, Baker Nevada, thanked the Millard County Commission for the work they have done and how much they have supported the opposition of this pipeline. He has worked for 20 years on opposing this pipeline and will continue to do so. There is nothing about this agreement that makes him in favor of the pipeline or wanting to sale water. The only way that he will do this is if he has no other choice because of the laws. If you take Mark Ward's numbers and put them on this valley and Mudd Lake, Clear Lake, Flowell and all of those it would be an interesting comparison of the numbers. It has become totally acceptable to both states to draw that water level down. So neither one of those states could legally say that you can't lower the water table because any place you go to it has been lowered. The difference is that they built a city there, but to transfer the water out and still say that it is acceptable to draw it down is as wrong as it could be. There should be a huge effort by both states to have their legislatures limit drawdowns in exporting water. That view seems to be unable to get around. He virtually agrees with everything that has been said here. Whether it is better to have an agreement or not is still a very clear question in his mind.

Having listened to all of what has been said here and what has been going on for two years, there is no potential for this to stay in negotiations with those people any longer. This had to get on the table and he totally disagreed with it not being on the table for all the time he was there. There was no use for it to go on any longer. Nobody knows if the numbers are right we just know that the water level is going down. If it is drawn down more it will have major impacts. The acceptability of taking the water somewhere else is the bad part. How we stop the pipeline and keep them from creating the impacts is a question in his mind.

There was no other comments made.