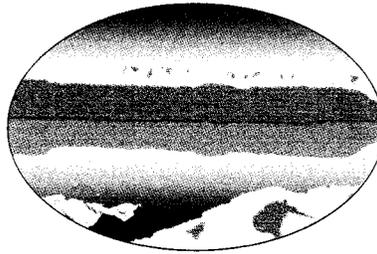


Ronald W. Thompson
General Manager

Roberta McMullin
Secretary-Treasurer

Barbara G. Hjelle
*Assistant General Manager
Counsel*



WASHINGTON COUNTY
WATER CONSERVANCY DISTRICT

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September 3, 2009

Governor Gary R. Herbert
Utah State Capitol Complex
350 North State Street, Suite 200
P.O. Box 142220
Salt Lake City, UT 84114-2220

Fax No. 801-538-1528

Re: Snake Valley Agreement

Dear Governor Herbert:

The Washington County Water Conservancy District has a direct interest in ensuring peaceful relations between states that share water resources. Washington County shares water resources across state lines and is also highly dependent for its future prosperity upon the ability to acquire Colorado River Water, subject to the Colorado River Compacts, through the Lake Powell Pipeline Project. Accordingly, we are writing to express our support for the SNAKE VALLEY AGREEMENT FOR MANAGEMENT OF THE SNAKE VALLEY GROUNDWATER SYSTEM ("Snake Valley Agreement") now under public review. We strongly encourage you to take every available action to ensure that this Snake Valley Agreement is executed.

Attached are copies of two letters written to Governor Huntsman in 2005 and 2006, expressing our concerns about the efforts to prevent the negotiation and execution of a cooperative Snake Valley Agreement between the states of Utah and Nevada regarding the Snake Valley aquifer. The concerns expressed in those letters remain valid today. I would like to emphasize a few of the more salient points.

The Snake Valley Agreement recognizes certain facts that reveal the positive value of the terms of the Agreement. For example, the water that recharges the Snake Valley Groundwater Basin comes primarily from Nevada, there is excess unappropriated water in the basin that is available for appropriation under the laws of each state, and Southern Nevada Water Authority ("SNWA") has filed applications under applicable Nevada law. According to the best evidence available, of a total available supply of 132,000 acre feet per year ("afy"), only 62,000 afy has been allocated, leaving the balance to be allocated under the laws of each state as provided for in the Agreement.

More importantly, the Snake Valley Agreement provides protections for Utah water users that would not be otherwise available under the laws of either state. These protections include:

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- A global plan for water use that ensures that Utah can continue to access water resources of the basin and limits Nevada from claiming all of the remaining water based upon the applicable law of prior appropriation
- An elaborate monitoring plan will be implemented to provide for gathering of data and sharing it with the public
- Water withdrawals in excess of 100 afy will be metered
- The states will work cooperatively, rather than each following applicable state law unilaterally without consideration of the other state's interests
- For new appropriation approvals in excess of 1,000 afy a Hydrologic Monitoring and Management Plan will be developed
- A portion of the 132,000 afy supply will be reserved from withdrawal until further scientific information is made available
- Prohibitions are established to avoid mining (overdrafting) of the groundwater, degradation of water quality or diminishment of the physical integrity of the basin
- A procedure is established to protect the existing permitted users from impacts of future development by SNWA including mitigation efforts such as paying for adding depth to wells or extra pumping costs arising from lowering of groundwater tables that can occur when aquifers are fully utilized to the extent of safe yield
- An appeal procedure is available to further protect water users
- A mitigation fund of at least \$3 million is established
- Protections are established for the Columbia Spotted Frog

None of these protections would be available to Utah water rights holders based upon established state law.

It is worthy of note that the water users of the state of Utah would not have the benefit of the Snake Valley Agreement, but for the passage of Public Law 108-424, which required the states to reach a Snake Valley Agreement (the "Act"). If this legislation, which was enacted through the efforts of Senator Reid of Nevada, were to be repealed, Utah would no longer be able to rely upon or obtain the added benefits listed above. Given the importance of the Snake Valley water development outlined below, I hope that those who are working so hard to undo many years of constructive negotiations will not be successful, because they may be those most harmed by the failure of this cooperative effort.

The Snake Valley water rights applications of the SNWA should be considered in historical context. The state of Nevada received an allocation of only 300,000 acre feet pursuant to the Colorado River Compact, far less than any other state. As a result of its limited allocation, followed by the subsequent urban development in southern Nevada, there has been pressure on the other Colorado basin states to accommodate more deliveries to Nevada from the Colorado River. While some accommodations have been made through water banking and exchanges, the

September 3, 2009

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other six basin states, including Utah, have encouraged SNWA to undertake development of Nevada's intrastate water resources as a condition precedent to further accommodations from the other Colorado River basin states. This encouragement creates a reasonable expectation on the part of SNWA that the state of Utah would not unreasonably interfere with its efforts to obtain water rights through normal procedures under Nevada law. In fact, as outlined above, the state of Utah has obtained concessions from SNWA that reduce the rights it might otherwise have expected to enjoy under Nevada law.

Failure of the two states to reach a settlement apportioning their respective entitlements to the water in this groundwater basin will not make this matter go away. Snake Valley is an interstate body and each state is entitled to an equitable share. Absent an agreement, it appears Nevada may seek to repeal the requirement that the State Engineers reach an accord and perhaps repeal some of the other protections provided in the Act. If this were to happen, SNWA will undoubtedly request the Nevada State Engineer to take action of its Snake Valley groundwater applications. This could result in a drilling war in which the SNWA would undoubtedly be more aggressive. Further, if negotiations collapse, Utah may be faced with court litigation where Nevada seeks to have a court equitably apportion this resource between the states. This would result in time-consuming and very costly litigation with an uncertain result in the court. Traditionally, the parties are more effective in resolving such matters even when the parties reach an agreement where neither is fully satisfied with the results. Thus, it seems critical to Utah's public interest that negotiation be completed and the agreement executed by both states.

Finally, we believe that nobody benefits from rancorous disputes over water across state lines. Washington County can only benefit from continuance of the good will that has historically governed the relationships between states and water managers, working relationships that could be damaged if we diverge from sound management policy in accordance with applicable law and adopt positions influenced by highly publicized but inaccurate rhetoric generated by those with narrowly focused local interests. We hope to ensure that management of the Colorado and Virgin River systems continue to be performed through cooperative efforts, similar to the efforts culminating in and represented by the Snake Valley Agreement.

I encourage you to take any and every action available to you to ensure that the Snake Valley Agreement is executed without further undue delay. If you desire further information or I can be of any assistance to you, please do not hesitate to ask.

Very truly yours,



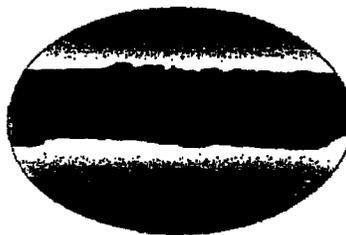
Ronald W. Thompson

Enclosures

Ronald W. Thompson
General Manager

Roberta McMullin
Secretary-Treasurer

Barbara G. Hjelle
*Assistant General Manager
Counsel*



**WASHINGTON COUNTY
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June 8, 2006

Honorable Jon Huntsman, Jr.
Utah Governor's Office
Utah State Capitol Complex
East Office Building, Suite E220
PO Box 142220
Salt Lake City, Utah 84114-2220

Dear Governor Huntsman:

This letter is written to revisit the concerns expressed to you regarding the Snake Valley Water issues set forth in our letter dated October 12, 2005 (copy attached), and to delineate further the balance of interests which we believe supports the solutions we propose, as more fully set forth below.

As you are aware, the current situation in Utah, where it appears that little progress is being made towards an agreement with Nevada, may strain important relationships with our Nevada neighbors. Given our shared interests across a number of key issues –including along the Virgin River – I believe it is critical to work cooperatively.

We believe that this matter involves coming to a practical approach to apportionment of the water interests between the two states. There are numerous examples where two or more states claim an interest in the same interstate water resource. The United States Supreme Court has had opportunity to address this issue on a number of occasions. The Court has set forth the guiding principle that each state is entitled to a fair and equitable share of interstate water resource pursuant to the doctrine of "equitable apportionment."

This doctrine takes into account such matters as the existing rights in each state, the existing economies, future needs and such other matters to provide a basis for the equitable apportionment. While this doctrine has not yet been applied to a groundwater case, these considerations make sense and thus would likely apply.

The Court strongly favors the states negotiating their respective rights to the water source involved, rather than resorting to litigation. States may enter into an interstate agreement which would recognize the respective rights of each state and could provide for proper administration of the

Honorable Jon Huntsman, Jr.
June 8, 2006
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resource. Without such an agreement, the unfortunate situation arises that one state may simply move forward by approving water rights on its side of the border and thus allocate more than its equitable share of the resource, which is likely to make it more difficult to reach an agreement between the states.

For these reasons, we believe that the Snake Valley allocation should be resolved by agreement between the states.

In order to further elucidate our position, let's take a look at the hydrology of the Snake Valley aquifer.

The Snake Valley aquifer straddles the Utah/Nevada border and covers portions of Millard and Juab Counties in Utah. The Southern Nevada Water Authority ("SNWA") has filed applications to appropriate water from this aquifer to meet the growing needs of the Las Vegas area. This, of course, has created concern among the water users in Utah regarding their respective rights to water from this same aquifer.

Utah and Nevada are both appropriation doctrine states, and both prohibit mining of groundwater. Also, each state supports the principle of safe yield from the groundwater basin. Thus, these two states are well situated to negotiate an equitable apportionment of their respective rights to the Snake Valley aquifer. Congress recognized this when it passed the Lincoln County Conservation, Recreation and Development Act of 2004. This Act addresses the potential interstate groundwater issues relating to the Snake Valley aquifer, recognizing that nothing in it limits or supersedes existing rights under Utah or Nevada law. The statute appears to contemplate exactly the type of interstate agreement that would result in an equitable allocation of water between the two states and the management of the aquifer.

While we recognize that Utah needs to be aggressive and vigilant in seeking its fair and equitable share of the Snake Valley aquifer, it does not serve either state's interests to let the allocation issue fester. It would be unfortunate if Nevada has the impression that Utah is simply not willing to address the matter. This could lead to straining an important relationship which I know you have worked so hard to build.

We believe it is in Utah's interest to proceed expeditiously with negotiations to resolve this issue, subject to completion of the necessary studies. Accordingly, we suggest that you authorize the Utah State Engineer and the Division of Water Resources, with oversight from the Governor's office, to proceed aggressively in discussions with the appropriate Nevada officials. The following points should be emphasized:

Honorable Jon Huntsman, Jr.

June 8, 2006

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- These discussions should be based on the hydrologic data currently available, while expediting any additional technical study that may be needed. Since this is a fairly remote aquifer, it is understandable that not all of the desirable hydrologic information is currently available for making a final decision regarding the apportionment of the water between the states. However, it should be possible to make at least a preliminary, conservative apportionment of a base amount of water that the state would be entitled to, with an agreement that this figure is not final and would be refined as additional hydrologic data is developed.
- This could be coupled with an agreement that only a conservative quantity of water would initially be allocated in Nevada taking into account the size of the basin in each state, the existing water rights in each state, and related matters.
- Any such preliminary agreement would be based on the expected safe yield of the aquifer, and each state would agree to prevent mining of the aquifer.
- An oversight or advisory committee could be created with a water user group from each state to monitor the situation and provide input regarding their concerns.
- There should be an agreement that, if impairment occurs by the use of water in the adjoining state, that impairment would be mitigated. Since Nevada is likely to be moving more aggressively in developing the resource than Utah, such an agreement should provide protection for Utah water users. It seems likely that Nevada would agree to this arrangement.
- The states should move forward to developing a comprehensive management plan for the basin that would be consistent with their respective interests and the protection of their water users.

We appreciate all you are doing for the State and are grateful for your attention to the water issues that are so critical to Washington County. We would be happy to discuss this matter with you in further detail at any time convenient to you.

Very truly yours,



Ronald W. Thompson
General Manager

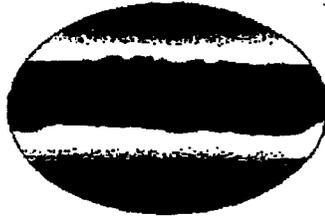
RWT/rm
Enclosure

cc: Neil Ashdown, Chief of Staff (w/encl.)
Lt. Governor Gary Herbert (w/encl.)
Mike Styler (w/encl.)

Ronald W. Thompson
District Manager

Roberta McMullin
Secretary-Treasurer

Barbara G. Hjelle
Counsel • Environmental Coordinator



**WASHINGTON COUNTY
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October 12, 2005

Honorable Jon Huntsman, Jr.
Utah Governor's Office
Utah State Capitol Complex
East Office Building, Suite E220
PO BOX 142220
Salt Lake City, UT 84114-2220

Dear Governor Huntsman:

This letter is written to express our serious concerns about recent talk about the proposed transbasin diversion from ground-water basins in Lincoln and White Pine Counties in Nevada. It certainly appears that the discussion is being dominated by unreasonable fears, given the clear language of the "Lincoln County Conservation, Recreation, and Development Act of 2004" (the Act).

We cannot overemphasize the critical importance of maintaining a reasonable approach to this issue. If the efforts in Nevada are stymied by political hyperbole, unreasoned fears or unfounded opposition, comity among the states involved in the Colorado River Compact may be threatened and, more seriously, opposition to the Lake Powell Pipeline by Nevada and other states may endanger that project.

Let's keep in mind that the Act requires "a study to investigate ground water quantity, quality, and flow characteristics in the deep carbonate and alluvial aquifers of White Pine County, Nevada, and any groundwater basins that are located in White Pine County, Nevada, or Lincoln County, Nevada, and adjacent areas in Utah." The study must address relevant data; determine water storage, discharge and recharge in aquifers, including hydrogeologic and other controls; and depict aquifer systems, including the recharge and discharge areas. Until this study is done, there is insufficient information to determine what the impacts might be of a transbasin diversion project.

The legislation also requires that:

[p]rior to any transbasin diversion from ground-water basins located within both the State of Nevada and the State of Utah, the State of

Honorable Jon Huntsman, Jr.
October 12, 2005
Page 2

Nevada and the State of Utah shall reach an agreement regarding the division of water resources of those interstate ground-water flow system(s) from which water will be diverted and used by the project. The agreement shall allow for the maximum sustainable beneficial use of the water resources and *protect existing water rights*. [Emphasis added.]

It does not make sense for the irrational fears of 30 local farmers, prior to completion of the studies and agreements required by law, to generate unnecessary and ill-advised new policies or legislative initiatives, in particular when catering to such fears may imperil the Lake Powell Pipeline which will provide a critical water resource to up to half a million residents of Washington County as well as two other counties in southwestern Utah. The Lake Powell Pipeline will also allow the State to use a significant portion of its allocation of Colorado River Compact water and may yield potentially important environmental benefits in river flows.

The suggestion by some that this should be raised to a federal level is troubling because it would serve no useful interest to raise this to a level of a federal/state compact, rather than leaving it in the hands of people at the state level who have the expertise to understand these issues. We urge you to take every action necessary to allow the study to proceed in accordance with the Act, recognizing that the Act protects the broadest public interests in this matter and keeps the State of Utah in control of the outcome of this critical issue.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to call on me.

Sincerely,



Ronald W. Thompson
General Manager

RWT:acj
Distribution List attached

cc: Washington County Commission
D. Larry Anderson
Mike Styler
Jerry Olds
Marcus Faust
Dallin Jensen
Fred Finlinson