From: Brauer Family, Jim, Ann & Ell
PO Box 269 Indian Springs, NV 89018
PO Box 151 Beaver, UT 84713

September 30, 2009

To: Allen Biaggi, Director
Nevada Department of Conservation and Natural Resources
901 S. Stewart Street, #5001
Carson City, NV 89701

Mike Styler, Director
Utah Department of Natural Resources
Division of Water Rights
1594 West North Temple, #220
Salt Lake City, UT 84114

Thank you for the opportunity to submit comments on behalf of our families, children, and future generations.

The Draft Nevada-Utah Agreement for the Management of Snake Valley Groundwater System and the Snake Valley Environmental Monitoring and Management Agreement SHOULD NOT go forward as currently proposed. We strongly agree with the comments submitted by the Great Basin Water Network (dated September 23, 2009) and other parties with scientific expertise. We look forward to seeing the comments carefully evaluated and incorporated into an agreement which will protect the shared groundwater system in Snake, Hamlin, and Pleasant Valleys, and will protect existing water rights, and the environment of the valleys.

1. The agreement was negotiated in secrecy. For an agreement on such an important resource as water to be successful, it must be based on public participation, full disclosure, scientific evidence, and good faith negotiations that include all affected parties. Important parties to the agreement have been completely left out. Examples are the Goshute Tribes, endangered and threatened species of the future, National Parks, and Wildlife Refuges.

2. This is an interstate compact that encumbers funds from Nevada and Utah, as well as the Federal Government. As such it requires the approval of and funding by these entities before it can be finalized.

3. The legislation requiring this agreement says the states must agree on “maximum sustainable use of the waters prior to any interbasin transfer from groundwater basins located within both States.” The agreement, 2.8, states “Utah generally allows for the appropriation of Groundwater in a manner that is sustainable.” Further, in 2.10 and 5.4 the agreement states the desire of the States “to allow for the development of the maximum sustainable Beneficial Use of water resources within each state.” In no instance is the term SUSTAINABLE defined, although 5.4 allows for its recalculation. What is the agreed upon definition of SUSTAINABLE. Will a “maximum sustainable use” remain constant through time, or be reevaluated periodically?

4. The agreement addresses only two threatened or endangered species in Snake Valley. No complete biological survey of Snake Valley has ever been completed. This is a necessity to be able to predict and identify changes caused by ground water pumping. The agreement must provide for incorporating other potential threatened or endangered species that are discovered, identified, and/or listed in the future.

5. The ten-year delay before Nevada State Engineer hearings on SNWA's applications in Snake Valley has the effect of removing protestants from the process. In the period since 1989 when the applications were filed and protests were accepted, a number of the protestants have died, moved, or sold their property. The added ten-year delay will only increase this number, allowing SNWA to move forward without having to address protestants. It ties up water applications and hampers economic development in Snake Valley and other affected valleys. The agreement must include a provision that protests will be accepted again before hearings proceed, whenever that may be.

6. In the past, SNWA has operated in secrecy. Data and research have not been publicly available or peer reviewed. It is unacceptable to have SNWA as a third party in charge of collecting and/or interpreting data, receiving and evaluating complaints, or making decisions about whose damages are to be mitigated, whose are not, and the amount and kind of mitigation.

7. There is no provision in the agreement for changes to water laws in either state that may affect the agreement. Allowing the agreement to be amended by the agreement of the parties (Nevada, Utah, and SNWA) is vague and unacceptable. SNWA must not be a third party with the power to bring about changes. It is not a sovereign entity, and must not encumber Nevada or Utah. Should SNWA fail, go bankrupt, or leave Snake Valley, will the states of Nevada and Utah then have to assume liability? The agreement does not specify how long it is effective, or how long SNWA is responsible for the pumping effects, damages, debts, or mitigation. This is unacceptable.

8. Any monetary amounts established by the Agreement must be stated in 2009 dollar equivalents, thus protecting against inflation.

9. In the twenty years since the applications were filed, SNWA has shown no progress toward using existing and/or new technology to conserve and reuse water efficiently. SNWA must be required to show significant progress in conversation before hearings proceed on the water applications. As it stands with the agreement, there is no incentive for SNWA to improve its conservation practices.

Comments sent via email to:

snakevalley@utah.gov

snakevalley@water.nv.gov