

The Ely Times

We suggest an ally in the fight against the water grab

AUGUST 24, 2018 BY [THOMAS MITCHELL](#)

The three-decade legal wrangle over whether Clark County will ever be allowed to tap groundwater from White Pine, Lincoln and Nye counties has reached another milestone, but may be far from over.

Jason King, state engineer for the Nevada Division of Water Resources (NDWR), issued a 111-page ruling denying the Southern Nevada Water Authority (SNWA) request for water permits.

In 1989 the water agency filed paperwork seeking 589,000 acre-feet of groundwater from various eastern Nevada aquifers, intending to build a 300-mile, \$1.5 billion network of pipelines from near Ely to Las Vegas. The amount of water sought has since been trimmed to 84,000 acre-feet and the cost has ballooned to more than \$15 billion.

While the opponents of the project celebrated the denial, the state engineer issued a statement saying he planned to appeal in the courts his own ruling, because he disagrees with the methodology for determining the availability of water mandated by a judge.

“The Nevada Division of Water Resources is dedicated to protecting, managing, and enhancing Nevada’s precious water resources,” King said in a statement. “In an effort to protect the integrity of Nevada’s water laws, the NDWR intends to appeal sections of the mandated instructions that threaten to upend the historical application of Nevada water law and water rights.”

In his ruling King wrote, “Although the State Engineer believes there is water to appropriate in the four subject groundwater basins ... he is precluded from doing so as a result of the scope of those remand issues, which imposes new water policy into the science of water appropriation in Nevada.”

The state engineer had approved groundwater permits for Spring Valley, Cave Valley, Dry Lake Valley, and Delamar Valley groundwater basins in 2007, 2009 and 2012, but state Judge Robert Estes in 2013 remanded the matter to King with instructions for how to proceed with

monitoring, managing and mitigating — abbreviated as 3M — the impact of the groundwater withdrawal on other water users and the ecosystem.

Estes wrote, “There are no objective standards to determine when mitigation will be required and implemented. The Engineer has listed what mitigation efforts can possibly be made, i.e., stop pumping, modifying pumping, change location of pumps, drill new wells ... but does not cite objective standards of when mitigation is necessary.”

Judge Estes concluded that if “it is premature to set triggers and thresholds, it is premature to grant water rights.” In his ruling King approved the SNWA’s 2017 redrafting of its 3M plans, subject to any subsequent reinstatement of water permits.

Despite the expressed intention of the state engineer to continue the legal battle, opponents of the project see the ruling as a victory.

“We welcome the State Engineer’s denial of SNWA’s applications, which clearly was required by Nevada water law, as the State District Court and Supreme Court have explained,” said the Great Basin Water Network’s attorney, Simeon Herskovits, in a statement. “We do, however, disagree with the State Engineer’s gratuitous finding that SNWA’s monitoring, management and mitigation (or 3M) plan is adequate. Their slightly elaborated 3M plan remains as much of a sham as it always has been.”

Abigail Johnson, a spokesperson for the water network, said, “With the denial of these applications by the State Engineer, this ill-conceived multibillion dollar boondoggle is now dead in the water. After a string of court victories, we have a decision showing that the water is not available for this project without hurting the area’s existing water rights and environment.”

We suggest that the opponents seek to form a partnership in their fight against this water grab with another party who would be damaged by this project — the SNWA’s customers.

An SNWA-drafted study in 2011 found the cost to drill wells and build pipelines and pumps to send the groundwater to Las Vegas would in some years cost as much as \$2,000 an acre-foot, which could triple the rates for water customers. Who knows what the cost would be now.

And this is while the water authority has done next to nothing to renegotiate the outrageous 1920s division of Colorado river water — in which California gets 4.4 million acre-feet a year, Arizona 2.8 million acre-feet and Nevada a mere 300,000 acre-feet.

Meanwhile, farmers in California and Arizona can buy Colorado River water for as little as \$20 an acre-foot.

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