

## Nye County Water District

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October 11, 2011

Penny Woods, Project Manager  
BLM Nevada Groundwater Projects Office  
P.O. Box 12000  
Reno, NV 89520-0006

REC'D - BLM - NSO  
9:00 OCT 14 2011  
A.M.

Submitted via email to [nvgwprojects@blm.gov](mailto:nvgwprojects@blm.gov)

Subject: Comment on Clark, Lincoln and White Pine Counties Groundwater Development  
Project Draft EIS – June 2011

Dear Ms. Woods:

The Nye County Water District Governing Board appreciates the opportunity to provide comments regarding the Clark, Lincoln and White Pine Counties Groundwater Development Project Draft EIS. The Nye County Water District (NCWD) is charged with protecting water resources in Nye County to ensure the economic future, quality of life, and nature of its rural environment.

This project is likely to impact two groundwater basins primarily located in Nye County – 207 - White River Valley & 208 – Pahroc Valley. It is felt that the scale of this initial project and its likely expansion once established, would eventually impact the future growth and well-being of Nye County by threatening the sustainability of our groundwater resources in these two basins – the only water source available.

The Governing Board of the Nye County Water District joins with and supports the Central Nevada Regional Water Authority's (CNRWA) comments regarding the Draft EIS for the Clark, Lincoln and White Pine Counties Groundwater Development Project EIS.

  
R. L. "Midge" Carver, Chair, Governing Board

cc: Nye County Water District Governing Board  
Nye County Board of County Commissioners  
Steve Bradhurst, Central Nevada Regional Water Authority

Enc. CNWRA's Draft Comments

October 11, 2011

Penny Woods, Project Manager  
Bureau of Land Management  
Nevada Groundwater Projects Office  
Nevada State Office (NV-910-2)  
P.O. Box 12000  
Reno, Nevada 89520-0006

Subject: Central Nevada Regional Water Authority comments on the Clark, Lincoln,  
and White Pine Counties Groundwater Development Project Draft  
Environmental Impact Statement

Dear Ms. Woods:

As you know, the Central Nevada Regional Water Authority (Authority) is one of sixteen Cooperating Agencies that provided the Bureau of Land Management input on the development of the Clark, Lincoln, and White Pine Counties Groundwater Development Project Draft Environmental Impact Statement. On September 8, 2006 the Authority sent a letter to you requesting Cooperating Agency Status for development of the Environmental Impact Statement for the proposed Clark, Lincoln and White Pine County Groundwater Development Project (Project). In that letter the Authority said "Based on the conferred functions and the Directors' observations that the Project is likely to 1) impact the present and future economic stability of CNRWA Members and their communities by excessively diminishing water resources that might otherwise be used for local and regional economic activity, and 2) impact the natural and human environment of CNRWA Members and their communities by diminishing water resources that support springs, seeps, rangelands, and other natural resources that define the region, the Directors feel that directly and formally engaging BLM, the Project proponent and other Cooperating Agencies during development of the Environmental Impact Statement will enhance the NEPA process and ensure a robust and equitable analysis." On December 18, 2006 you responded to the request and granted the Authority Cooperating Agency status for the Clark, Lincoln, and White Pine Counties Groundwater Development Project Environmental Impact Statement.

Attached to your December 18, 2006 letter was a memorandum of understanding between the BLM and the Authority that described the respective roles and responsibilities of BLM and the CNRWA in the EIS process. The Authority took its Cooperating Agency status seriously and provided BLM input on the development of the EIS, including attending numerous Cooperating Agency meetings (in person or via telephone) and providing comments on the December 2009 and follow-up November 2010 Clark, Lincoln, and White Pine Counties Groundwater Development Project Administrative Draft Environmental Impact Statement. Unfortunately, many of the Authority's concerns, including comments on the fatal flaws in the Administrative Draft

Environmental Impact, were not addressed by BLM. The Authority submits this letter to BLM to once again provide comments on the EIS.

It should be clear that the EIS project is the Clark, Lincoln, and White Pine Counties Groundwater Development Project. A review of BLM documents pertaining to the EIS, including BLM newsletters (8), the DEIS and BLM's August 1, 2011 Frequently Asked Questions and Answers handout, describe the EIS project as the Clark, Lincoln, and White Pine Counties Groundwater Development Project. To be more specific, the DEIS states "The purpose of this Draft EIS is to document and disclose the expected environmental effects associated with the proposed project and six alternatives." The project is not the foot print of a right-of-way, it is the Southern Nevada Water Authority Groundwater Development Project. The proposed federal action is a request from the Southern Nevada Water Authority for a right-of-way to implement its Groundwater Development Project.

Unfortunately, BLM decided the project is the issuance of a right-of-way, instead of the Groundwater Development Project that needs the right-of-way. Therefore, the alternatives identified in the DEIS are all modifications of right-of-way routes, not alternatives to the SNWA Groundwater Development Project. The bottom line is the DEIS must consider the environmental consequences /impacts of the SNWA Groundwater Development Project, and in doing so, look at viable alternatives to the Groundwater Development Project. It is clear BLM did not want to look at the range of alternatives for the SNWA Groundwater Development Project, nor conduct a comprehensive environmental assessment of the SNWA Groundwater Development Project, in the water-losing and water-gaining areas. This deficiency is a fatal flaw in the DEIS, and it must be corrected.

It may be that BLM is trying to address this deficiency, in a piece meal fashion, since the DEIS does include the actual effects of the groundwater withdrawal associated with the implementation of the SNWA Groundwater Development Project. It is important to know what BLM said about including this information in the EIS. The August 1, 2011 BLM Frequently Asked Questions and Answers document on the DEIS states "The environmental study that BLM has managed for this project includes researching and predicting the actual effects of the groundwater withdrawal because it is considered a "connected" action to the pipeline. In other words, if it were not for the groundwater withdrawal the pipeline would not be needed." Obviously the SNWA Groundwater Development Project is a "connected" action to the pipeline. In other words, if it were not for the SNWA Groundwater Development Project the pipeline would not be needed. Once again, the DEIS must assess the environmental effects of the Groundwater Development Project, including assessing viable alternatives to the Groundwater Development Project.

In addition to the aforementioned fatal flaws in the DEIS, I provide the following comments on the DEIS:

1. **What does LCCRDA say?** The DEIS gives the impression that the Lincoln County Conservation, Recreation, and Development Act (LCCRDA) passed by Congress in 2004 mandates or forces BLM to grant SNWA a right-of-way for its Groundwater Development Project. That is not the case, LCCRDA states "subject to compliance with NEPA before granting a right-of-way." CEQ and the courts have determined an EIS under NEPA can analyze an alternative or alternatives beyond what Congress has authorized because the EIS may serve as the basis for modifying the Congressional action in light of NEPA's goals and policies. The DEIS should inform the reader of this fact.

2. **How should the "tiering" process be used in the DEIS?** It is appropriate to use the "tiering" process, but the first "tier" should address whether or not the SNWA Groundwater Development Project should be built. That is, the first "tier" should address the various methods/ways SNWA can obtain the minimum amount of water needed. The second "tier" would narrow the scope of the EIS to a particular action to obtain the minimum amount of water needed. For example, the particular action could be the Groundwater Development Project, water conservation, desalination, smart growth planning, etc. The third "tier" would narrow the scope of the EIS to specific locations and design elements associated with the proposed action. The DEIS skipped the first two tiers.

3. **How realistic are the SNWA population projections?** The DEIS contains SNWA population projections, and these projections along with expected conservation are the basis for SNWA's water demand forecasts in its service area. The SNWA population projections come from the University of Nevada Las Vegas Center for Business and Economic Research (CBER). The CBER population projection shows Clark County's population growing from approximately 2 million people in 2008 to 3.65 million people in 2035. In June 2009 and in June 2010 the CBER reduced its 2035 population projection to 3.13 million people, a reduction of 520,000 people. But, the Nevada State Demographer's population projection for Clark County in 2030, using the Regional Economics Model, Inc (REMI Model), is 1,979,045 people; hence, no real increase in Clark County population from 2010 to 2030. The Nevada State Demographer uses the REMI Model to project population for all 17 Nevada counties, and these numbers are the official State of Nevada population projections. The point is the CBER population projections are not reliable, and should not be used to justify the SNWA Groundwater Development Project.

4. **What happens if SNWA reduces its per capita water demand to 166 gpcd?** The DEIS states SNWA has reduced community water use from 344 to 248 gallon per capita day (gpcd). And, SNWA expects to further reduce per capita water demand to 199 gpcd by 2035. This additional conservation is suppose to save the community 276,000 acre-feet per year (afy) by the year 2035. Keep in mind SNWA needs the Groundwater Development Project to obtain 176,655 afy. If SNWA were to reduce its per capita water demand to 166 gpcd – higher than Los Angeles's current rate, and comparable to the current Albuquerque and Phoenix rates – and the Clark County population by 2035 is 3.13 million people, then total water demand in SNWA's service area would be about the same as it is now. The point is combining reductions in both projected population (see

#3) and per capita water demand will completely eliminate the need for new water supplies. In addition, SNWA could receive a significant additional water supply if power plants in its service area were to change from wet to dry cooling. It is estimated ten's of thousands of acre-feet of water could be saved by this action.

**5. Does the DEIS contain an adequate monitoring and mitigation plan?** The DEIS states "For the purpose of the EIS, the framework for development of monitoring plans is assumed to follow the Stipulation for the Withdrawal of Projects for Spring and Dry Lake, Delamar and Cave Valleys (referred to as stipulated agreements in this draft EIS). That means the SNWA and DOI agency stipulated agreements (2) for Spring, Dry Lake, Delamar and Cave Valleys will be the DEIS monitoring and mitigation plan. A close examination of the SNWA/DOI stipulation agreements show there are no specific provisions requiring an immediate cessation of pumping should adverse effects be observed. Rather, if a problem is noted, the Executive Committee, created by the stipulation agreements to provide monitoring oversight, first strives to reach a consensus solution to the problem. If consensus cannot be reached, after an undefined period of time the Committee will seek a negotiated resolution through either the Nevada State Engineer or a neutral third party. The stipulation agreements do not address what takes place should these negotiations fail, presumably resolution of the issue would then be sought in the courts. Therefore a major fault with the stipulation agreements is that there is no clearly defined timeframe for reaching a negotiated resolution and no requirement that pumping be suspended while that resolution is sought. Rob Dubuc wrote in the 2007 Journal of Land, Resources, and Environmental Law article entitled Snake Valley to Las Vegas: Keep your Pipes Out of Our Aquifer that "Common sense tells us that once SNWA has invested billions of dollars on the installation of infrastructure necessary for the project, it is conceivable that the federal government would be reluctant to insist on a cessation of pumping. This real possibility was acknowledged by the appellate court in Wilderness Society v. Morton when confronted with the granting of a right-of-way permit for the trans-Alaska pipeline. The Wilderness Society court summarily dismissed the federal assertion that the pipeline's permit could be revoked in the event conditions of the permit were breached. The court noted that once the permit was approved, it would 'for all real purposes be irrevocable . . . because it would put the United States in a position of either suffering continued trespass on its lands or destroying a multibillion-dollar investment." The bottom line is the DEIS does not contain a realistic monitoring and mitigation plan since the referenced stipulations are toothless; that is, cannot be enforced.

**6. Are there viable alternatives to the SNWA Groundwater Development Project?**

The answer to the question is yes! Viable alternatives to the Groundwater Development Project include at a minimum conservation, desalination, grey water use, rainwater capture and smart growth planning. At the top of the list would be water conservation (please see #4 above). Regarding desalination of ocean water, it is unfortunate that SNWA is quick to dismiss desalination given its reputation for thinking outside the box, ability to develop agreements amongst warring water entities, and the 15 billion-dollar plus cost of the Groundwater Development Project. The technology and economics of desalination have improved significantly over the last few years. Within two years, 30

percent of the water supplied to Australia's capital cities (i.e., Perth, Sydney, Adelaide and Melbourne) will come from the ocean as water utilities build new desalination plants. SNWA can provide funds to the appropriate entity or entities to build desalination plants on the coast of California and/or Mexico in exchange for some of California's and/or Mexico's Colorado River water. It is estimated that the cost of a desalination plant that produces 50,000 acre-feet of water a year is \$400 million; hence, four desalination plants could produce 200,000 acre-feet of potable water for 1.6 billion-dollars. SNWA could fund the desalination plants, at a fraction of the cost for the Groundwater Development Project. Desalination is not a remote or speculative alternative to the Groundwater Development Project. Other sources of water such as gray water use and rainwater capture need to be seriously considered by SNWA. They are not the solution by themselves, but in combination with conservation could be the solution.

#### **7. Does SNWA have the ability to finance the Groundwater Development Project?**

The DEIS appears to be silent on the Project cost. For the last few years SNWA has estimated the capital cost of the Groundwater Development Project to be 3.2 billion-dollars, in 2007 dollars. In fact, a June 2011 SNWA document entitled Summary of Cost Estimate for Clark, Lincoln, and White Pine Counties Groundwater Development Project stated the cost is 3.2 billion-dollars, in 2007 dollars. But a June 27, 2011 SNWA document entitled Ability to Finance Report to the Southern Nevada Water Authority states the principal cost for the Groundwater Development Project is \$7,283,335,000, and the interest on that amount is \$8,180,111,453.; hence, the total project cost in terms of capital and interest is \$15,463,446, 453 (approximately 15.5 billion-dollars). This cost does not include a contingency for cost overruns and the operation and maintenance costs. Recently, August 19, 2011, BLM stated it now plans to consider the economic viability of the Project, and the results will be included in the final EIS. To allow the public to make a fair assessment of the Project, the DEIS, not the FEIS, should include Project cost information, including capital cost, financing cost, operation and maintenance cost, contingency for project cost overruns, ability of growth to pay for the Project, estimated cost to rate payers who will pay for the Project, and impact of Project cost on per capita water demand. Most certainly it is welcomed news that BLM will analyze the financial feasibility of the Project, and it is another example that BLM considers the SNWA Groundwater Development Project to be a "connected" action to the pipeline (see third full paragraph on page 2).

Other issues that the DEIS should consider include 1) the fact that if climate change reduces the amount of water in the Colorado River it will surely reduce the amount of groundwater in the Great Basin, 2) the minimum amount of water SNWA needs to make the Project economically feasible, 3) the amount of water DOI agencies need to carry out or implement their responsibilities in the targets water basins (e.g., grazing programs, wildlife habitat programs, etc.), and 4) the fact that the Project's long term timeframe exceeds the period of an effective environmental assessment.

In closing, it needs to be emphasized that the DEIS is fatally flawed, and the only choice BLM can make at this time is the "No Action" alternative; that is, deny the right-of-way request.

If you have any question regarding this letter please do not hesitate to contact me.

Sincerely,

Steve Bradhurst  
Executive Director

c: Central Nevada Regional Water Authority Board of Directors