

Comment Review Form

Document Title: Preliminary Draft Groundwater Model Report - Clark, Lincoln, and White Pine Counties Groundwater Development Project			
Document Date: April 1, 2008		Date Comments Due: May 16, 2008	
Agency: Millard, Juab and Tooele Counties ("the Counties")		Responsible contact: J. Mark Ward Utah Association of Counties 5397 South Vine Street Murray Utah 84107 Tel. 801-265-1331 Fax 801-265-9485 email: mark@uacnet.org	
Comment #	Page #	Section and paragraph	Reviewer Comment
Report Part A – Conceptual Model			
C1	1	General	The Counties incorporate herein by reference all the prior comments they submitted concerning the hydrology baseline report.
C2	2	General	The Counties incorporate herein by reference all the prior comments they submitted concerning draft Chapters 1-3 of the EIS.
C3	3	1.0 Introduction	The dynamics of the discussion at the May 6, 2008 technical review meeting at the SNWA offices in Las Vegas, reinforced the growing concern of many cooperators that NEPA sufficient independent objectivity is lacking in the preparation of the groundwater model study. SNWA, Earth Knowledge and ENSR agents seemed to be consciously triangulating in a vigorous defense of the preliminary water model against all criticisms. ENSR holds itself out as an independent third party contractor of BLM. Earth Knowledge is for all purposes a hired extension of SNWA – a paid agent of SNWA. Given that BLM’s obligation under NEPA is to objectively and critically study the impacts of the SNWA proposed groundwater project – and there for critically objectively study the water model, and given that ENSR is an extension of BLM for this purpose, it follows that ENSR should have applied a more critical eye and critical objective review of Earth Knowledge’s preliminary work than was demonstrated by ENSR at the

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C3 con't			<p>May 6th meeting. The water model is the heart of the BLM's required "study" of environmental impacts from the proposed pumping and transport of water southward from the project valleys. It is therefore not appropriate for ENSR hydrologists and other operatives to act as Earth Knowledge's apologist in the face of critical questions addressed to Earth Knowledge during the May 6th meeting. To the contrary, ENSR operatives if anything should be matching the level of critical scrutiny and review that was exhibited by other cooperators.</p>
C4			<p>In essence, SNWA (through Earth Knowledge) is really the one doing the water model study here, not BLM (or ENSR). The Counties want to see evidence of more independent scrutiny by ENSR. Or, perhaps ENSR should sub-contract with another independent reviewer of Earth Knowledge's preliminary work.</p>
C5			<p>This is all in keeping with the spirit with which Congress itself approached this entire project. In virtually the very same breath in which Congress authorized the groundwater development rights of way in Clark and Lincoln County (though such rights of way were conspicuously absent in White Pine County), Congress commissioned an independent groundwater model study by USGS, known as BARCASS. See LCCRDA Section 301(b), (e). There are serious questions whether the report issued by USGS (BARCASS I) has fully returned all the information Congress commissioned it to return. Whatever the case, we know that Congress certainly expected, anticipated and outright required that USGS perform the following:</p> <ul style="list-style-type: none"> - determine how much water is stored in the relevant aquifers - determine discharge and recharge characteristics of each aquifer - determine hydrogeologic and other controls that govern discharge and recharge of each aquifer system - determine water quantity, quality and flow characteristics in deep carbonate and alluvial aquifers of White Pine County, and any groundwater basins that are located in White Pine County, or Lincoln County or

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C5 con't			<p>adjacent areas in Utah. BLM and DOI believe those adjacent areas include the Area of Interest identified in Figure 1 of the Spring Valley Stipulated Agreement.</p> <p>In other words, Congress commissioned USGS to come up with a water model. Notice, Congress was not content to let SNWA come up with the water model, nor a paid agent of SNWA. In the same spirit, BLM should reconfigure this EIS to inject USGS into a meaningfully active role in preparing this water model.</p> <p>USGS, to comply with the spirit and letter of the Congressional requirement, ought to have a much larger role in developing the water model that SNWA now attempts to do through paid surrogate Earth Knowledge. At any rate, the whole spirit of the LCCRDA mandated USGS water model study underscores the notion that is not for SNWA (nor for a paid operative of SNWA) to be the sole performer of the groundwater model study while ENSR sits by and functions as apologist for that work. For this EIS process to pass NEPA muster, there must be a better showing in the record of a healthy, skeptical independent review of SNWA's (through alter-ego Earth Knowledge) preliminary ground water model work.</p> <p>The BLM's partial response to the foregoing critique is something along the lines of "Not to worry; USGS is right there to steer the water model project and ensure that it is done right." That contention did not bear out at the May 6th hearing. The impression at the May 6th meeting is that the USGS was rather marginalized (to put it generously) as far as any meaningful role in the preparation of the water model. USGS should have a more integral role in preparing the water model effort in order to achieve the independence and objectivity required in a NEPA compliant process. USGS should direct the effort, or at least direct a vigorous peer review of Earth Knowledge's effort. That active role by USGS was not on display at the May 6th meetings.</p>
C6			

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C7			In short, USGS should be the dog that wags the Earth Knowledge tail in this water model effort, not vis-versa, especially if ENSR declines to perform that function. USGS involvement is obviously what Congress wanted, as manifested by its insistence that USGS perform a relevant groundwater model study.
C8	4	1.3 Scope & Figure 1-1 Location of Study Area	The study area should at least be co-extensive with the geographic area known as the "Area of Interest" identified in Figure 1 to the Spring Valley Stipulated Agreement signed by SNWA and various federal agencies including BLM's parent agency DOI. There is no acceptable rationale to explain why the "Area of Interest" sought to be protected by BLM/DOI in the Spring Valley Stipulated Agreement, is not co-extensively the subject of the subject water model study. That "Area of Interest" map includes the Fish Springs National Wildlife Refuge in Juab and Tooele Counties. Figure 1-1 of the Conceptual Water Model Report does not. The Area of Interest Map includes Deep Creek Valley which embraces the Federated Tribe of the Goshutes Indian Reservation. Figure 1-1 does not. The Area of Interest Map includes Pine Valley, All of Hamlin Valley, Wah Wah Valley, Tule Valley, Fish Springs Flat and Dugway-Govt Creek Valley. Figure 1-1 does not.
C9	5	2.3 Soil and Vegetation	The water model should more comprehensively study, analyze and predict the anticipated drops in groundwater tables, in order to provide a foundation to assess the resultant impact on groundwater dependent vegetation, and in turn the resultant impacts on soil, wind erosion and air quality through loss of groundwater dependent vegetation.

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C10	6	General	It was apparent at the May 6 th meeting at SNWA in Las Vegas that the water model efforts continue to be hampered by SNWA's inability to pin down exactly what the proposed action is. It keeps shifting, so the water model analysis has to shift, and then re-calibrations problems ensue.
C11	7	General	The Counties continue to be dismayed at the premature nature of key aspects of this EIS is following, as now manifested in the difficult water model study. It is still not known how much water, if any, the Nevada Engineer will appropriate to SNWA., nor the myriad conditions, points of diversion, etc. Moreover Utah and Nevada have yet to agree on how to divide up the water resources. Moreover, SNWA has still not come to rest on a definitive proposed action in terms of points of diversion, quantity of water diverted, size of pipeline, etc. In face of this substantial two and three-layered uncertainty, BLM seemingly yields to SNWA pressure to have its paid agent Earth Knowledge plow forward with an infinitely complex water model based on unknown and unverified water rights. This is all compounded further with the apparent recalcitrance of SNWA and Earth Knowledge operatives to expand the model boundaries to match that of the Area of Interest charted by BLM and DOI in the Spring Valley Agreement, and we have the makings of a seriously flawed NEPA process. For all the lip service over the past year that was paid to the importance of the Fish Springs National Wildlife Refuge, to cite and example, Figure 1-1 in the Conceptual Report still maddeningly omits that important areas.

SNWA Groundwater Development Project - Clark, Lincoln and White Pine Counties EIS
Comments regarding the proposed Purpose and Need Statement
Submitted to the BLM Nevada State Office April 11, 2007
Reference: NV-040-04-5101-ER-F345; N78803

Although the Lincoln County Land Act authorized the Las Vegas pipeline project, it did so on the condition that BLM first subject the project to all relevant NEPA requirements. Nothing about the Lincoln County Land Act relieves BLM from full compliance with the requirements of NEPA before the project goes forward.

I.

C12 It is an arbitrary and capricious NEPA-violating posture that Nevada State BLM now finds itself in, hastening along an EIS for a groundwater project that still rests on no approved and legally recognized ground water rights. This EIS hurdles down an expedited path on the assumption of theoretical water right applications for which a single acre foot of water has still yet to be approved (let alone fully processed), drilled from numerous multi-valley wells the location of which still nobody knows, to tap virgin ice-age water from deep carbonate *interstate* flow systems the geo-hydrology of which still nobody understands, all portending incalculable and likely irreversible ecological damage to the passive, defenseless and fragile human civilization, springs and eco-system of the Great Salt Lake desert, hundreds of miles away from the lights, golf courses, fountains and swimming pool-adorned neighborhoods of ever-expanding 282 gallons per capita per day consuming Las Vegas.

II.

C13 It is arbitrary and capricious to require Millard and Juab Counties to try to analyze the purpose and need of the pipeline when nobody yet knows how many acre feet, if any, of SNWA's water applications the Nevada Water Engineer will end up approving, and in which valley. The draft purpose and need statement is totally silent on the need for the project to go into Spring Valley, much less Snake Valley. Instead the statement rests on the conclusion that sometime in the future SNWA will find itself with a 400,000 acre post-conservation gap between *estimated* far-off-in-the-future demand and *estimated* far-off-in-the-future supply. Yet in fairness, projecting the Las Vegas 2035 population is probably a safer bet than predicting the number of acre feet per year, if any, the Nevada State Engineer will end up approving in Spring and Snake Valleys. That is an even greater mystery. Yet the EIS hurdles forward pell-mell as if all 167,000 afy will be approved.

C14 The nagging fact which turns the legitimacy of this whole EIS process on its head, is the fact that the Nevada State Engineer has yet to adjudicate a single acre foot of SNWA applications in Spring Valley, and the Water Engineer hearings on Snake Valley are still off in the indefinite future. This project rests on a veritable house of cards, yet we're supposed to engage in purpose and need analysis??

III.

C15 It is also arbitrary and capricious to require Millard and Juab Counties to try to analyze the purpose and need of the pipeline when they do not know the location of the proposed well sites, i.e., the number and location in each valley, and the planned afy production of each well. SNWA admitted in the last meeting in Henderson that even it does not yet know these answers. One cannot begin to opine on the purpose and need of a project until the project is defined. It is not enough to say SNWA faces a future need for another 400,000 afy. Rather, the statement must state why it is necessary to come all the way to Spring Valley and all the way to Snake Valley on Utah's border, to make up that deficit. The purpose and need statement is seriously lacking in this regard. The purpose and need of a proposed action can only be meaningfully analyzed if the proposed action is known, i.e, the number of wells, the location of the wells, and the actual planned afy volume is known.

Purpose and need is not analyzed in a vacuum. The purpose and need of a project has meaning only when analyzed against the likely ecological and hydrological harm the project may cause. Of course, the proposed purpose and need statement cannot begin to comment on incremental needs in this valley or that valley, because, again, the State Engineer has yet to adjudicate SNWA's groundwater applications in Spring or Snake Valleys. But again, that just underscores the arbitrariness of going ahead at present with the EIS and the present purpose and need analysis.

IV.

To explain why SNWA needs another 200,000 afy is one thing. It is quite another thing, however, to explain why SNWA has to come all the way to Utah's borders and threaten the water rights and stability of Utah's west desert to pick up a 27,500 afy fraction of that total, when an incremental 7 gallon GPCD belt tightening by 3.5 million people (projected population that fuels SNWA's purpose and need argument) could save more than 27,000 afy easily.¹ The proposed purpose and need failed to acknowledge the fact that the more the Las Vegas population swells, the greater the multiplier effect of a slight GPCD reduction on the overall aggregate afy usage.

¹ One acre foot equals 325,851 gallons. 3.5 million people multiplied by 7 gallons per day, multiplied by 365 days in a year, divided by the number of gallons in an acre foot (325,851) equals a savings of 27,443 acre feet per year. Does SNWA really need to come to Snake Valley?

V.

SNWA's purpose and need argument is staked largely on the apparent unquestioned assumption of rapid, staggering growth up to the 3.5 million mark by 2035. If we take that argument at face value, are we supposed to assume growth comes to a screeching halt after 2035? Of course not, if we assume the argument. In other words, the force of the population explosion argument eventually undermines the cogency of the proposed purpose and need statement. Why? Because the proposed purpose and need statement fails to address the one and only solution left to Las Vegas beyond 2035 after its burgeoning population races well past 3.5 million to the point where not even all of Utah's rightful west desert water could possibly satisfy the demand. What then? There is only one answer. Go to the ocean for desalination. If going to the ocean is the inevitable solution that awaits the current generation of children presently playing on the lawns and swimming in the public pools of Las Vegas, then the purpose and need statement inexcusably fails to state why Las Vegas cannot just start going to the ocean sooner rather than later.

In short, the purpose and need statement fails to say why Las Vegas must now bump up against Utah's rightful share of the as-yet uncharted deep carbonate water systems beneath Snake Valley, when in a few more short decades Las Vegas will end up having to go to the ocean anyway. Why does Las Vegas have to threaten Utah's fragile static desert civilization just to forestall the inevitable, if we accept SNWA's premise of unchecked growth in Las Vegas valley? Instead of placing Utah's west desert at risk en route, why can't Las Vegas just cut to the chase and get to where everyone knows it must go eventually, the ocean, without hurting Utah. These important questions are completely neglected in the proposed purpose and need statement.

CONCLUSION

C18 For these and other reasons, Millard and Juab Counties submit that the EIS must be put on hold until the purpose and need statement is revamped to address these deficiencies. The EIS must be put on hold further until we know how many afy's, if any, Nevada Engineer will approve in Spring and Snake valleys.