

**ADVOCATES FOR COMMUNITY AND ENVIRONMENT**

*Empowering Local Communities to Protect the Environment and their Traditional Ways of Life*

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September 27, 2012

VIA EMAIL AND CERTIFIED MAIL

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

RECEIVED  
OCT 11 2012  
GROUNDWATER PROJECTS OFFICE  
BLM NEVADA

**Re: White Pine County, Nevada, Submission of New Information on, and Comment on New Alternative in, the BLM’s Final EIS for the Clark, Lincoln, and White Pine Counties Groundwater Development Project**

Dear Ms. Woods:

Thank you for providing this opportunity to review and offer new information on the Bureau of Land Management’s Clark, Lincoln, and White Pine Counties Groundwater Development Project Final Environmental Impact Statement (FEIS).

Advocates for Community and Environment submits this new information and comments and on behalf of White Pine County, Nevada, a political subdivision of the State of Nevada. White Pine County is a cooperating agency in the National Environmental Policy Act (NEPA) process on the Clark, Lincoln, and White Pine Counties Groundwater Development Project (Pipeline Project or Project). The proposed Project’s footprint extends into White Pine County, and the water supply, economy, and environment of White Pine County stand to be adversely affected should the pipeline project move forward.

White Pine County requests that this new information and comments, and all attachments hereto, be included as part of the administrative record. White Pine County further requests that all documents, articles, and reports cited in these comments and attachments be included as part of the administrative record of this action. See County of Suffolk v. Secretary of Interior, 562 F.2d 1368, 1384, n.9 (2d Cir. 1977) (addressing scope of NEPA administrative record), cert. denied, 437 U.S. 1064 (1978); Silva v. Lynn, 482 F.2d 1282 (1<sup>st</sup> Cir. 1973) (same); see also Thompson v. United States Dep’t of Labor, 885 F.2d 551, 555 (9<sup>th</sup> Cir. 1989) (administrative record consists of all documents and materials directly or indirectly considered by agency and includes evidence contrary to agency’s position). White Pine County has closely reviewed the new information and comments submitted by the Great Basin Water Network and by the Center for Biological Diversity and hereby incorporates that new information and those comments by reference.

White Pine County Comments on Clark, Lincoln, and White Pine Counties Groundwater Development Project FEIS

Recd via email  
10-1-2012

## INTRODUCTION

The Southern Nevada Water Authority's (SNWA's) proposed Clark, Lincoln, and White Pine Counties Groundwater Development Project would provide the infrastructure necessary to pump and convey up to 176,655 acre-feet per year of groundwater from Spring, Snake, Cave, Dry Lake, and Delamar Valleys in central-eastern rural Nevada 300 miles south to the Las Vegas Valley. The Project would entail the construction of the following facilities: main and lateral pipelines, power lines, and ancillary facilities.

The reviewing agency is the Bureau of Land Management (BLM). The BLM's involvement in the Project results from the fact that SNWA has applied for a right of way through BLM land for the conveyance facilities and accompanying power lines. The BLM has chosen to address the project in a programmatic EIS followed by tiered site specific environmental analyses for individual well fields at later dates.

No modifications made to the EIS between the Draft EIS that was published in 2011 and the Final EIS published in 2012 alter the fundamental problem that the Project is premised on unsustainable groundwater mining, and as such poses a serious threat to the groundwater system underlying a substantial portion of the carbonate aquifer province and the dependent environment. Among the harms likely to be caused by the Project is a long-term, catastrophic depletion of the aquifer that would take many millennia to remedy. By substantially drawing down the local and regional aquifer systems, the Project also threatens to dry out regional springs that support a host of endemic species, including species listed under the Endangered Species Act. The Project also poses a significant risk of creating a substantial area of denuded, dried out sediment with considerable potential to generate harmful dust emissions comparable to those produced by the drying out of the Owens Valley, which ranks as one of the Nation's most conspicuous environmental disasters. These are only some of the disturbing potential environmental impacts from the Project, impacts that in practical terms will be permanent and very expensive to even attempt to mitigate.

The Final Environmental Impact Statement does not adequately address these and other serious problems with the Project. Indeed the FEIS is woefully inadequate under NEPA. Among its most glaring deficiencies, the FEIS is based on a patently deficient description of the Project and the physical conditions and environmental resources in its vicinity, a grossly inadequate assessment of the purpose and need for the Project, and a failure to examine the Project's feasibility and likely adverse environmental impacts.

Rather than remedying any of these glaring deficiencies, which were apparent in the Draft EIS, the FEIS simply attempts to sidestep all substantive problems by proposing to defer the identification of problems and the decisions about how to deal with those problems to a future date and to unaccountable committees dominated by the Project's proponents under a vague and inadequate and in some cases unwritten monitoring and management plan with no concrete triggers. In all these regards, the FEIS fails to comply with NEPA, and we believe that the only appropriate action for the BLM to take is to correct its deficient analysis and issue a Supplemental EIS for public comment. Additionally, for all these reasons the BLM should reject

any form of the proposed Clark, Lincoln, and White Pine Counties Groundwater Development Project and choose the No Action Alternative as the Preferred Alternative.

The inclusion of Alternative F after the close of the notice and comment period in 2011 for the Draft Environmental Impact Statement also requires the issuance of a Supplemental EIS, because it does not fall within the scope of alternatives considered in the Draft EIS. 40 CFR. § 1502.9(c)(1)(i). Moreover, there are a number of significant pieces of new information that have emerged since the publication of the DEIS for notice and comment in 2011, mandating the issuance of a Supplemental EIS. 40 CFR. § 1502.9(c)(1)(ii). White Pine County hereby submits the below comment on Alternative F as well as new significant information necessitating the issuance of a Supplemental EIS for notice and comment prior to the issuance of a Record of Decision pursuant to 40 CFR. § 1502.9(c)(1)(i) and (ii).

### **ALTERNATIVE F**

The inclusion of the new Alternative F at this late stage of the process, effectively deferring any decision regarding a large component of the project (Snake Valley), while raising the quantities of water to be withdrawn from some of the other valleys serving the Project with increasing corresponding impacts to certain resources in excess of any other alternative, requires a Supplemental EIS for notice and public comment pursuant to 40 C.F.R. § 1502.9(c)(1)(i). In the context of the continuing potential for future withdrawals of water from Snake Valley, where the ultimate Project, including Snake Valley, could exceed the amounts of water withdrawn under the proposed action, Alternative F does not fall within the scope of the alternatives considered in the Draft EIS, and therefore a supplemental EIS must be issued for notice and comment pursuant to 40 C.F.R. § 1502.9(c)(1)(i). Moreover, the description of Alternative F in the Final EIS was erroneous and required the BLM to issue a subsequent errata sheet correcting and more than doubling the acreage of hydric soils that would be affected by proposed Alternative F. The significant change in potentially affected acreage and the fact that an errata sheet was required strongly demonstrates the need for public review and comment to ensure that this new alternative and its potential impacts are properly vetted.

### **NEW INFORMATION**

The CEQ regulations provide that agencies shall prepare supplements to either draft or final environmental impact statements if: . . . [t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. 40 C.F.R. § 1502.9(c)(1)(ii). Below, White Pine County has included significant new information that requires the preparation of a Supplemental EIS for notice and comment.

#### **1. USGS Geo-Hydrological Report on Potential Impacts to Great Basin National Park**

The U.S. Geologic Service (USGS) currently is conducting a geo-hydrological report of the potential impacts of the Project on the resources in and around the Great Basin National Park, including Spring and Snake Valleys. This report is not yet complete, but is on the cusp of the external peer review stage and is expected to be finalized within the fall of 2012. This study will

contain information critical to the assessment of potential impacts to Great Basin National Park. It also is likely to provide more precise and reliable information regarding the potential impacts of the proposed pumping in Spring and Snake Valleys. Accordingly, it is premature for the BLM to issue an FEIS let alone a ROD for the proposed Project until the study is available and reviewed by the BLM. After review of the study, the BLM should issue a Supplemental EIS for notice and public comment which incorporates this additional new information.

## **2. 2012 Natural Resources Defense Council Pipe Dreams Report**

In June of 2012, the Natural Resources Defense Council (NRDC) published a report titled *Pipe Dreams: Water Supply Pipeline Projects in the West* (Report), which analyzes large water pipeline projects from a policy perspective, attached hereto as Exhibit A.<sup>1</sup> The Clark, Lincoln, and White Pine Counties Groundwater Development Project is addressed a number of times in the Report. The Report contains significant new information that must be considered by the BLM in a supplemental EIS.

Specifically, the Report recommends that all costs, including financing, planning, operating, energy costs, and mitigation costs, be included in project cost estimates in order to create a complete picture of project costs. Report, at 4. BLM has failed to include such costs in the project cost estimates that are addressed in the FEIS. Moreover, BLM policy requires the applicant to demonstrate the technical and financial capability to construct, operate, maintain, and terminate its project. On the one hand, the BLM suggests that SNWA has demonstrated that capacity, but on the other hand, BLM has not required SNWA to provide a cost estimate for mitigation, which in all likelihood will be necessary for continued operation of the Project. These mitigation costs could be prohibitively expensive as argued by the Long Now Foundation in the fall 2011 State Engineer hearings on SNWA's water rights applications. See Long Now Report on Mitigation costs at Owens Valley, attached hereto as Exhibit B. BLM must consider mitigation costs as part of its determination of SNWA's ability to construct and operate the proposed Project. The FEIS cost estimates do not paint an accurate or reliable picture of the actual likely cost of the proposed Project to taxpayers or whether the Southern Nevada Water Authority truly has the financial ability to construct and operate the project as required by BLM policy.

Finally, the NRDC Report includes a discussion of pipeline alternatives, including voluntary water transfers, water recycling, improved water efficiency, and improved groundwater management, all of which are less environmentally disruptive, more reliable, and more cost effective than the proposed pipeline. As noted in White Pine County's comments on the Draft EIS, the BLM has failed to engage in a meaningful evaluation of these reasonable, viable, more cost-effective, and more environmentally benign alternatives.

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<sup>1</sup> Natural Resources Defense Council, *Pipe Dreams: Water Supply and Pipeline Projects in the West* (2012), available at <http://www.nrdc.org/water/management/files/Water-Pipelines-report.pdf>.

### **3. 2012 UNLV Center for Business and Economic Research Population Estimates**

The FEIS is based on outdated 2008 population data, and does not reflect the recent economic downturn in the SNWA service area, which is in a population decline. The FEIS states that based on 2008 data, the population of Clark County is expected to increase to approximately 3.65 million people by 2035. However, a June 2012 population forecast from the UNLV Center for Business and Economic Research (CBER) estimates Clark County 2035 population at approximately 2.8 million people, which is close to 25% lower than the 2008 number.<sup>2</sup> See CBER Report attached hereto as Exhibit C. The current CBER population estimate is significant new information released since the notice and comment period for the Draft EIS, and the BLM must issue a Supplemental EIS that incorporates this information for notice and comment.

### **4. Evidence Introduced During the Fall 2011 Nevada State Engineer Hearing on SNWA's Water Rights Applications**

The BLM should also issue a Supplemental EIS that incorporates and considers evidence introduced by protestants during the Nevada State Engineer's fall 2011 hearing on the Southern Nevada Water Authority's water rights applications in the subject valleys. In particular, air quality evidence submitted by the Long Now Foundation, and attached hereto as Exhibits D and E, contains information about the potential air quality impacts that has not yet been reviewed by the BLM and must be taken into consideration before a decision is made on the proposed project. Mitigation cost information also was submitted by the Long Now Foundation, which must be considered by the BLM, and is of significance because the information submitted goes to mitigation costs, which the BLM must consider in order to gain a complete picture of project operation costs. See Exhibit B.

### **CONCLUSION**

Thank you for providing this opportunity to submit new information and comments on the BLM's Final Environmental Impact Statement for SNWA's Clark, Lincoln, and White Pine Counties Groundwater Development Project. White Pine County sincerely appreciates the opportunity to participate in this and other important decisions affecting public resources in Nevada and Utah. The significance of the proposed Project in terms of the impacts to human communities in rural Nevada and Utah, and on the survival of unique ecosystems and endemic species in the region cannot be overstated.

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<sup>2</sup> Center for Business and Economic Research, Population Forecasts: Long-Term Projections for Clark County, Nevada 2012-2050 (2012), available at <http://cber.unlv.edu/reports/2012PopulationForecasts.pdf>.  
White Pine County Comments on Clark, Lincoln, and White Pine Counties  
Groundwater Development Project FEIS

We hope you find this new information and comments to be helpful, informative, and useful in your efforts to comply with the NEPA and other substantive statutes. If you have any questions or comments, or wish to discuss the issues raised in this scoping letter in greater detail, please do not hesitate to contact me.

Sincerely,



Simeon Herskovits

*On Behalf of*  
White Pine County, Nevada