



December 19, 2013

Amy Lueders
Nevada State Director
Bureau of Land Management
1340 Financial Blvd.
Reno, Nevada 89502

Neil Kornze
Principal Deputy Director
Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

RE: Clark, Lincoln, and White Pine Counties Groundwater Development Project

Dear Ms. Lueders and Mr. Kornze,

I write on behalf of the Center for Biological Diversity to notify the Bureau of Land Management (BLM) that it must promptly withdraw the December 2012 Record of Decision for the Clark, Lincoln, and White Pine Counties Groundwater Development Project in order to reevaluate the proposed project and its compliance with the National Environmental Policy Act (NEPA) as result of the December 10, 2013 decision of the Seventh Judicial District Court of the State of Nevada in *White Pine County et al. v. Jason King, P.E., Nevada State Engineer, et al.*, CV1204049 (attached hereto).

As I assume you are aware, in the December 10th decision, Senior District Judge Robert E. Estes remanded the State Engineer's rulings concerning the granting of water rights to the Southern Nevada Water Authority in Spring Valley, Cave Valley, Dry Lake Valley, and Delamar Valley. The remand of these rulings places in considerable doubt the very purpose and need for the right of way and pipeline authorized by BLM for the Groundwater Development Project. The BLM's authorization for the project should be withdrawn, and the proposed project put on hold pending new rulings from the State Engineer concerning Southern Nevada Water Authority's water rights in these valleys.

At the very least, the BLM must prepare a Supplemental Environmental Impact Statement (SEIS) prior to allowing any implementation of the Groundwater Project. "An agency's NEPA responsibilities do not end with the initial assessment," as NEPA "imposes a continuing duty to supplement previous environmental documents." *Price Road Neighborhood Ass'n v. U.S. Dept. of Transportation*, 113 F.3d 1505, 1509 (9th Cir. 1997); *see also Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 557 (9th Cir. 2000) ("an agency that has prepared an EIS cannot simply rest on the original document," but rather "must be alert to new information that may alter the results of its original environmental analysis"). NEPA requires an SEIS to be prepared if "substantial changes" are made to a proposed action that are relevant to environmental concerns, or "[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).

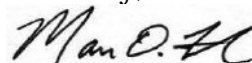
The December 10, 2013 decision in *White Pine County v. Nevada State Engineer*, and the remand of the State Engineer's rulings concerning the granting of water rights to the Southern Nevada Water Authority, will result in substantial changes to the Groundwater Project, and represents significant new circumstances and information that is directly relevant to the Project and its environmental impacts, requiring BLM to prepare an SEIS. 40 C.F.R. § 1502.9(c)(1). Indeed, the BLM's chosen alternative for the Groundwater Project is entirely premised on the pumping and transport of groundwater as authorized by the State Engineer in its March 2012 rulings for Spring, Delamar, Dry Lake, and Cave Valleys, which have now been remanded. ROD, p. 23.

The state court's findings and decision raise a number of issues related to the Groundwater Project that must be considered and disclosed by the BLM in a new EIS, or at the very least an SEIS, including: (1) that for the Spring Valley appropriations, the State Engineer's own calculations and findings show that equilibrium will never be reached, and that the appropriation is unfair to future generations of Nevadans and not in the public interest; (2) that the monitoring and mitigation agreement between the Southern Nevada Water Authority and a number of federal agencies "is flawed in several respects," including the failure to include objective standards or triggers for determining when mitigation will be required, and the failure to include an actual plan for monitoring such a large area; (3) the double appropriation of water rights in Cave, Dry Lake, and Delamar Valleys; and (4) the court's remand ordering the State Engineer to recalculate the appropriations for this entire area.

While the new EIS or SEIS is being prepared, the BLM should confirm that no action concerning the Groundwater Development Project can occur. *See e.g.*, 40 C.F.R. § 1500.1(b) ("NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken"); 40 C.F.R. § 1506.1. The new EIS or SEIS process must also provide a meaningful opportunity for public input and involvement. *See* 40 C.F.R. § 1502.9(c)(4) (requiring that an SEIS be prepared and circulated in the same fashion as a draft and final EIS).

Thank you for your consideration, and please contact us with any questions.

Sincerely,



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cc: David Hayes, Deputy Secretary, U.S. Department of the Interior
Jared Blumenfeld, Region 9 Administrator, U.S. Environmental Protection Agency