

## THE WAR FOR NEVADA'S GROUNDWATER

# Groups Join Together To Confront Water Rights Issue

It is often said that, “whiskey is for drinkin’ and water for fightin’,” and no place is this closer to the truth these days than in Nevada.

Back in the 1920’s, when the water of the Colorado River was first split between the upper and lower basins and then among the basin-bordering states, the conventional wisdom, indeed common sense, indicated that the water needs of southern Nevada would primarily be consumed by agricultural pursuits along the river. No one then would have imagined the water guzzling virtual world known as “Las Vegas” in what is the driest desert in North America.

Nonetheless, Las Vegas was built and it is here, the unsustainable, water-guzzling giant of Nevada, home to nearly 2-million inhabitants. Charged with keeping the thirst quenched is the job of the Southern Nevada Water Authority (“SNWA”), a quasi-governmental business overseen by a board of part-time elected officials.

It is said in Nevada that the General Manager of the SNWA, Pat Mulroy, is the most powerful person in Nevada. She has long been on the public record espousing a policy that water availability would not limit growth in Clark County: *“Every piece of private land is acquired with an expectation to not leave it desert, but to build on it. And the private property owner has a right to develop his property.”* It is easy to see why developers and casino owners want her in charge and largely unsupervised by others.

The Las Vegas Valley gets approximately 90% of its water from the Colorado River via Lake Mead. In order to diversify its water resource portfolio, in 1989 the Las Vegas Valley Water Department (now the SNWA) filed 146 water-rights applications for ancient groundwater in eastern and central Nevada and western Utah.

This water is largely left over from the last ice age, and it occupies the interfaces, cracks, and voids of ancient limestone seabeds. It is known as the “White River Flow System,” running from north of Ely all the way to its historic terminus at the Colorado River – now Lake Mead. The once fluvial flow of the White River now only appears in short segments and springs fed by the groundwater. This fragmentation and isolation has resulted in a number of rare and

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## From The Editor

### Don't look for many changes from the new editor of Desert Report

Although there is now a new Managing Editor for Desert Report, my goal is to have a seamless transition in which readers see no major changes. There is a great group of people working on this publication; from the authors to the editors to the graphic designer and the database administrators, who will see that this publication continues to highlight the current and important issues we face in our deserts.

### Large donations from organizations acknowledged on inside cover of back page

As has been mentioned in previous issues of Desert Report, funding has been a critical issue recently due to the National Sierra Club no longer supporting us financially. However, several other desert groups have come forward and been very supportive of this publication and for that we are greatly appreciative. These large donors will now be acknowledged on an ongoing basis on the inside cover of the back page. Check them out, go to their websites, and support them any way you can.

### Want to receive notification that Desert Report is available online?

Several people have requested to receive notification by email when a new issue of Desert Report is available, instead of receiving a hard copy of the publication. This option is now available. If you wish to stop receiving hard-copies of the Desert Report and instead receive email notification when a new issue is available at the DesertReport.org website, email Kate Allen at KJ.Allen96@gmail.com. Alternatively, you can complete the form on the back cover and mail the form to the address listed. – Stacy Goss



USFWS PACIFIC SOUTHWEST REGION

Endangered Moapa dace

# Nevada's Groundwater: Groups Join Together To Confront Water Rights Issue

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unique species of fish and springsnails, such as the Moapa dace, White River springfish, and the Pahrnagat pebblesnail. The Center for Biological Diversity has petitioned the U.S. Fish and Wildlife Service for protections of 42 species of Great Basin springsnails in Nevada under the Endangered Species Act.

In Nevada, ground water belongs to the state and if any substantial amount is involved, its extraction and use must be authorized by the State Water Engineer. By law the State Engineer has one year in which to receive protests and to conduct hearings regarding ground water rights applications. For whatever reason, this was not done in the case of the 1989 SNWA applications. Since the Colorado River levels were holding up well in the 1990's, SNWA was in no hurry to develop the groundwater and all was quiet.

Then came the current epic Colorado River Basin drought. The Colorado River has flowed at 69 percent of normal during the past 11 years in the region. The spill-way elevation for Lake Mead is 1221-feet; the level as of April 15 was 1096-feet. Should the elevation drop to 1075-feet, emergency reductions in water availability will take effect across the entire Colorado River System.

The drought sparked a sense of urgency in SNWA's groundwa-

ion from the Nevada Supreme Court which ultimately ruled that the State Engineer had violated Nevada state law and had denied modern day stakeholders due process and an ability to participate in the hearings.

Stunned by the setback, SNWA initially attempted to get the Nevada State Legislature to pass a revised law that would negate the Supreme Court ruling. They were defeated by the efforts of GBWN and the legislature's preoccupation by a serious budget debate.

In January 2010, the SNWA re-filed all of their 1989 water right applications. With no clear response from the State Engineer's office, the Great Basin Water Network and many individuals and organizations opposed to the water grab filed over 1600 protests of the re-filed applications. Eventually, the courts and State Engineer ruled that SNWA's 2010 applications moot and dismissed all the protests as well. This move stung the GBWN and other protesters in that the considerable filing fees for the over 200 protests of the applications were not refunded.

In early 2011, the State Engineer announced the opening of a new protest period, ordered by the Nevada Supreme Court, to give all current stakeholders an opportunity to establish standing in hearings to be held in the fall of 2011. The GBWN organized workshops on the proposed pipeline, its consequences, and how to file protests with the State Engineer. In the end, nearly 1000 protests were filed with the State Engineer, including those by the GBWN which included over 250 parties in a coordinated joint filing.

As in many environmental campaigns, the war is not won in a single skirmish or even many skirmishes. The successful protest campaign now completed, the attention of the GBWN is turned to two new battle fronts – commenting on the draft environmental impact statement for the project, expected this summer, and the hearings to be conducted by the State Engineer this fall. Other related skirmishes include challenges by the Center for Biological Diversity, a member of the GBWN, against smaller but related pipeline projects in Lincoln County, and a court case filed by the Center alleging failure of the federal government to adequately protect their water rights for the Moapa National Wildlife Refuge, the site of springs essential for the survival of the endangered Moapa dace and springsnails.

The Great Basin Water Network was created to protect water resources in rural Nevada and to advocate for environmental sustainability. In the years ahead, water rights will continue to be an important issue as our demand for this precious resource increases. ♦

*Rob Mrowka is an ecologist employed by the Center for Biological Diversity and serves as the Center's Nevada Conservation Advocate. Mrowka was previously employed with the U.S. Forest Service and later served as the Environmental Planning Manager for Clark County. He currently serves on the Board of Directors for the Great Basin Water Network.*

**For More Information**

Go to [www.greatbasin.net](http://www.greatbasin.net).

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ter plans. A plan of development was prepared and a National Environmental Policy Act (NEPA) environmental compliance process was begun for a proposed 300-mile pipeline that would cross federal lands and deliver over 155,700 acre-feet/year to the Las Vegas Valley to facilitate continued growth and development. Suddenly, forgotten water right applications became extremely important to both rural Nevada and Las Vegas.

In a complementary action, the State Water Engineer, in 2007 and 2008, held hearings on applications in four groundwater basins, awarding SNWA rights to extract over 58,000 acre-feet of groundwater per year.

Advocating for the environmental concerns and for water rights in rural Nevada and Utah, a coalition of indigenous tribes, ranchers, rural residents, sportsmen and environmentalists had been formed in 2005. Calling themselves the Great Basin Water Network ("GBWN"), interests that on other issues may be opposite one another, joined in a united front to battle the water transfer.

At the hearings in 2007 and 2008, the State Engineer denied standing to anyone, including the GBWN, who had not filed a protest in 1989. Obviously in the years since the initial filings by SNWA much had changed, much had been learned, and new stakeholders had emerged. The GBWN took the fight to court and after disappointing rulings from a Nevada district court, sought an opin-