

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADAM SULLIVAN, P.E., NEVADA STATE
ENGINEER, DIVISION OF WATER
RESOURCES, DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES; LAS VEGAS VALLEY
WATER DISTRICT; SOUTHERN NEVADA
WATER AUTHORITY; AND CENTER FOR
BIOLOGICAL DIVERSITY.

Appellants,

vs.

LINCOLN COUNTY WATER DISTRICT;
VIDLER WATER COMPANY, INC.;
COYOTE SPRINGS INVESTMENT, LLC;
NEVADA COGENERATION ASSOCIATES
NOS. 1 AND 2; APEX HOLDING
COMPANY, LLC; DRY LAKE WATER, LLC;
GEORGIA-PACIFIC GYPSUM, LLC;
REPUBLIC ENVIRONMENTAL
TECHNOLOGIES, INC.; MUDDY VALLEY
IRRIGATION COMPANY; SIERRA PACIFIC
POWER COMPANY, D/B/A NV ENERGY;
NEVADA POWER COMPANY, D/B/A NV
ENERGY; THE CHURCH OF JESUS CHRIST
OF LATTER-DAY SAINTS; MOAPA
VALLEY WATER DISTRICT; WESTERN
ELITE ENVIRONMENTAL, INC.; BEDROC
LIMITED, LLC; AND CITY OF NORTH LAS
VEGAS,

Respondents.

Electronically Filed
Jun 07 2022 10:13 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court No. 84739
District Court Case No. A816761

**RESPONDENT COYOTE SPRINGS INVESTMENT, LLC'S
RESPONSE TO THE STATE ENGINEER'S AND THE CENTER FOR
BIOLOGICAL DIVERSITY'S JOINT MOTION TO CONSOLIDATE
APPEALS AND MODIFY CAPTION**

NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Respondent Coyote Springs Investment, LLC (“CSI”) is a Nevada limited liability company. Wingfield Nevada Group Holding Company, LLC is a parent company of CSI, and no publicly traded company owns 10% or more of its stock.

CSI is presently represented by Kent Robison, Hannah Winston, and Michaela Davies of Robison, Sharp, Sullivan & Brust, Bradley Herrema of Brownstein Hyatt Farber Schreck, LLP, William Coulthard of Coulthard Law, and Emilia Cargill.

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In the course of the proceedings leading up to this appeal, CSI was also represented by Therese Shanks.

DATED this 7th day of June, 2022.

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Reno, Nevada 89503

/s/ Kent R. Robison

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**RESPONDENT COYOTE SPRINGS INVESTMENT, LLC’S
RESPONSE TO THE STATE ENGINEER’S AND THE CENTER FOR
BIOLOGICAL DIVERSITY’S JOINT MOTION TO CONSOLIDATE
APPEALS AND MODIFY CAPTION**

Respondent Coyote Springs Investment, LLC (“CSI”), by and through its undersigned counsel, responds to the Joint Motion to Consolidate Appeals and Modify Caption (“Motion”) filed by the Adam Sullivan, P.E., in his capacity as the Nevada State Engineer, Department of Conservation and Natural Resources, Division of Water Resources (“State Engineer”) and the Center for Biological Diversity (“CBD”). CSI does not oppose the consolidation of the appeals filed by the State Engineer in Case No. 84739, Southern Nevada Water Authority (“SNWA”) in Case No. 84741, CBD in Case No. 84742, and Muddy Valley Irrigation Company (“MVIC”) in Case No. 84809. However, to the extent the State Engineer and CBD seek to modify the caption, the caption should be corrected to reflect the proceedings below and the filings in this Court, as explained herein. An example of a proposed caption prepared by CSI is attached hereto as **Exhibit 1**.¹

I. OVERVIEW

As explained in the Motion, the underlying litigation concerned the State Engineer’s Order 1309, *see* Mot., Ex. 2 (“Order 1309”), which the District Court

¹ While CSI does not oppose consolidation at this time, CSI reserves its right to argue that SNWA, CBD, and MVIC lack standing to appeal given that those entities settled with the State Engineer below.

found to be arbitrary, capricious, and void, *see id.*, Ex. 18 (“District Court Order”). Of the eight petitions for judicial review filed below concerning Order 1309, only five of those actually sought to invalidate Order 1309 in its entirety. Those petitions were brought by the following petitioners:

- CSI. *See id.* at 35:27-28 (granting petition for judicial review).
- Apex Holding Company, LLC and Dry Lake Water, LLC. *See id.* at 36:1-3 (granting petition for judicial review).
- Nevada Cogeneration Associates Nos. 1 and 2. *See id.* at 36:4-5 (granting petition for judicial review).
- Georgia-Pacific Gypsum, LLC and Republic Environmental Technologies, Inc. *See id.* at 36:6-8 (granting the petition for judicial review).
- Lincoln County Water District and Vidler Water Company. *See id.* at 35:24-26 (granting petition for judicial review).

Comparatively, the petitions for judicial review filed by SNWA, CBD, and MVIC all sought to uphold Order 1309—in part or in its entirety, such that they have now filed appeals challenging the District Court Order invalidating the same.² Therefore, the caption must be corrected to only include those parties properly before this Court in their proper designations.

² Likewise, while several parties were permitted to intervene below, those parties also sought to uphold Order 1309.

II. THE APPELLANTS ARE LIMITED TO THE STATE ENGINEER, SNWA, CBD, AND MVIC.

As explained in the Motion, each of the four appellants seek reversal of the same District Court order wherein Order 1309 was found to be arbitrary, capricious, and void. *See* Mot., Ex. 18 (District Court Order”).³ As is demonstrated by their respective notices of appeal on file with this Court, the State Engineer is the sole appellant in Case No. 84739, SNWA is the sole appellant in Case No. 84741, CBD is the sole appellant in Case No. 84742, and MVIC is the sole appellant in Case No. 84809. And, as the time to file an appeal under NRAP 4 has now run, any other parties below that were allegedly aggrieved by the District Court Order are now precluded from challenging the District Court Order on appeal.⁴ Therefore, the caption should be amended to confirm the same.

³ On May 13, 2022, the District Court issued an *Addendum and Clarification to Court’s Findings of Fact, Conclusions of Law, and Order Granting Petitions for Judicial Review* filed on April 19, 2022. *See* Mot., Ex. 19.

⁴ Notably, several intervenors participated in the proceedings below, including Sierra Pacific Power Company d/b/a NV Energy, Nevada Power Company d/b/a NV Energy, Moapa Valley Water District, and Church of Jesus Christ of Latter-Day Saints. Because each of those intervenors defended Order 1309 that was invalidated in the District Court Order, and because none of those intervenors filed notices of appeal, they cannot be considered parties to this appeal. Moreover, while City of North Las Vegas, Western Elite Environmental, Inc., and Bedroc Limited, LLC were permitted to intervene below, none of those parties filed any responsive briefing below or otherwise took a substantive position in the action. Accordingly, they likewise should not be permitted to participate in this appeal. Finally, Las Vegas Valley Water District, who filed a joint petition for judicial review with SNWA, did not timely appeal from the District Court Order, such that it is also precluded from participating in this appeal.

III. THE RESPONDENTS TO THIS APPEAL ARE LIMITED TO THE PETITIONERS WHO SUCCEEDED BELOW.

The respondents to the appeals filed by the State Engineer in Case No. 84739, SNWA in Case No. 84741, CBD in Case No. 84742, and MVIC in Case No. 84809 are logically and properly limited to those petitioners that succeeded below. *See* Mot., Ex. 18. Therefore, the respondents in each of those appeals should be listed as follows: CSI, Apex Holding Company, LLC, Dry Lake Water, LLC, Nevada Cogeneration Associates Nos. 1 and 2, Georgia-Pacific Gypsum, LLC, Republic Environmental Technologies, Inc., Lincoln County Water District, and Vidler Water Company.

IV. CONCLUSION

For the foregoing reasons, CSI does not oppose consolidation of the related appeals, but respectfully requests that this Court correct the caption of said appeals as set forth herein.

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Affirmation: Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 7th day of June, 2022.

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CERTIFICATE OF COMPLIANCE

Pursuant to NRAP 27(d), I hereby certify that this Response complies with the formatting requirements of NRAP 27(d)(1), the typeface requirements of NRAP 32(a)(5), and the type-style requirements of NRAP 32(a)(6) because this Response has been prepared in a proportionally spaced typeface using 14-point font, Times New Roman style. I further certify that this Response complies with the page limits of NRAP 27(d)(2) as it does not exceed 10 pages, calculated in accordance with the exclusions of NRAP 32(a)(7)(C).

Pursuant to NRAP 28.2, I hereby certify that I have read this Response, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this Response complies with all applicable Nevada Rules of Appellate Procedure.

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I understand that I may be subject to sanctions in the event that this Response is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 7th day of June, 2022.

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CERIFICATE OF SERVICE

I certify that on the 6th day of June 2022, I served a copy of **RESPONDENT
COYOTE SPRINGS INVESTMENT, LLC'S RESPONSE TO THE STATE
ENGINEER'S AND THE CENTER FOR BIOLOGICAL DIVERSITY'S
JOINT MOTION TO CONSOLIDATE APPEALS AND MODIFY CAPTION**

upon all counsel of record:

☐ BY MAIL: I placed a true copy thereof enclosed in a sealed envelope addressed as follows:

☐ BY FACSIMILE: I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below:

X BY ELECTRONIC SERVICE: by electronically filing and serving the foregoing document with the Nevada Supreme Court's electronic filing system:

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DATED: This 7th day of June, 2022.

/s/Mary Carroll Davis

Mary Carroll Davis

An Employee of Robison, Sharp, Sullivan & Brust

INDEX OF EXHIBITS

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EXHIBIT 1

EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADAM SULLIVAN. P.E., NEVADA STATE
ENGINEER, DIVISION OF WATER
RESOURCES, DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES,

Appellant,

vs.

COYOTE SPRINGS INVESTMENT, LLC;
APEX HOLDING COMPANY, LLC; DRY
LAKE WATER, LLC; NEVADA
COGENERATION ASSOCIATES NOS. 1
AND 2; GEORGIA-PACIFIC GYPSUM, LLC;
REPUBLIC ENVIRONMENTAL
TECHNOLOGIES, INC.; LINCOLN COUNTY
WATER DISTRICT; AND VIDLER WATER
COMPANY,

Respondents.

Supreme Court No. 84739

SOUTHERN NEVADA WATER
AUTHORITY,

Appellant,

vs.

COYOTE SPRINGS INVESTMENT, LLC;
APEX HOLDING COMPANY, LLC; DRY
LAKE WATER, LLC; NEVADA
COGENERATION ASSOCIATES NOS. 1
AND 2; GEORGIA-PACIFIC GYPSUM, LLC;
REPUBLIC ENVIRONMENTAL
TECHNOLOGIES, INC.; LINCOLN COUNTY
WATER DISTRICT; AND VIDLER WATER
COMPANY,

Respondents.

Supreme Court No. 84741

THE CENTER FOR BIOLOGICAL
DIVERSITY,

Appellant,

vs.

COYOTE SPRINGS INVESTMENT, LLC;
APEX HOLDING COMPANY, LLC; DRY
LAKE WATER, LLC; NEVADA
COGENERATION ASSOCIATES NOS. 1
AND 2; GEORGIA-PACIFIC GYPSUM, LLC;
REPUBLIC ENVIRONMENTAL
TECHNOLOGIES, INC.; LINCOLN COUNTY
WATER DISTRICT; AND VIDLER WATER
COMPANY,

Respondents.

Supreme Court No. 84742

MUDDY VALLEY IRRIGATION
COMPANY,

Appellant,

vs.

COYOTE SPRINGS INVESTMENT, LLC;
APEX HOLDING COMPANY, LLC; DRY
LAKE WATER, LLC; NEVADA
COGENERATION ASSOCIATES NOS. 1
AND 2; GEORGIA-PACIFIC GYPSUM, LLC;
REPUBLIC ENVIRONMENTAL
TECHNOLOGIES, INC.; LINCOLN COUNTY
WATER DISTRICT; AND VIDLER WATER
COMPANY,

Respondents.

Supreme Court No. 84809