

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

SOUTHERN NEVADA WATER AUTHORITY,

Appellant,

vs.

COYOTE SPRINGS INVESTMENT, LLC;  
APEX HOLDING COMPANY, LLC;  
NEVADA COGENERATION ASSOCIATES  
NOS. 1 AND 2; GEORGIA-PACIFIC GYPSUM, LLC;  
DRY LAKE WATER, LLC; REPUBLIC  
TECHNOLOGIES, INC.; LINCOLN COUNTY  
WATER DISTRICT; VIDLER WATER  
COMPANY, INC.; MUDDY VALLEY  
IRRIGATION COMPANY; THE CENTER FOR  
BIOLOGICAL DIVERSITY; SIERRA PACIFIC  
POWER COMPANY d/b/a/ NV ENERGY AND  
NEVADA POWER COMPANY d/b/a/ NV ENERGY;  
MOAPA VALLEY WATER DISTRICT; THE  
CHURCH OF JESUS CHRIST OF LATTER-  
DAY SAINTS; CITY OF NORTH LAS VEGAS;  
WESTERN ELITE ENVIRONMENTAL, INC.;  
BEDROCK LIMITED, LLC; AND ADAM  
SULLIVAN, P.E., NEVADA STATE ENGINEER,  
DIVISION OF WATER RESOURCES, DEPARTMENT  
OF CONSERVATION AND NATURAL RESOURCES,

Respondents.

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**LINCOLN COUNTY WATER DISTRICT AND VIDLER WATER  
COMPANY, INC. NOTICE OF INTENT TO FILE RESPONSE TO**

Electronically Filed  
Jun 02 2022 10:58 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
**Case No. 84741**

District Court Case  
No. A816761

**APPELLANT’S EMERGENCY MOTION FOR STAY AND REQUEST FOR  
TEMPORARY STAY**

Respondents Lincoln County Water District (“Lincoln”) and Vidler Water Company, Inc. (“Vidler”) hereby file notice of their intent to file a Response to the Emergency Motion For Stay filed by Southern Nevada Water Authority (“SNWA”) and urge the Court to deny SNWA’s request for a temporary stay pending a decision on its Motion for Stay. SNWA filed its Emergency Motion for Stay after the close of normal business hours on June 1, 2022, over two weeks after its motion for stay was denied by the district court. SNWA’s Emergency Motion is 24 pages in length, or almost two and one-half times the length allowed under NRAP 27(d)(2) and is factually and legally inaccurate, including the nature of the alleged emergency. Respondents need adequate time to review the Motion for Stay and prepare their response.

The requested stay would reinstate the State Engineer’s illegal Order 1309. As will be shown in Respondents’ forthcoming opposition to the Motion, and as already determined by the district court in denying the SNWA’s motion to stay, it is Respondents, Lincoln and Vidler, and not SNWA, who will suffer irreparable harm should Order 1309 be reinstated for the duration of this appeal. There is no grave emergency necessitating an emergency motion. The State Engineer’s inability to enforce his illegal and unconstitutional order during the short time it will take for the

parties to respond to the motion for stay will not cause irreparable injury to SNWA. Any future harm to SNWA is purely speculative.

Further, it is not clear SNWA is an aggrieved party and has standing to file an appeal of the district court's order vacating Order 1309. SNWA filed a petition for judicial review asking the district court to find State Engineer Order 1309 violated SNWA's due process rights, and the district court granted SNWA's petition for judicial review challenging Order 1309 on this ground. SNWA has no otherwise legally protectable interest or property right in the maintenance of State Engineer's Order 1309 such that it is aggrieved by the district court's order vacating Order 1309. Lincoln and Vidler will file a motion to dismiss SNWA's appeal in short order as SNWA's appeal was just determined to be exempt from the Court's settlement program on May 26, 2022. The Court should not issue a stay when the Court's jurisdiction has not been vetted internally or jurisdictional issues as otherwise raised by Respondents are not resolved.

Allowing the State Engineer to continue to enforce an order that he, himself, acknowledged he has no statutory authority to issue, and which violated Respondents' due process rights causes irreparable injury to Respondents. Further, allowing illegal Order 1309, which reprioritizes Respondents' senior water rights in the Kane Springs Hydrographic Basin to junior rights in the combined seven basin Lower White River Flow System, to remain in force during SNWA's appeal causes

irreparable injury to Respondents. SNWA acknowledges Respondents' reprioritized water rights cannot be pumped under the arbitrary 8,000-acre feet annually ("afa") pumping cap established by Order 1309, causing irreparable harm and damage to Respondents. Finally, Respondents are irreparably harmed by Order 1309 which does not allow Respondents to use their most-senior water rights in Kane Springs Basin without any evidence Respondents' groundwater pumping in Kane Springs, twenty-two (22) miles away, is impacting SNWA's surface water rights or the Moapa dace while SNWA's own undisputed hydrologic analysis shows groundwater pumping in close proximity to the Muddy River is impacting Muddy River flows and the Moapa dace in an immediate and substantial manner. The district court properly denied SNWA's motion for stay.

Accordingly, Respondents respectfully request they be provided with adequate time to file their Response to Appellant's Motion and request for temporary stay.

DATED this 2<sup>nd</sup> day of June, 2022.

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## **CERTIFICATE OF SERVICE**

Pursuant to NRAP 25(1)(c), I hereby certify that I am an employee of ALLISON MacKENZIE, LTD., Attorneys at Law, and that on this date, I caused the foregoing document to be served on all parties to this action by:

✓ Court's electronic notification system

as follows:

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DATED this 2<sup>nd</sup> day of June, 2022.

/s/Casey Popovich  
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