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Elizabeth A. Brown
Clerk of Supreme Court

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;
SOUTHERN NEVADA WATER
AUTHORITY; CENTER FOR
BIOLOGICAL DIVERSITY; AND
MUDDY VALLEY IRRIGATION CO.,

Appellants,

v.

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
TECHNOLOGIES, INC.; 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

Case No. 84739 (Consolidated
w/84741, 84742, and 84809)

ENVIRONMENTAL, INC.; BEDROC LIMITED, LLC; CITY OF NORTH LAS VEGAS; AND LAS VEGAS VALLEY WATER DISTRICT,

Respondents.

**OPPOSITION TO CENTER FOR BIOLOGICAL DIVERSITY’S
EMERGENCY MOTION FOR STAY UNDER NRAP 27(e) AND JOINDER**

Respondent The Church of Jesus Christ of Latter-Day Saints (“The Church”) opposes Appellant the Center for Biological Diversity’s (“CBD”) Emergency Motion for Stay Under NRAP 27(e) and its Joinder to Appellant Southern Nevada Water Authority’s (“SNWA”) Motion for Stay.

I. ARGUMENT

In so far as CBD seeks a stay of the District Court’s Order vacating Order 1309 in order to freeze all pumping and water rights within the LWRFS as they currently exist, as SNWA argues in its motion, the Church opposes CBD’s request. Neither CBD nor SNWA seek an injunction to preserve the status quo—instead, they seek to revive Order 1309 pursuant to NRAP 8(a) by staying the District Court’s Order. *See* NRAP 8(a)(1)(A) (“a stay of the judgment or order of, or proceedings in, a district court pending appeal or resolution of a petition to the Supreme Court or Court of Appeals for an extraordinary writ.”)

The inevitable result would be to revive the restrictions imposed by the State Engineer through Order 1309. However, as argued in The Church’s opposition

to SNWA's motion, Order 1309 does not touch upon which water rights holders are permitted to pump the 8,000 afa of groundwater in the LWRFS nor does Order 1309 restrict pumping to only those water rights holders currently pumping in the LWRFS, regardless of the water rights respective priority dates. Thus, SNWA's and CBD's request to stay the District Court's Order vacating Order 1309 in order to maintain pumping as it existed prior to the District Court's Order would not result from a stay of the District Court's Order and would run afoul of the prior appropriation doctrine. The Church therefore incorporates by reference its arguments contained in its opposition to SNWA's motion on these points.

II. CONCLUSION

To the extent CBD seeks a stay of the District Court Order vacating the State Engineer's Order 1309 to preserve pumping only for those water rights currently pumping in the LWRFS, its motion must be denied. Order 1309 does not restrict which water rights holders are permitted to pump in the LRWFS—it only limits the amount of pumping to 8,000 afa. Thus, the stated goal of maintaining the status quo to preserve pumping as it currently stands is not accomplishable through a stay under NRAP 8, requiring denial of both SNWA's and CBD's motions. Granting these motions to achieve that goal would have the unintended effect of harming senior groundwater rights holders that are not currently pumping in the LWRFS, but maintain the right to do so as The Church's water rights remain

in good standing, violating the prior appropriation doctrine in the process. Accordingly, The Church respectfully requests that this Court deny SNWA's and CBD's motions.

Respectfully submitted this 9th day of June, 2022.

KAEMPFER CROWELL

BY: /s/ Severin A. Carlson

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CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2022, service of the foregoing **OPPOSITION TO CENTER FOR BIOLOGICAL DIVERSITY’S EMERGENCY MOTION FOR STAY UNDER NRAP 27(e) AND JOINDER** was filed electronically with the Clerk of the Court, and therefore electronic service was made in accordance with the master service list as follows:

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In addition, service was made by depositing the same mailing via first class mail with the United States Postal Service as follows:

<p>Sylvia Harrison McDonald Carano, LLP 100 West Liberty Street, 10th Floor Reno, NV 89501 sharrison@mcdonaldcarano.com <i>Attorney for Georgia Pacific Corporation and Republic Environmental Technologies, Inc.</i></p>	<p>Thomas P. Duensing Taggart & Taggart 108 North Minnesota Street Carson City, NV 89703 tom@legaltnt.com <i>Attorneys for Southern Nevada Water Authority and Las Vegas Valley Water District</i></p>
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DATED June 9, 2022

/s/ Sharon Stice

Sharon Stice
An employee of Kaempfer Crowell