

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

CENTER FOR BIOLOGICAL DIVERSITY;  
SOUTHERN NEVADA WATER AUTHORITY;  
LAS VEGAS VALLEY WATER DISTRICT;  
MUDDY VALLEY IRRIGATION COMPANY;  
COYOTE SPRINGS INVESTMENT, LLC;  
LINCOLN COUNTY WATER DISTRICT; APEX  
HOLDING COMPANY, LLC; DRY LAKE  
WATER, LLC; NEVADA COGENERATION  
ASSOCIATES NOS. 1 AND 2; GEORGIA-  
PACIFIC GYPSUM, LLC; REPUBLIC  
TECHNOLOGIES, INC.; AND VIDLER  
WATER COMPANY, INC.

Appellants,

vs.

ADAM SULLIVAN, P.E., NEVADA STATE  
ENGINEER, DIVISION OF WATER RESOURCES,  
DEPARTMENT OF CONSERVATION AND  
NATURAL RESOURCES; THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY SAINTS;  
SIERRA PACIFIC POWER COMPANY d/b/a/  
NV ENERGY AND NEVADA POWER COMPANY  
d/b/a/ NV ENERGY; MOAPA VALLEY WATER  
DISTRICT; CITY OF NORTH LAS VEGAS;  
WESTERN ELITE ENVIRONMENTAL, INC.;  
BEDROCK LIMITED, LLC;

Respondents.

---

Electronically Filed  
Jun 06 2022 10:52 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
Case No. 84742  
District Court Case  
No. A816761

**LINCOLN COUNTY WATER DISTRICT AND VIDLER WATER  
COMPANY, INC. NOTICE OF INTENT TO FILE RESPONSE TO  
APPELLANT’S EMERGENCY MOTION FOR STAY AND JOINDER**

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 Under NRAP 27(E) and Joinder filed by the Center for Biological Diversity (“CBD”) and urge the Court to deny CBD’s request for an immediate stay pending a decision on its Motion for Stay. CBD filed its Emergency Motion for Stay on June 2, 2022, over two weeks after its joinder in Southern Nevada Water Authority’s (“SNWA”) motion for stay was denied by the district court. CBD’s motion 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 SNWA’s motion to stay, it is Respondents, Lincoln and Vidler, and not CBD, 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 CBD.

Any future harm is purely speculative, and CBD does not even allege any protectable interest it has that may be harmed.

Further, it is not clear CBD is an aggrieved party and has standing to file an appeal of the district court's order vacating Order 1309. CBD filed a petition for judicial review seeking to overturn the 8,000-acre feet annually ("afa") pumping cap in Order 1309. The district court's April 19, 2022 Order vacated Order 1309 including the 8,000 afa pumping cap. CBD 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 CBD's appeal in short order as CBD'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 CBD's appeal causes

irreparable injury to Respondents. Respondents' reprioritized water rights cannot be pumped under the arbitrary 8,000 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 the Kane Springs Basin without any evidence Respondents' groundwater pumping in Kane Springs, twenty-two (22) miles away, is impacting Muddy River surface water rights or the Moapa dace while SNWA's own undisputed hydrologic analysis shows existing 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 the motion for stay joined in by CBD.

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

DATED this 6<sup>th</sup> day of June, 2022.

LINCOLN COUNTY DISTRICT  
ATTORNEY  
181 North Main Street, Suite 205  
P.O. Box 60  
Pioche, Nevada 89043  
Telephone: (775) 962-8073

*/s/ Dylan V. Frehner*  
\_\_\_\_\_  
DYLAN V. FREHNER #9020  
Email: dfrehner@lincolncountynv.gov

GREAT BASIN LAW  
1783 Trek Trail  
Reno, Nevada 89521  
Telephone: (775) 770-0386

*/s/ Wayne O. Klomp*  
\_\_\_\_\_  
WAYNE O. KLOMP #10109  
Email: wayne@greatbasinlawyer.com

*Attorneys for Lincoln County Water  
District*

ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, Nevada 89703  
Telephone: (775) 687-0202

*/s/ Karen A. Peterson*  
\_\_\_\_\_  
KAREN A. PETERSON #366  
Email: kpeterson@allisonmackenzie.com

*Attorneys for Vidler Water Company, Inc.*

**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:

Paul Taggart  
Steven C. Anderson  
Kent R. Robison  
Hannah E. Winston  
Bradley J. Herrema  
William L. Coulthard  
Emilia Cargill  
Christian T. Balducci  
Francis C. Flaherty  
Sarah Ferguson  
Robert A. Dotson  
Justin C. Vance  
Scott Robert Lake  
Justina Alyce Caviglia  
Michael D. Knox  
Gregory H. Morrison  
Severin A. Carlson  
Sihomara L. Graves  
Therese A. Ure Stix  
Laura A. Schroeder  
James N. Bolotin  
Jane Susskind  
Caitlin Skulan  
Steven Shevorski  
Aaron Ford

✓ Via Email to:

Thomas P. Duensing  
Tom@legaltnt.com  
Sylvia L. Harrison  
sharrison@mcdonaldcarano.com  
Steven D. King  
kingmont@charter.net  
Jordan W. Montet  
jwm@maclaw.com  
Kiel Ireland  
KIreland@ag.nv.gov

DATED this 6<sup>th</sup> day of June, 2022.

*/s/ John Brooks*  
\_\_\_\_\_  
JOHN BROOKS