

**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.; AND BEDROC  
LIMITED, LLC,

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Clerk of Supreme Court  
Supreme Court No. 84742  
District Court Case No. A816761

**OPPOSITION TO EMERGENCY MOTION FOR STAY UNDER NRAP  
27(E) AND JOINDER**

**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 and Hannah Winston of Robison, Sharp, Sullivan & Brust, Bradley Herrema of Brownstein Hyatt Farber Schreck, LLP, William Coulthard of Coulthard Law, and Emilia Cargill.

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

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

ROBISON, SHARP, SULLIVAN & BRUST  
71 Washington Street  
Reno, Nevada 89503

*/s/ Kent R. Robison*

KENT R. ROBISON #1167  
HANNAH E. WINSTON #14520

**IN ASSOCIATION WITH:**

BRADLEY J. HERREMA #10368  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, Nevada 89106

WILLIAM L. COULTHARD #3927  
COULTHARD LAW  
840 South Ranch Drive, #4-627  
Las Vegas, Nevada 89106

EMILIA K. CARGILL #6493  
3100 State Route 168  
P.O. Box 37010  
Coyote Springs, Nevada 89037  
*Attorneys for Respondent*  
*Coyote Springs Investment, LLC*

**OPPOSITION TO EMERGENCY MOTION FOR STAY UNDER NRAP  
27(E) AND JOINDER**

Coyote Springs Investments, LLC (“CSI”) opposes the Emergency Motion for Stay Under NRAP 27(e) and Joinder filed by Appellant Center for Biological Diversity (“CBD”). CSI also opposes Appellant’s request for immediate action. CSI specially submits the following.

**I.**

**OVERVIEW**

As noted in CSI’s Opposition to SNWA’s Emergency Motion to Stay, this appeal is not about the public health or protecting the Moapa dace. Neither CBD nor any appellant has any special interest greater than the public at large in protecting the Moapa dace. The Moapa dace are not suddenly at risk because an unlawful order that should never have been entered has been declared void.

Like Southern Nevada Water Authority (“SNWA”), CBD attempts to argue the entire appeal in its Motion seeking a stay of the District Court’s Findings of Fact and Conclusions of Law which appropriately determined that the State Engineer did not have statutory authority to issue Order 1309. CBD’s arguments are procedurally and substantively defective. A stay motion is not the place to argue the entire case. But regardless, CBD *still* cannot identify a statute that confers authority upon the State Engineer to combine seven distinct hydrographic basins into one for “joint administration”. None exists, which is why CBD, SNWA, and the State Engineer will not prevail in this appeal.

CBD filed a petition for judicial review of Order 1309. CBD expressly argued that the 8,000 afa cap on pumping across the seven distinct basins was arbitrary, capricious, and should be far lower in order to protect senior water rights holders and the Moapa dace. Now, on appeal, CBD argues that Order 1309 must stay in place to protect senior water rights holders and the Moapa dace. CBD cannot have it both ways.

Just as SNWA announced that it settled with the State Engineer, CBD also announced that it settled its petition for judicial review of Order 1309. Both SNWA and CBD incorrectly and inappropriately try to argue the merits of their appeals in their respective motions for stay. Both SNWA’s and CBD’s arguments contradict their arguments to the District Court. Both SNWA and CBD seek to

serve as amicus curiae in support of the State Engineer, which is completely improper.

There is no threat of immediate or irreparable harm to CBD, SNWA, or any appellant. Absent a stay, the State Engineer will have to follow the law, as he should have done when entering Order 1309. Given the substantial similarity between SNWA's position and CBD's, CSI incorporates by reference its arguments contained in its opposition to SNWA's Emergency Motion for Stay. Both Motions must be denied.

## II.

### CONCLUSION

CBD has not met its burden to demonstrate that a stay is warranted in this case. Accordingly, CSI respectfully requests that this Court deny the Motion.

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

ROBISON, SHARP, SULLIVAN & BRUST  
71 Washington Street  
Reno, Nevada 89503

*/s/ Kent R. Robison*  
\_\_\_\_\_  
KENT R. ROBISON #1167  
HANNAH E. WINSTON #14520

**IN ASSOCIATION WITH:**

BRADLEY J. HERREMA #10368  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, Nevada 89106

WILLIAM L. COULTHARD #3927  
COULTHARD LAW  
840 South Ranch Drive, #4-627  
Las Vegas, Nevada 89106

EMILIA K. CARGILL #6493  
3100 State Route 168  
P.O. Box 37010  
Coyote Springs, Nevada 89037  
*Attorneys for Respondent*  
*Coyote Springs Investment, LLC*

## CERTIFICATE OF COMPLIANCE

Pursuant to NRAP 27(d), I hereby certify that this Opposition to Emergency Motion for Stay under NRAP 27(E) and Joinder (“Opposition”) 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 Opposition has been prepared in a proportionally spaced typeface using 14-point font, Times New Roman style. I further certify that this Opposition 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 Opposition, 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 Opposition complies with all applicable Nevada Rules of Appellate Procedure.

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

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

ROBISON, SHARP, SULLIVAN & BRUST  
71 Washington Street  
Reno, Nevada 89503

/s/ Kent R. Robison  
KENT R. ROBISON #1167  
HANNAH E. WINSTON #14520

**IN ASSOCIATION WITH:**

BRADLEY J. HERREMA #10368  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, Nevada 89106

WILLIAM L. COULTHARD #3927  
COULTHARD LAW  
840 South Ranch Drive, #4-627  
Las Vegas, Nevada 89106

EMILIA K. CARGILL #6493  
3100 State Route 168  
P.O. Box 37010  
Coyote Springs, Nevada 89037  
*Attorneys for Respondent*  
*Coyote Springs Investment, LLC*



**CERIFICATE OF SERVICE**

I certify that on the 6<sup>th</sup> day of June 2022, I served a copy of **OPPOSITION TO EMERGENCY MOTION FOR STAY UNDER NRAP 27(E) AND JOINDER** 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:

PAUL G. TAGGART, ESQ.  
TIMOTHY D. O'CONNOR, ESQ.  
Taggart & Taggart, Ltd.  
108 North Minnesota Street  
Carson City, NV 89703  
Email: [paul@legaltnt.com](mailto:paul@legaltnt.com); [tim@legaltnt.com](mailto:tim@legaltnt.com)  
*Attorneys for LVVWD and SNWA*

STEVEN C. ANDERSON, ESQ.  
Las Vegas Valley Water District  
1001 S. Valley View Blvd.  
Las Vegas, NV 89153  
Email: [Sc.anderson@lvvwd.com](mailto:Sc.anderson@lvvwd.com)  
*Attorneys for LVVWD and SNWA*

JAMES N. BOLOTIN, ESQ.  
LAENA ST-JULES, ESQ.  
KIEL B. IRELAND, ESQ.  
Office of the Attorney General  
100 North Carson  
Carson City, NV 89701  
Email: [jbolotin@ag.nv.gov](mailto:jbolotin@ag.nv.gov); [lstjules@ag.nv.gov](mailto:lstjules@ag.nv.gov); [kireland@ag.nv.gov](mailto:kireland@ag.nv.gov)  
*Attorneys for Respondent State Engineer*

BRADLEY J. HERREMA, ESQ.  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
Email: [bherrema@bhfs.com](mailto:bherrema@bhfs.com)  
*Attorneys for Coyote Springs Investment, LLC*

WILLIAM L. COULTHARD, ESQ.  
COULTHARD LAW  
840 South Ranch Drive, #4-627  
Las Vegas, NV 89106  
Email: [wlc@coulthardlaw.com](mailto:wlc@coulthardlaw.com)  
*Attorneys for Coyote Springs Investment, LLC*

EMILIA K. CARGILL, ESQ.  
3100 State Route 168  
P.O. Box 37010  
Coyote Springs, NV 89037  
Email: [emilia.cargill@wingfieldnevadagroup.com](mailto:emilia.cargill@wingfieldnevadagroup.com)  
*Attorneys for Coyote Springs Investment, LLC*

GREGORY H. MORRISON, ESQ.  
Parson Behle & Latimer  
50 West Liberty Street, Suite 750  
Reno, NV 89501  
Email: [gmorrison@parsonsbhle.com](mailto:gmorrison@parsonsbhle.com)  
*Attorneys for Moapa Valley Water District*

CHRISTIAN T. BALDUCCI, ESQ.  
Marquis Aurbach Coffing  
10001 Park Run Drive  
Las Vegas, NV 89145  
Email: [cbalducci@maclaw.com](mailto:cbalducci@maclaw.com)  
*Attorneys for Apex Holding Company, LLC and Dry Lake Water, LLC*

SYLVIA HARRISON, ESQ.  
LUCAS FOLETTA, ESQ.  
SARAH FERGUSON, ESQ.  
McDonald Carano LLP  
100 W. Liberty Street, 10th Floor  
Reno, NV 89501  
Email: [sharrison@mcdonaldcarano.com](mailto:sharrison@mcdonaldcarano.com)  
[lfoletta@mcdonaldcarano.com](mailto:lfoletta@mcdonaldcarano.com)  
[sferguson@mcdonaldcarano.com](mailto:sferguson@mcdonaldcarano.com)  
*Attorneys for Georgia-Pacific Gypsum LLC  
and Republic Environmental Technologies, Inc.*

LISA BELENKY, ESQ.  
Center for Biological Diversity  
1212 Broadway, #800  
Oakland, CA 94612  
Email: [lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)  
*Attorneys for Center for Biological Diversity*

SCOTT LAKE, ESQ.  
Center for Biological Diversity  
P.O. Box 6205  
Reno, NV 89513  
Email: [slake@biologicaldiversity.org](mailto:slake@biologicaldiversity.org)  
*Attorney for Center for Biological Diversity*

JULIE CAVANAUGH-BILL, ESQ.  
Cavanaugh-Bill Law Offices, LLC  
Henderson Bank Building  
401 Railroad Street, Suite 307  
Elko, NV 89801  
Email: [julie@cblawoffices.org](mailto:julie@cblawoffices.org)  
*Attorneys for Center for Biological Diversity*

ROBERT A. DOTSON, ESQ.  
JUSTIN C. VANCE, ESQ.  
Dotson Law  
5355 Reno Corporate Drive, Suite #100  
Reno, NV 89511  
Email: [rdotson@dotsonlaw.legal](mailto:rdotson@dotsonlaw.legal) / [jvance@dotsonlaw.legal](mailto:jvance@dotsonlaw.legal)  
*Attorneys for Muddy Valley Irrigation Company*

STEVEN D. KING, ESQ.  
227 River Road  
Dayton, NV 89403  
Email: [kingmont@charter.net](mailto:kingmont@charter.net)  
*Attorneys for Muddy Valley Irrigation Company*

FRANCIS C. FLAHERTY, ESQ.  
Dyer Lawrence, LLP  
2805 Mountain Street  
Carson City, NV 89703  
Email: [fflaherty@dyerlawrence.com](mailto:fflaherty@dyerlawrence.com) / [smatuska@dyerlawrence.com](mailto:smatuska@dyerlawrence.com)  
*Attorneys for Nevada Cogeneration Association Nos. 1 and 2*

SEVERIN A. CARLSON, ESQ.  
Kaempfer Crowell  
50 W. Liberty Street, Suite 700  
Reno, NV 89501  
Email: [scarlson@kenvlaw.com](mailto:scarlson@kenvlaw.com)  
*Attorneys for The Church of Jesus Christ of Latter-Day Saints*

JUSTINA A. CAVIGLIA, ESQ.  
MICHAEL D. KNOX, ESQ.  
Nevada Energy  
6100 Neil Road  
Reno, NV 89510  
Email: [jcaviglia@nvenergy.com](mailto:jcaviglia@nvenergy.com); [mknnox@nvenergy.com](mailto:mknnox@nvenergy.com)  
*Attorneys for Sierra Pacific Power Company, dba NV Energy  
Nevada Power Company, dba NV Energy*

THERESE A. URE, ESQ.  
LAURA A. SCHRÖEDER, ESQ.  
CAITLIN R. SKULAN, ESQ.  
Schroeder Law Offices, P.C.  
10615 Double R Blvd., Suite 100  
Reno, NV 89521  
Email: [counsel@water-law.com](mailto:counsel@water-law.com)  
*Attorneys for Bedroc and City of North Las Vegas*

KAREN A. PETERSON, ESQ.  
Allison MacKenzie, Ltd.  
402 N. Division Street  
Carson City, NV 89703  
Email: [kpeterson@allisonmackenzie.com](mailto:kpeterson@allisonmackenzie.com) /  
[nfontenot@allisonmackenzie.com](mailto:nfontenot@allisonmackenzie.com)  
*Attorneys for Lincoln County Water District and Vidler Water  
Company, Inc.*

DYLAN V. FREHNER, ESQ.  
Lincoln County District Attorney  
P.O. Box 60  
Pioche, NV 89403  
Email: [dfrehner@lincolncountynv.gov](mailto:dfrehner@lincolncountynv.gov)  
*Attorneys for Lincoln County Water District and Vidler Water  
Company, Inc.*

WAYNE O. KLOMP, ESQ.  
Great Basin Law  
1783 Trek Trail  
Reno, NV 89521  
Email: [wayne@greatbasinlawyer.com](mailto:wayne@greatbasinlawyer.com)  
*Attorneys for Lincoln County Water District and Vidler Water  
Company, Inc.*

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

/s/ Mary Carroll Davis  
Mary Carroll Davis  
An Employee of Robison, Sharp, Sullivan & Brust