

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

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,

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.; 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; CITY OF NORTH )  
LAS VEGAS; and LAS VEGAS VALLEY )  
WATER DISTRICT, )

Respondents.

Supreme Court No. 84739

Electronically Filed  
Jun 21 2022 11:24 a.m.  
(Consolidated 84741, 84742  
and 84809) Elizabeth A. Brown  
Clerk of Supreme Court

**RESPONDENT NEVADA COGENERATION ASSOCIATES NOS. 1 AND 2**  
**RESPONSE TO APPELLANT CENTER FOR BIOLOGICAL**  
**DIVERSITY'S DOCKETING STATEMENT**

Pursuant to NRAP 14(f), Respondents, Nevada Cogeneration Associates Nos. 1 and 2 (“NCA”), by and through their undersigned counsel, submit their Response to Appellant Center for Biological Diversity’s (“CBD”) Docketing Statement. NCA strongly disagrees with the issues as stated by CBD in response to Question 9 on its Docketing Statement. CBD inappropriately frames its issues to challenge the district court’s decision utilizing a substantial evidence standard. Although numerous petitioners in the district court proceedings raised substantial evidence arguments and issues, the district court never reached those arguments because it found that the State Engineer lacked authority to issue Order 1309 and violated the due process rights of petitioners. Because the district court declined to reach the substantial evidence issue in deciding the petitions for judicial review, it is not appropriate for the Supreme Court to consider substantial evidence issues or arguments. As stated by this Court in *9352 Cranesbill Trust v. Wells Fargo Bank, N.A.*, “this court will not address issues that the district court did not directly resolve.” 459 P.3d 227, 232, 136 Nev. Adv. Rep. 8, \*13 (2020) (citing *Yellow Cab of Reno, Inc. v. Second Judicial Dist. Court*, 127 Nev. 583, 592 n.6, 262 P.3d 699, 704 n.6 (2011) (declining to address a legal issue that the district court did not reach)).

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2022.

DYER LAWRENCE, LLP

By: 

Francis C. Flaherty  
Sue S. Matuska

*Attorneys for Respondents Nevada  
Cogeneration Associates Nos. 1 and 2*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2022, service of the forgoing  
**RESPONDENT NEVADA COGENERATION ASSOCIATES NOS. 1 AND 2**  
**RESPONSE TO APPELLANT CENTER FOR BIOLOGICAL DIVERSITY'S**  
**DOCKETING STATEMENT** was filed electronically with the Clerk of the Court,  
and therefore electronic service was made in accordance with the master service list  
as follows:

OFFICE OF THE ATTORNEY GENERAL  
JAMES N. BOLOTIN #13829  
LAENA ST-JULES #15156  
100 North Carson Street  
Carson City, Nevada 89701-4717  
Email: jbolotin@ag.nv.gov  
Email: lstjules@ag.nv.gov  
*Attorneys for Nevada State Engineer*

TAGGART & TAGGART, LTD  
PAUL G. TAGGART, ESQ. #6136  
THOMAS P. DUENSING, ESQ. #15213  
108 North Minnesota Street  
Carson City, Nevada 89703  
SOUTHERN NEVADA WATER AUTHORITY  
STEVEN C. ANDERSON  
1001 S. Valley View Blvd.  
Las Vegas, Nevada 89153  
Email: sc.anderson@lvvwd.com  
*Attorneys for Southern Nevada Water Authority and Las Vegas Water District*

ROBISON, SHARP, SULLIVAN & BRUST  
KENT R. ROBISON #1167  
HANNAH E. WINTSTON #14520  
MICHAELA G. DAVIES #15205

71 Washington Street  
Reno, Nevada 89593  
Email: krobison@rssblaw.com  
Email: hwinston@rssblaw.com  
Email: mdavies@rssblaw.com

**IN ASSOCIATION WITH:**

BRADLEY J. HERREMA #10368  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, Nevada 89106  
Email: bherrema@bhfs.com

WILLIAM L. COULTHARD #3927  
COULTHARD LAW  
840 South Ranch Drive, #4-627  
Las Vegas, Nevada 89106  
Email: wlc@coulthardlaw.com  
EMILIA K. CARGILL #6493  
3100 State Route 168  
P.O. Box 37010  
Coyote Springs, Nevada 89037  
Email: emilia.cargill@coyotesprings.com  
*Attorneys for Coyote Springs Investment, LLC*

MARQUIS AURBACH COFFING  
CHRISTIAN T. BALDUCCI #12688  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Email: cbalducci@maclaw.com  
Email: kwilde@maclaw.com  
*Attorneys for Apex Holding Company, LLC and Dry Lake Water, LLC*

SCOTT LAKE #15765  
Center for Biological Diversity  
P.O. Box 6205  
Reno, Nevada 89513  
(802) 299-7495  
Email: slake@biologicaldiversity.org

**IN ASSOCIATION WITH:**

LISA T. BELENKY (Pro Hac Vice to be submitted)

Center for Biological Diversity

1212 Broadway, Suite 800

Oakland, California 94612

Email: lbelenky@biologicaldiversity.org

*Attorneys for Center for Biological Diversity*

KAEMPFER CROWELL

SEVERIN A. CARLSON #9373

SIHOMARA L. GRAVES #13239

50 West Liberty Street, Suite 700

Reno, Nevada 89501

Email: scarlson@kcnvlaw.com

Email: sgraves@kcnvlaw.com

*Attorneys for The Church of Jesus Christ of Latter-day Saints*

DOTSON LAW

ROBERT A. DOTSON #5285

JUSTIN C. VANCE #11306

5355 Reno Corporate Drive, Suite 100

Reno, Nevada 89511

Email: rdotson@dotsonlaw.legal

Email: jvance@dotsonlaw.legal

**IN ASSOCIATION WITH:**

STEVEN D. KING #4304

227 River Road

Dayton, Nevada 9403

Email: kingmont@charter.net

*Attorneys for Muddy Valley Irrigation Company*

McDONALD CARANO LLP

SYLVIA HARRISON #4106

LUCAS FOLETTA #12154

JANE SUSSKIND #15099

SARAH FERGUSON #14515

100 W. Liberty Street, Suite 1000

Reno, Nevada 89501

Email: sharrison@mcdonaldcarano.com

Email: lfoletta@mcdonaldcarano.com

Email: sferguson@mcdonaldcarano.com

*Attorneys for Georgia-Pacific Gypsum, LLC and Republic Environmental Technologies, Inc.*

PARSONS BEHLE & LATIMER

GREGORY H. MORRISON #12454

50 West Liberty Street, Suite 750

Reno, Nevada 89501

Email: gmorrison@parsonsbehle.com

*Attorneys for Moapa Valley Water District*

NEVADA ENERGY

JUSTINA A. CAVIGLIA #9999

MICHAEL D. KNOX #8143

6100 Neil Road

Reno, Nevada 89511

Email: justina.caviglia@nvenergy.com

Email: mknox@nvenergy.com

*Attorneys for Nevada Power Company dba NV Energy*

SCHROEDER LAW OFFICES, P.C.

THERESE A. URE STIX #10255

LAURA A. SCHROEDER #3595

10615 Double R Blvd., Suite 100

Reno, Nevada 89521

Email: t.ure@water-law.com

Email: schroeder@water-law.com

*Attorneys for City of North Las Vegas, Western Elite Environmental, Inc. and Bedroc Limited, LLC*

LINCOLN COUNTY DISTRICT ATTORNEY

DYLAN V. FREHNER #9020

181 North Main Street, Suite 205

P.O. Box 60

Pioche, Nevada 89043

Email: [dfrehner@lincolncountynv.gov](mailto:dfrehner@lincolncountynv.gov)

**IN ASSOCIATION WITH:**

SNELL & WILMER L.L.P.

WAYNE O. KLOMP #10109

50 West Liberty Street, Suite 510

Reno, Nevada 89501

Email: [wklomp@greatbasinlawyer.com](mailto:wklomp@greatbasinlawyer.com)

*Attorneys for Lincoln County Water District*

ALLISON MacKENZIE, LTD.

KAREN A. PETERSON #366

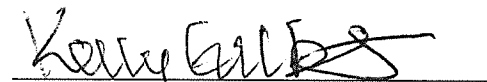
402 North Division Street

Carson City, Nevada 89703

Email: [kpeterson@allisonmackenzie.com](mailto:kpeterson@allisonmackenzie.com)

*Attorneys for Vidler Water Company, Inc.*

DATED this 21<sup>ST</sup> day of June, 2022.

  
\_\_\_\_\_  
Kelly Gilbert