

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,

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 WATER DISTRICT,

Respondents.

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Case No. 84739
Case No. 84741
Case No. 84742
Case No. 84809

District Court
Case No.
A816761

**REPLY OF LINCOLN COUNTY WATER DISTRICT AND VIDLER
WATER COMPANY, INC. IN SUPPORT OF MOTION TO DISMISS
THE APPEAL OF MVIC**

Respondents, LINCOLN COUNTY WATER DISTRICT (“Lincoln”) and VIDLER WATER COMPANY, INC. (“Vidler”), respectfully submit their reply in support of their motion seeking dismissal of the appeal filed by the Muddy Valley Irrigation Company (“MVIC”), designated Case No. 84809.

MEMORANDUM OF POINTS AND AUTHORITIES

MVIC’s appeal should be dismissed because it has not shown it is aggrieved by the district court’s Order Vacating Order 1309 (“Order”). MVIC merely seeks to appeal to support the State Engineer’s appeal. MVIC is possibly an amicus in this proceeding rather than an “aggrieved party.”

A. MVIC’s participation in these proceedings is only to further SNWA’s interests and SNWA’s Petition was granted by the district court.

MVIC is only participating in the Order 1309 judicial proceedings to further SNWA’s interests in its Muddy River water rights in accordance with the Common Interest Agreement for Joint Prosecution and Defense entered into between SNWA and MVIC. *See Exhibit “A”* attached hereto, Lincoln/Vidler Opposition to MVIC Motion to Intervene at 3, 6-8 and Exhibit 1 Affidavit of Dorothy A. Timian-Palmer. The wording of MVIC’s claims of error for violation of its due process rights in its Petition for Judicial Review are essentially the same as the wording in SNWA’s Petition for Judicial Review. The relief sought by both was the same. MVIC admits this in its Response at 2: “. . . the same order granted virtually identical relief

sought by Southern Nevada Water Authority.” The district court’s May 13, 2022 Addendum and Clarification Order specifically granted SNWA’s Petition for Judicial Review to the extent it sought relief for violating SNWA’s due process rights. SNWA APP MFS Vol. 2 at 230. Thus, because MVIC pled and sought the same relief as SNWA for violation of its due process rights, MVIC is not aggrieved for purposes of appeal because the district court granted relief for the State Engineer’s violation of MVIC’s due process rights in the consolidated actions. *Ford v. Showboat Operating Co.*, 110 Nev. 752, 756, 877 P.2d 546, 549 (1995).

MVIC contends it has grounds for appeal because the dismissal of its Petition for Judicial Review by the district court was improper. *See* MVIC Response at 2, 8, 10. This argument is without merit. MVIC obtained the relief it requested from the district court. MVIC is still not aggrieved even though MVIC’s Petition for Judicial Review was dismissed because MVIC was aligned with SNWA’s position in its allegations of error and request for relief, SNWA’s Petition for Judicial Review was granted, and Order 1309 was vacated.

B. MVIC is dissatisfied but has not shown it is an aggrieved party.

MVIC contends it is aggrieved by the district court’s Order because it limits the State Engineer’s authority to protect MVIC’s decreed water rights pursuant to NRS 533.0245. *See* MVIC Response at 2, 6-9. MVIC’s argument is misplaced and does not satisfy the aggrieved party standard the Court has articulated. Even if this

argument could satisfy the aggrieved party standard to file an appeal, the argument should be disregarded for two reasons. First, the State Engineer is not the decree court with authority to judicially enforce the Muddy River Decree, and neither is this Court. If MVIC's Muddy River decree rights are being impacted by groundwater pumping, it has remedies in the decree court to stop the particular groundwater pumping that is purportedly affecting its water rights. *See S. Fork Band of Te-Moak Tribe of W. Shoshone Indians of Nevada v. Sixth Jud. Dist. Ct. ex rel. Cnty. of Humboldt*, 116 Nev. 805, 810, 7 P.3d 455, 458 (2000) (Decree court has continuing jurisdiction over matters arising out of the administration of the Decree); *U.S. v. Orr Water Ditch Co.*, 600 F.3d 1152, 1160 (9th Cir. 2010) (Decree protects decreed surface water rights from diminution resulting from State Engineer's allocation of groundwater rights). Second, NRS 533.0245 prohibits the State Engineer from carrying out his duties in a manner which conflicts with a decree, but that statute does not grant the State Engineer judicial authority to enforce a decree nor require the State Engineer to affirmatively defend a decree so that decree right holders do not have to do so as MVIC argues. MVIC, SNWA and the State Engineer admitted as much in the summary of their purported settlement made in open court on February 17, 2022 stating they wanted the district court below to be the Muddy River Decree court and hear conflict disputes under the Decree. Nothing in the district

court's Order affects MVIC's ability to enforce its rights granted by the Muddy River Decree.

Further, the State Engineer believes there is no impact on Muddy River decree rights from current groundwater pumping. The State Engineer recognized in Order 1309 all Muddy River decreed water right holders are getting their water under the Muddy River Decree. RES CSI at 127. In fact, in a recent LWRFS meeting the State Engineer recognized that all parties under the Decree are currently getting their water and there is time to figure out how to manage the LWRFS to avoid a crisis. *See* Exhibit 4, Hoerth Aff. at ¶ 7 filed with Lincoln/Vidler's Opposition to SNWA's Emergency Motion for Stay on June 8, 2022. According to the State Engineer, MVIC is not harmed based on the current administration and distribution of water. The only harm alleged is speculative, i.e., future pumping that may or may not actually create any harm to MVIC. Alleged speculative harm does not elevate a party to aggrieved status. As MVIC points out in its Response, concerns over conflict have existed since 1989. MVIC Response at 9, n. 15. If MVIC's surface rights have been diminished by groundwater pumping, MVIC has done nothing over the last thirty plus years to protect its rights.

C. MVIC agrees the State Engineer has other means to manage ground and surface water.

MVIC acknowledges in its Response it agrees with Lincoln and Vidler the State Engineer can still attempt to manage ground and surface water rights, but the

district court's Order makes it more difficult for the State Engineer to do so in circumstances such as this. *See* MVIC Response at 9-10. In denying the motion for stay, the district court specifically determined there were other legal means available to water users and the State Engineer to protect water rights, including the Memorandum of Agreement ("MOA"), statutory procedures including curtailment, and the Muddy River Decree. SNWA APP MFS Vol. 2 at 186-187. MVIC does not want to use those other available legal means because it would specifically have to identify whose pumping was causing harm to its water rights and follow the lawful procedures to seek relief under the MOA, existing statutes, or the Decree.

Instead of using the existing law, MVIC contends it is aggrieved by the district court's Order which vacated the State Engineer's overreach of the powers conferred on him by the Legislature. Of course, it would be easier for MVIC to have a blanket probation against groundwater pumping over the 8,000 acre feet annually ("afa") cap over a 1500 square mile, seven basin hydrographic area instead of proving harm from particular groundwater pumping; but MVIC has no legal or property right in maintaining an illegal State Engineer order or a blanket probation against groundwater pumping over 8,000 afa over a 1500 square mile, seven basin hydrographic area. MVIC has failed to show how it is aggrieved by the district court's Order.

MVIC's appeal should be dismissed.

Respectfully submitted this 20th day of July, 2022.

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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

~ and ~

✓ Via E-Mail as follows:

Sylvia L. Harrison
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DATED this 20th day of July, 2022.

/s/ Nancy Fontenot

NANCY FONTENOT

INDEX OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Number of Pages</u>
“A”	Lincoln/Vidler’s Opposition to MVIC Motion to Intervene and Request for Hearing	43

EXHIBIT “A”

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Case No. CV-0702520

Dept. No. 2

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LINCOLN

LINCOLN COUNTY WATER DISTRICT,
a political subdivision of the State of Nevada,
and VIDLER WATER COMPANY, INC.,
a Nevada corporation,

Petitioners,

vs.

TIM WILSON, P.E., NEVADA STATE ENGINEER,
DIVISION OF WATER RESOURCES,
DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES,

Respondent.

**OPPOSITION TO MVIC
MOTION TO INTERVENE
AND REQUEST FOR
HEARING**

PETITIONERS, LINCOLN COUNTY WATER DISTRICT ("LCWD"), a political subdivision of the State of Nevada, by and through its attorney, DYLAN V. FREHNER, ESQ., LINCOLN COUNTY DISTRICT ATTORNEY, and VIDLER WATER COMPANY, INC. ("VIDLER"), a Nevada corporation, by and through its attorneys, ALLISON MacKENZIE, LTD., (collectively "Petitioners" or "LINCOLN/VIDLER") respectfully submit their Opposition to the Motion to Intervene filed by MUDDY VALLEY IRRIGATION COMPANY ("MVIC") on or about August 20, 2020.

This Opposition is based upon the following Memorandum of Points and Authorities, the Affidavits of WADE POULSEN and DOROTHY TIMIAN-PALMER previously filed with the Court on August 6, 2020, the Affidavit of DOROTHY TIMIAN-PALMER previously filed with the

1 Court on August 10, 2020 and the Affidavit of DOROTHY TIMIAN-PALMER attached hereto, and
2 all the pleadings and papers on filed in this matter.

3 **I.**

4 **NOTICE OF OPPOSITION**

5 A hearing on the MVIC Motion to Intervene and this Opposition is requested, and a court
6 reporter is requested. It is estimated that one (1) hour should be set aside for a hearing on MVIC's
7 Motion and this Opposition.

8 **II.**

9 **INTRODUCTION**

10 This matter arises from a Petition for Judicial Review ("LINCOLN/VIDLER Petition") filed
11 by Petitioners LINCOLN/VIDLER which challenged Order 1309 ("Order") issued by Respondent,
12 TIM WILSON, P.E., NEVADA STATE ENGINEER, DIVISION OF WATER RESOURCES,
13 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES ("STATE ENGINEER")
14 on June 15, 2020. Order 1309 included the Kane Springs Hydrographic Basin ("Kane Springs") in
15 the Lower White River Flow System ("LWRFS") after many years of purposeful exclusion from the
16 LWRFS. The LWRFS is a multi-basin area designated by the STATE ENGINEER to be managed
17 as a joint administrative unit for the purposes of administration of water rights. *See* Order at 10.

18 As a result of Order 1309, a Petition for Judicial Review was filed by MVIC on July 14,
19 2020. *See* Motion at 2 and Exhibit 3 attached to MVIC's Motion. Petitioners filed their Petition in
20 the Seventh Judicial District Court pursuant to NRS 533.450 as their water rights and Kane Springs
21 are located exclusively in Lincoln County and thus, the location, nature and origin of their interests
22 affected are in Lincoln County.

23 MVIC filed a Notice of Intent to Participate in this action on or about August 3, 2020.
24 MVIC states it "intends to participate in the judicial review of this matter filed on July 13, 2020 by
25 Petitioners [LCWD and VIDLER]". *See* MVIC's Notice of Intent to Participate at 1. However, two
26 paragraphs down in its Notice of Intent to Participate, MVIC states Order 1309 "affects MVIC's
27 water rights, and MVIC is an aggrieved and interested party thereunder. Accordingly, MVIC
28 intends to participate in this proceeding as a real party in interest to protect its decreed rights and

1 interest in all of the available flow of the Muddy River, and is simultaneously filing a Motion for
2 Leave to File a Complaint in Intervention in this matter.” *Id.* at 2. This action has been filed by
3 LCWD and VIDLER to pursue *their* claims of error by the STATE ENGINEER in Order 1309. By
4 its own admissions in its Motion, MVIC intends to broaden this action to pursue its own claims
5 against the STATE ENGINEER notwithstanding its contentions otherwise. Therefore,
6 LINCOLN/VIDLER oppose MVIC’s Motion because MVIC has not established that it meets the
7 requirements of Nevada Rule of Civil Procedure (“NRCP”) 24 to allow intervention in this action.
8 MVIC’s real purpose in intervening relates to its own claims of error pertaining to Order 1309 (or
9 the claims of another) which do not constitute a sufficient interest to participate in
10 LINCOLN/VIDLER’s action.

11 Moreover, MVIC’s participation in this action is suspect because it is being paid for by the
12 SOUTHERN NEVADA WATER AUTHORITY (“SNWA”) pursuant to an Agreement for
13 Reimbursement of Professional Services entered into by SNWA and MVIC to further SNWA’s
14 interests in Muddy River water rights in accordance with the Common Interest Agreement for Joint
15 Prosecution and Defense entered into between SNWA and MVIC. *See* Affidavit of Dorothy
16 Timian-Palmer attached hereto. VIDLER owns shares of Muddy River water rights. VIDLER has
17 serious concerns whether it is appropriate for MVIC to use one shareholder’s money to advance that
18 shareholder’s interests against another shareholder and its interests, namely VIDLER’s interests in
19 Kane Springs. For all these reasons, MVIC’s Motion to Intervene should be denied.

20 III.

21 FACTUAL BACKGROUND

22 A. LINCOLN/VIDLER Agreements and Water Rights Located in Lincoln County

23 Starting in September 1998, LINCOLN COUNTY, and subsequently LCWD, entered into
24 several agreements with VIDLER to develop a water master plan and projects in Lincoln County on
25 a case by case basis using jointly owned water resources. *See* Affidavit of Dorothy Timian-Palmer
26 filed on August 6, 2020 at ¶ 4. All agreements were entered into in Lincoln County and all
27 obligations are to be performed by the parties in Lincoln County. *Id.* at ¶ 5. All jointly owned water
28 resources were and are to be appropriated from Lincoln County. *Id.* at ¶ 5.

1 Petitioners individually own groundwater permits with a priority date of February 14, 2005,
2 and collectively own groundwater right applications filed on April 10, 2006, to appropriate water
3 located in the Kane Springs for municipal use purposes with a place of use located in the Coyote
4 Spring Valley Hydrographic Basin (210) (“Coyote Spring Valley”). *See* Affidavit of Wade Poulsen
5 filed on August 6, 2020 at ¶ 3. Petitioners are senior water right permit holders and jointly hold
6 senior ground water right applications in Kane Springs. *Id.* at ¶ 4. Kane Springs and the points of
7 diversion of Petitioners’ permits and pending applications are located entirely in Lincoln County,
8 Nevada. *Id.* at ¶ 5. Most of the area encompassing Coyote Spring Valley is in Lincoln County. *Id.*
9 at ¶ 5.

10 **B. Previous Determinations to Exclude Kane Springs from the LWRFS**

11 On March 8, 2002, the STATE ENGINEER issued Order 1169 which required all pending
12 water rights applications in Coyote Springs Valley (210), Black Mountains Area (215), Garnet
13 Valley Basin (216), Hidden Valley (217), Muddy River Springs (219), Lower Moapa Valley (220)
14 to be held in abeyance pending an aquifer test of the carbonate-rock aquifer. Affidavit of Dorothy
15 Timian-Palmer filed on August 6, 2020 at ¶ 6.¹ Kane Springs was not part of Order 1169 which
16 administered the LWRFS. *Id.* at ¶ 6. A map of the LWRFS showing the location of Kane Springs
17 and the location of Petitioners’ water rights in Lincoln County was attached as Exhibit 1 to the
18 Affidavit of Dorothy Timian-Palmer filed on August 6, 2020 and is incorporated herein by
19 reference.

20 Order 1169 was administered through a series of reports, studies and tests including
21 monitoring, measuring, and aquifer testing conducted on the hydrographic basins in Order 1169
22 between 2010 and 2014. Affidavit of Dorothy Timian-Palmer filed on August 6, 2020 at ¶ 7. Kane
23 Springs was not included in Order 1169 and Petitioners were not involved in any of the reports,
24 studies or tests conducted throughout that time frame. *Id.* at ¶ 7. After the conclusion of these
25 studies, there were no recommendations made by study participants to include Kane Springs in the
26 administration of Order 1169. *Id.* at ¶ 7.

27
28

¹ On April 18, 2002, the STATE ENGINEER added California Wash (218) to the Order 1169 aquifer test basins.

1 On February 2, 2007, the STATE ENGINEER issued Ruling 5712, which partially approved
2 Applications 72218, 72219, 72220, and 72221, granting LINCOLN/VIDLER 1,000 acre-feet
3 annually (“afa”) of water rights in Kane Springs. Affidavit of Dorothy Timian-Palmer filed on
4 August 6, 2020 at ¶ 14. Ruling 5712 specifically provided that Kane Springs would not be included
5 in the administration of the Order 1169 study area because there was no substantial evidence that the
6 appropriation of a limited quantity of water in Kane Springs would have any measurable impact on
7 the Muddy River Springs that required the inclusion of Kane Springs in the administration of Order
8 1169. *Id.* at ¶ 11. None of the participants in the Order 1169 study objected to or appealed the
9 STATE ENGINEER’s determination that Kane Springs should not be included in the administration
10 of Order 1169. *Id.* at ¶ 12. As part of Ruling 5712, the STATE ENGINEER denied a protestant’s
11 request to hold Petitioners’ Kane Springs applications in abeyance like the other applications that
12 were held in abeyance per Order 1169. *Id.* at ¶ 13.

13 MVIC did not protest any of Petitioners’ water right applications approved by Ruling 5712
14 or pending Applications 74147, 74148, 74149, and 74150 in Kane Springs. Affidavit of Dorothy
15 Timian-Palmer in Support of Opposition to MVIC Motion to Intervene at ¶ 4 attached hereto.
16 MVIC did not object to or appeal the STATE ENGINEER’s determination that Kane Springs should
17 not be included in the administration of Order 1169. *Id.* at ¶ 5.

18 On January 11, 2019, the STATE ENGINEER issued Interim Order 1303 which designated
19 the LWRFS as a multi-basin area known to share a close hydrologic connection, as a joint
20 administrative unit for the purposes of administration of water rights. Affidavit of Dorothy Timian-
21 Palmer filed on August 6, 2020 at ¶ 28. Once again, Kane Springs was not included as part of the
22 LWRFS in Interim Order 1303. *Id.*

23 **C. LINCOLN/VIDLER Petition for Judicial Review**

24 On June 15, 2020, the STATE ENGINEER issued Order 1309 which included Kane Springs
25 for the first time as part of the LWRFS multi-basin area and required that it be administered in
26 accordance with Order 1309. *See* Affidavit of Dorothy Timian-Palmer filed on August 6, 2020 at ¶
27 29. The LINCOLN/VIDLER Petition challenges the STATE ENGINEER’s determination to
28 include Kane Springs in the boundaries of the LWRFS and seeks restoration of

1 LINCOLN/VIDLER's water right priorities and the STATE ENGINEER's perennial yield
2 previously determined for Kane Springs. Petition at 12. The LINCOLN/VIDLER Petition
3 challenges numerous determinations made by the STATE ENGINEER in Order 1309, including his
4 lack of authority to designate a multi-basin area for joint administration and management, his
5 hydrologic conclusions in direct contravention of his previous determinations in Ruling 5712, and
6 Petitioners contend none of the evidence provided at the proceedings leading up to the issuance of
7 Order 1309 indicated that the appropriation of Petitioners' water rights in Kane Springs will have
8 any impact on the Muddy River Springs that would warrant the inclusion of Kane Springs in the
9 LWRFS. *See* Petition at 7-9.

10 **D. MVIC Petition for Judicial Review**

11 On July 14, 2020, MVIC filed a Petition for Judicial Review of Order 1309 in the Eighth
12 Judicial District Court. MVIC filed its Petition on the grounds that its due process rights were
13 violated because MVIC did not have the opportunity to present evidence regarding the STATE
14 ENGINEER's analysis of the effect of the pumping of junior water rights holders in the headwaters
15 of the basin conflicting with more senior water rights holders. MVIC's Petition at 3-4. MVIC
16 asserts the STATE ENGINEER violated its due process rights by failing to have a hearing prior to
17 making the findings included in Order 1309. MVIC Petition at 4. MVIC also contends the STATE
18 ENGINEER acted arbitrarily and capriciously regarding the alleged preclusion of evidence. *Id.*
19 The wording of MVIC's claims of error in its Petition is essentially the same as the wording in
20 SNWA's Petition for Judicial Review. *Cf.* MVIC Petition at 3-5 to SNWA's Petition at 6-8.

21 **E. VIDLER Ownership of Muddy River Decreed Water Rights**

22 VIDLER owns 26.583 Preferred Shares and 58.500 Common Shares of Muddy River
23 decreed water shares. Affidavit of Dorothy Timian-Palmer filed on August 10, 2020 at ¶ 10.
24 VIDLER is one of MVIC's approximately 250 shareholders. MVIC Motion at 3.

25 **F. SNWA'S Payment for MVIC's Participation in Order 1309 Judicial Proceedings**

26 On July 16, 2020, SNWA's Board of Directors voted to approve and authorize an Agreement
27 for Reimbursement of Professional Services ("Reimbursement Agreement") between SNWA and
28 MVIC through which SNWA would reimburse MVIC up to \$200,000 per fiscal year for attorney's

1 fees and costs incurred in this litigation “that will further SNWA’s interests in Muddy River water
2 rights.” True and correct copies of the SNWA July 16, 2020 Agenda, Agenda Item #9
3 Recommendation and the Reimbursement Agreement presented to the SNWA Board on July 16,
4 2020 are attached to the Affidavit of Dorothy Timian-Palmer attached hereto. The Reimbursement
5 Agreement provides “the Parties to this Agreement have a common interest in taking necessary steps
6 to ensure their interests are protected” in SNWA’s Petition for Judicial Review action and related
7 proceedings. Reimbursement Agreement at 2. SNWA shall pay MVIC’s actual costs and expenses
8 incurred by Counsel in performing the work as defined under the Agreement (the parties’ joint
9 efforts to protect the common interests) and Counsel is not paid by MVIC until MVIC receives
10 payment from SNWA. Reimbursement Agreement at 4. Counsel for MVIC cannot assign or
11 transfer its interest in the Agreement without the prior written consent of MVIC and SNWA.
12 Reimbursement Agreement at 8.

13 SNWA and MVIC have also entered into a Common Interest Agreement for Joint
14 Prosecution and Defense for this litigation based upon their “history of cooperation and aligned
15 interests.” SNWA July 16, 2020 Agenda Item # 9 Recommendation at 1. VIDLER has attempted to
16 obtain a copy of the Common Interest Agreement for Joint Prosecution and Defense, attached as
17 Exhibit 2 to the Reimbursement Agreement, but SNWA has not yet provided VIDLER a copy after
18 repeated informal requests and a Public Records Request. Affidavit of Dorothy Timian-Palmer at ¶
19 7. On August 25, 2020, SNWA indicated a response to VIDLER’s Public Records Request will be
20 provided September 9, 2020. *Id.* VIDLER will supplement this Opposition after it receives the
21 SNWA response and/or copy of the Common Interest Agreement for Joint Prosecution and Defense
22 Agreement.

23 MVIC did not ask VIDLER, and to VIDLER’s knowledge, did not ask other MVIC
24 shareholders for approval to participate in these legal proceedings challenging Order 1309 to further
25 SNWA’s interests in Muddy River water rights. Affidavit of Dorothy Timian-Palmer at ¶ 8. The
26 MVIC Board apparently considered the Reimbursement Agreement at a Board meeting on June 18,
27 2020. Affidavit of Dorothy Timian-Palmer at ¶ 9. Based upon the Muddy River Decree, no
28 shareholders water right under the MVIC decreed right, whether a public or private entity, has

1 priority or preference over another shareholder’s water right. See Exhibit 1 at 22, 43 attached to
2 MVIC’s Motion to Intervene.

3 Since at least October 2018, SNWA has publicly taken the position that Kane Springs should
4 be included in the LWRFS. For example, MOAPA VALLEY WATER DISTRICT Minutes from a
5 meeting held Thursday October 9, 2018 indicate a lengthy discussion under Item 6 “Discussion on
6 the Nevada State Engineer’s Decision on Water Resources”. The Minutes note on page 3: “SNWA
7 commented that the STATE ENGINEER should put Kane Springs into this super basin so they can
8 monitor all the water in that area which makes sense.” Affidavit of Dorothy Timian-Palmer at ¶ 10.
9 SNWA submitted letters to the STATE ENGINEER on October 5, 2018, October 23, 2018 and
10 December 12, 2018 advocating that Kane Springs be included in the LWRFS and that water right
11 holders in that basin be notified of the LWRFS proceedings to avoid any due process issues.
12 Affidavit of Dorothy Timian-Palmer at ¶ 11. LINCOLN/VIDLER are the only water right holders
13 in Kane Springs. See Affidavit of Wade Poulsen filed on August 6, 2020 at ¶ 4. Inclusion of Kane
14 Springs in the LWRFS harms the interests of LINCOLN and VIDLER. Affidavit of Dorothy
15 Timian-Palmer at ¶ 12.

16 **IV.**

17 **ARGUMENT**

18 **A. MVIC Does Not Meet the Intervention Requirements under NRCP 24 (a)(2)**

19 NRS 12.130(b) provides for intervention when a third person is permitted to become a party
20 to an action or proceeding between other persons, either by joining the plaintiff in claiming what is
21 sought by the complaint, or by uniting with the defendant in resisting claims of the plaintiff, or by
22 demanding anything adversely to both the plaintiff and the defendant. NRS 12.130(c) states that the
23 rules of intervention are governed by the Nevada Rules of Civil Procedure. NRCP 24(a)(2)
24 provides that a court is required to permit a party’s timely intervention where a party “claims an
25 interest relating to the property or transaction that is the subject of the action, and is so situated that
26 disposing of the action may as a practical matter impair or impede the movant’s ability to protect its
27 interest, unless existing parties adequately represent that interest.”
28

1 An applicant seeking to intervene must meet four separate requirements under NRC
2 24(a)(2) as follows: “1) that it has a sufficient interest in the litigation’s subject matter, 2) that it
3 could suffer an impairment of its ability to protect that interest if it does not intervene, 3) that its
4 interest is not adequately represented by existing parties, and 4) that its application is timely.”
5 *American Home Assur. Co. v. Eighth Judicial Dis. Court ex rel. County of Clark*, 122 Nev. 1229,
6 1238, 147 P.3d 1120, 1126 (2006). “Intervention is within the district court’s discretion.” *Id.* at
7 1234, 1124. “Intervention is appropriate under NRC 24(a)(2) only when all the requirements of the
8 subsection have been met.” 122 Nev. at 1238, 147 P.3d at 1126.

9 In deciding whether the first requirement has been met, the Court in *American Home Assur.*
10 *Co.* noted that, as federal courts have recognized in interpreting the equivalent federal rule, “no
11 ‘bright-line’ test to determine an alleged interest’s sufficiency exists. A general, indirect, contingent
12 or insubstantial interest is insufficient, however. Instead, an applicant must show ‘a significantly
13 protectable interest’”. *Id.* at 1238-39, 1127. As noted by the Ninth Circuit Court of Appeals in *S.*
14 *California Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir.), *modified*, 307 F.3d 943 (9th Cir.
15 2002), and *certified question answered sub nom. S. California Edison Co. v. Peevey*, 31 Cal. 4th
16 781, 74 P.3d 795 (2003), a right to intervene is not recognized based on a contingent claim because
17 it falls far short of the “direct, non-contingent, substantial and legally protectable” interest required
18 for intervention as a matter of right citing *Dilks v. Aloha Airlines*, 642 F.2d 1155, 1157 (9th Cir.
19 1981) (citation omitted). “The intervention rule is ... not intended to allow the creation of whole
20 new lawsuits by the intervenors.” *S. California Edison Co. v. Lynch*, 307 F.3d at 804 citing
21 *Donnelly*, 159 F.3d at 412.

22 In *Hairr v. First Jud. Dist. Court*, 132 Nev. 180, 368 P.3d 1198 (2016), the Court found that
23 a party must demonstrate its interest would not be adequately represented by existing parties. The
24 Court in *Hairr* found that parents seeking to intervene in a constitutional challenge to an educational
25 bill did not have separate interests from the State in seeking to uphold the constitutionality of the
26 bill. The Court stated that “the most important factor in determining the adequacy of representation
27 is how the interest compares with the interests of existing parties.... [and] when an applicant for
28 intervention and an existing party have the same ultimate objective, a presumption of adequacy of

1 representation arises.” 132 Nev. at 184, 368 P.3d at 1201 *citing Arakaki v. Cayetano*, 324 F. 3d
2 1078, 1086 (9th Cir. 2003). The Court explained the Ninth Circuit also recognized that there is an
3 “assumption of adequacy when the government is acting on behalf of a constituency it represents,”
4 and “[i]n the absence of a ‘very compelling showing to the contrary,’ it will be presumed that a state
5 adequately represents its citizens when the applicant shares the same interest.” *Id.* (quoting 7C
6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1909 (3d ed.2007)); *see*
7 *also Lundberg v. Koontz*, 82 Nev. 360, 362–63, 418 P.2d 808, 809 (1966) (denying a motion to
8 intervene of right on the basis that the interests of the intervenor applicants were adequately
9 represented by the State because the single issue raised was an issue of law on which the applicants
10 and the State sought the same outcome). *Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d
11 1198, 1201 (2016).

12 LINCOLN/VIDLER are not aware of any case law that allows intervention based upon the
13 proposed intervenor’s intent to further another proposed intervenor’s interests in the litigation.

14 **1. MVIC Does Not Have a Sufficient Interest to Warrant Intervention**

15 MVIC contends that it seeks to intervene to ensure the issues it raised in its action filed in the
16 Eighth Judicial District Court are not “contradicted by any ruling in this action”. Motion at 3.
17 MVIC states its action in the Eighth Judicial District Court is “Specifically, to advance the claim that
18 Order 1309 is illegal because it was made without affording MVIC due process rights, and because
19 it contradicts the Muddy River Decree of 1920 and impinges on MVIC's rights as declared therein.”
20 *Id.* First, the Reimbursement Agreement calls into question whether MVIC’s attempt to participate
21 in this action is based upon advocating its own interests versus advocating the interests of SNWA.
22 Notwithstanding that issue, there is nothing in LINCOLN/VIDLER’s Petition regarding Order 1309
23 violating MVIC’s due process rights, that Order 1309 contradicts the Muddy River Decree or that
24 Order 1309 impinges on MVIC’s rights. This Court, in this action, is not going to rule on anything
25 to do with a violation of MVIC’s due process rights, or that Order 1309 contradicts the Muddy River
26 Decree, or impinges on MVIC’s rights as declared in the Decree. Thus, there is no ruling that will
27 come out of this action that can possibly contradict any order that MVIC seeks in its action in Clark
28 County. MVIC’s arguments show it seeks to interject issues from its Petition for Judicial Review

1 filed in the Clark County into this case. So, while MVIC states “it does not intend to begin its own
2 lawsuit or to adjudicate the issues raised in its Petition in the Eighth Judicial District in this action”
3 (Motion at 4), the interest MVIC alleges is purportedly sufficient for intervention in this action
4 relates to its contentions of error with Order 1309 and has nothing to do with Petitioners’
5 contentions of error with Order 1309.

6 MVIC argues the STATE ENGINEER is an adverse party to MVIC in its Eighth Judicial
7 District Court action as well as this action and it is important that MVIC be aware and notified of
8 and have an opportunity to respond to positions taken by the STATE ENGINEER in both actions.
9 MVIC Motion at 4. Again, this argument does not provide any substantial and legally protectable
10 interest in the property or transaction that is the subject of the action sufficient for intervention under
11 NRCP 24. MVIC’s action involves procedural errors related to the hearing that allegedly violate
12 MVIC’s due process rights. Nothing in LINCOLN/VIDLER’s Petition has anything to do with
13 MVIC’s due process right claims so there will be no positions taken by the STATE ENGINEER in
14 this case relating to Kane Springs water rights that have anything to do with MVIC’s due process
15 claims in its Petition. Further, the STATE ENGINEER being adverse to MVIC in its action and
16 adverse to Petitioners in this action does not constitute grounds for intervention.

17 MVIC argues that it seeks to intervene because “as it currently stands, Kane Springs Valley
18 is included in Order 1309, and Order 1309 in fact acknowledges that current pumping is capturing
19 Muddy River flows.” Motion at 5. MVIC further states: “While MVIC does not presently know the
20 extent to which Muddy River flows are depleted by Kane Springs Valley pumping (if at all), any
21 such review and decision regarding the water rights in Order 1309 and the determination of whether
22 Kane Springs Valley should be included in the collective basins comprised in the analysis of the
23 LWRFS, necessarily affects MVIC's interests.” *Id.* MVIC does not explain how it has a sufficient
24 substantial and legally protectable interest in the property or transaction that is the subject matter of
25 this proceeding if it does not know if Kane Springs pumping affects Muddy River flows. MVIC
26 acknowledges in its Motion that MVIC has not collected or studied any evidence to determine
27 whether pumping in Kane Springs affects Muddy River flows. Motion at 5. Thus, MVIC has no
28 evidence that any pumping in Kane Springs affects Muddy River flows or that its rights will be

1 impacted by pumping in Kane Springs. Accordingly, it has not shown any significantly protectable
2 interest as required by *American Home Assur. Co.* and can only show a possible “general, indirect,
3 contingent or insubstantial interest”, which is insufficient to grant intervention.

4 Moreover, the fact that MVIC acknowledges it had no issues with the boundaries of the
5 LWRFS as previously determined by the STATE ENGINEER prior to entering into the
6 Reimbursement Agreement (Motion at 4-5) and now after entering into the Reimbursement
7 Agreement, contends “the determination of whether Kane Springs Valley should be included in the
8 collective basins comprised in the analysis of the LWRFS, necessarily affects MVIC’s interests”
9 (Motion at 5), is suspect, and raises the suspicion that MVIC is advocating SNWA’s position in
10 making this argument.

11 Finally, MVIC argues the Muddy River Decree protects against the capture and depletion of
12 MVIC’s water rights, and where an impairment of senior water rights has been determined, Nevada
13 law provides limited options to the State Engineer other than curtailment unless there is an agreed
14 upon conjunctive management plan. Motion at 5-6. MVIC contends it is unknown precisely what
15 position the STATE ENGINEER may take in the instant matter, and failing to include MVIC in this
16 litigation would mean that MVIC could not respond to any such arguments against the party who is
17 its adversary in its own Petition for Judicial Review. *Id.* Again, not knowing what position the
18 STATE ENGINEER may take in LINCOLN/VIDLER’s action does not confer the requisite
19 substantial and legally protectable interest required for intervention. There are no issues in
20 LINCON/VIDLER’s Petition related to interpretation of the Muddy River Decree and MVIC’s
21 conflict argument is inconsistent with MVIC’s contentions in its Petition that conflicts with Muddy
22 River decreed rights were not the subject of the Order 1309 proceedings. MVIC contends in its
23 Petition, as SNWA contends, that issues of conflict were not the subject of the Order 1309
24 administrative proceedings. MVIC Petition at 3-4; SNWA Petition at 6-7. During a prehearing
25 conference, the STATE ENGINEER’s staff stated:

26 the purpose of the hearing is not to resolve or address allegations of
27 conflict between groundwater pumping within the LWRFS and Muddy
28 River decreed rights. That is not the purpose of this hearing and that’s not
what we are going to be deciding at this point in time. The purpose of the
hearing is to determine what the sustainability is, what the impact is on

1 decreed rights, and then addressing and resolving allegations of conflict
2 should that be a determination that will be addressed in, at a future point in
3 time.

4 Transcript of Proceedings, Public Hearing, Pre-Hearing Conference, Thursday, August 8, 2019,
5 Page 12 lines 6-15. There is and was no evidence in the record of conflicts to MVIC's rights caused
6 by anyone's pumping since this proceeding did not involve issues of conflict. Therefore, MVIC's
7 contention it needs to protect its rights against impairment from Kane Springs pumping clashes with
8 its own argument that the limited purpose of the Order 1309 proceedings did not include an analysis
9 of conflicts between groundwater pumping within the LWRFS and Muddy River decreed rights.

10 MVIC's purported interest in this case is general, contingent, indirect and insubstantial and
11 does not constitute a "direct, non-contingent, substantial and legally protectable" interest as required
12 by the Supreme Court's holding in *American Home Assur. Co.*

13 **2. MVIC Will Not Suffer an Impairment to Protect Its Interests**

14 As set forth above, MVIC acknowledges the administrative proceedings leading to Order
15 1309 did not address conflicts between groundwater pumping and Muddy River decreed rights.
16 MVIC has not collected or studied any evidence to determine whether pumping in Kane Springs
17 affects Muddy River flows. As such, the claim of potential impairment of MVIC's water rights is
18 speculative. Further, VIDLER owns Muddy River water rights and is a shareholder of MVIC, and
19 as such, it has no intention of impacting its own Muddy River water rights by pumping groundwater
20 in Kane Springs. Finally, MVIC seeks to intervene to advance its due process right errors as alleged
21 in its Petition for Judicial Review in its Clark County action. There is no Court ruling that will come
22 out of this action related to MVIC's due process claims as Petitioners' action does not involve or
23 focus on MVIC's claims of error. Intervention should not be allowed as MVIC has not
24 demonstrated that it will suffer any impairment to protects its interests if the instant litigation
25 proceeds without it.

26 **3. MVIC's Interests are Adequately Represented by the Original Parties**

27 MVIC states VIDLER is one of MVIC's approximately 250 shareholders, whose interest
28 MVIC is obligated to protect and defend. Motion at 3. MVIC argues it is "the only party who can
 claim ownership of the majority of the Muddy River decreed surface water rights." Motion at 6.
 MVIC acknowledges that LINCOLN/VIDLER may take positions that are aligned with its position

1 but contends because they do not have the same interest arising out of the Muddy River Decree, they
2 cannot adequately represent MVIC. Motion at 6. MVIC's argument that its interests are not
3 adequately represented by the parties or that it has some obligation in this action to protect and
4 defend VIDLER's Muddy River interests are without merit. VIDLER's Muddy River interests are
5 not the subject of this action and in any event, VIDLER is perfectly capable of representing its own
6 interests. VIDLER's and MVIC's interests arising out of the Muddy River Decree are certainly the
7 same since VIDLER is a shareholder of the MVIC. VIDLER disagrees that MVIC is advocating all
8 its shareholders' interests in this case considering the Reimbursement Agreement it entered into with
9 SNWA to "further the Authority's interest in Muddy River water rights". SNWA Agenda Item #9
10 Recommendation at 1.

11 As set forth in *Hairr v. First Judicial District. Court*, 132 Nev. at 184, 368 P.3d at 1201, the
12 most important factor in determining the adequacy of representation is how the interest compares
13 with the interests of existing parties. A presumption of adequacy of representation arises when an
14 applicant for intervention and an existing party have the same ultimate objective. Here, MVIC
15 acknowledges its interests and Petitioners' interests may be aligned or not adverse. Motion at 6.
16 Further, MVIC has not shown how its interests are not adequately represented by the STATE
17 ENGINEER, nor has it made the required "very compelling showing" as required by *Hairr v. First*
18 *Judicial District. Court*, 132 Nev. at 185, 368 P.3d at 1201, to overcome the presumption the
19 STATE ENGINEER cannot adequately represent its interests when they have the same ultimate
20 objective regarding the inclusion of Kane Springs in the LWRFS.

21 **C. MVIC Should Not Be Permitted to Intervene Under NRCP 24(b)(1)**

22 MVIC asserts it should be permitted to intervene under NRCP 24(b) however, such
23 intervention is not appropriate in this case. NRCP 24(b) provides for permissive intervention when
24 a potential intervenor "has a claim or defense that shares with the main action a common question of
25 law or fact." Here, MVIC does not have a claim or defense that is shared by the main action nor is
26 there a common question of law between Petitioners' Petition and the assertions of MVIC. The
27 main assertion in Petitioners' Petition is the inclusion of Kane Springs as part of the multi-basin
28 administration. If anything, MVIC has only ancillary or speculative concerns as to

1 LINCOLN/VIDLER's claims of error in Order 1309 and any possible effects of
2 LINCOLN/VIDLER's pumping of their groundwater rights on Muddy River water rights.

3 Further, the inclusion of MVIC will unduly delay or prejudice the adjudication of the rights
4 of the original parties to this action. The inclusion of MVIC would likely convolute and confuse the
5 limited issues being determined. Accordingly, the Court should exercise its discretion and deny
6 MVIC's Motion to Intervene in this action commenced by LINCOLN/VIDLER to protect the
7 Petitioners' rights. *Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 187, 368 P.3d 1198, 1202-03 (2016).

8 V.

9 **CONCLUSION**

10 Based on the foregoing, LINCOLN and VIDLER request that this Court deny the MVIC
11 Motion to Intervene. A proposed Order Denying MVIC Motion to Intervene is attached hereto as
12 Exhibit "1" pursuant to Seventh Judicial District Court Rule 7(12).

13 **AFFIRMATION**

14 The undersigned does hereby affirm that the preceding document **DOES NOT** contain the
15 social security number of any person.

16 DATED this 27 day of August, 2020.

17 KAREN A. PETERSON, ESQ.
18 Nevada State Bar No. 366
19 ALLISON MacKENZIE, LTD.
20 402 North Division Street
21 Carson City, Nevada 89703
22 Telephone: (775) 687-0202
23 Email: kpeterson@allisonmackenzie.com

24 ~ and ~

25 LINCOLN COUNTY DISTRICT ATTORNEY
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28 Pioche, Nevada 89043
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BY 
DYLAN V. FREHNER, ESQ.
Nevada State Bar No. 9020

Attorneys for Petitioners, LINCOLN COUNTY
WATER DISTRICT and VIDLER WATER
COMPANY, INC.

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CERTIFICATE OF SERVICE

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 electronic mail pursuant to the agreement of the parties:

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Electronic Courtesy Copy to:
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c/o Wendy Lopez, Judicial Executive
Assistant
Seventh Judicial District Court
Department Two
P.O. Box 151629
Ely, NV 89315
wlopez@whitepinecountynv.gov

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14 DATED this 27th day of August, 2020.

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JOHN R. BROOKS

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INDEX OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Number of Pages</u>
"1"	Affidavit of Dorothy Timian-Palmer	20
"2"	Proposed Order Denying Motion to Intervene	2

EXHIBIT 1

1 Case No. CV-0702520

2 Dept. No. 2

3

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6

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7

IN AND FOR THE COUNTY OF LINCOLN

8

9

LINCOLN COUNTY WATER DISTRICT,
a political subdivision of the State of Nevada,
and VIDLER WATER COMPANY, INC.,
a Nevada corporation,

10

11

Petitioners,

12

vs.

13

TIM WILSON, P.E., NEVADA STATE ENGINEER,
DIVISION OF WATER RESOURCES,
DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES,

14

15

16

Respondent.

17

18

AFFIDAVIT OF DOROTHY A. TIMIAN-PALMER IN SUPPORT OF OPPOSITION TO

19

MVIC MOTION TO INTERVENE

20

STATE OF NEVADA)
 : ss.
CARSON CITY)

21

22

23

DOROTHY A. TIMIAN-PALMER states under penalty of perjury that the following
assertions are true and correct:

24

25

1. I am the President and Chief Executive Officer of VIDLER WATER
COMPANY, INC., a Nevada corporation (“VIDLER”), a Petitioner in the above-entitled action, and
I make this Affidavit in support of the Opposition filed by VIDLER and the LINCOLN COUNTY
WATER DISTRICT (“LCWD”) to the Motion to Intervene filed by the MUDDY VALLEY

26

27

28

1 IRRIGATION COMPANY (“MVIC”). I have been employed by VIDLER in various executive
2 positions since December of 1997.

3 2. I am over the age of eighteen (18) years, I am competent to testify, and I have
4 personal knowledge of the facts and matters stated herein.

5 3. LCWD and VIDLER are joint Petitioners in the above-entitled action and
6 hereinafter are referred to as “Petitioners.”

7 4. MVIC did not protest any of Petitioners’ water right Applications 72218,
8 72219, 72220, and 72221 approved by STATE ENGINEER Ruling 5712.

9 5. Prior to Order 1309, MVIC did not object to or appeal the STATE
10 ENGINEER’s numerous determinations that Kane Springs should not be included in the
11 administration of Order 1169 or included in the LWRFS.

12 6. On July 16, 2020, the Board of Directors of the SOUTHERN NEVADA
13 WATER AUTHORITY (“SNWA”) voted to approve and authorize an Agreement for Reimbursement
14 of Professional Services (“Reimbursement Agreement”) between SNWA and MVIC through which
15 SNWA would reimburse MVIC up to \$200,000 per fiscal year for attorney’s fees and costs incurred
16 in this litigation “that will further SNWA’s interests in Muddy River water rights.” True and correct
17 copies of the SNWA July 16, 2020 Agenda, Agenda Item #9 Recommendation and the Reimbursement
18 Agreement presented to the SNWA Board on July 16, 2020 are attached hereto as Exhibit 1. The
19 Minutes of the July 16, 2020 SNWA Board meeting are not yet available, but the audio of the meeting
20 is on SNWA’s website.

21 7. VIDLER has attempted to obtain a copy of the Common Interest Agreement for
22 Joint Prosecution and Defense, attached as Exhibit 2 to the Reimbursement Agreement from SNWA.
23 At my request, employees of VIDLER informally called and/or emailed SNWA employees on or about
24 August 14, 17 and 18, 2020 to obtain a copy of the Common Interest Agreement for Joint Prosecution
25 and Defense. On August 18, 2020, VIDLER submitted a Public Records Request to SNWA to obtain
26 the Common Interest Agreement for Joint Prosecution and Defense. SNWA has not yet provided
27 VIDLER a copy after repeated informal requests and a Public Records Request. On August 25, 2020,
28

1 SNWA indicated a response to VIDLER's Public Records Request will be provided September 9,
2 2020.

3 8. MVIC did not ask VIDLER, and to VIDLER's knowledge, did not ask other
4 MVIC shareholders for approval to participate in these legal proceedings challenging Order 1309 to
5 further SNWA's interests in Muddy River water rights.

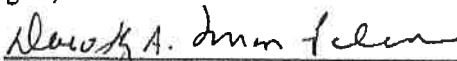
6 9. At a Board meeting on June 18, 2020, the MVIC Board Agenda had the
7 following item: Order 1309/ Update and Joint Legal Agreement (Discussion/Action). The MVIC
8 minutes of the June 18, 2020 meeting are not yet available.

9 10. Since at least October 2018, SNWA has taken the position that Kane Springs
10 should be included in the LWRFS. For example, MOAPA VALLEY WATER DISTRICT Minutes
11 from a meeting held Thursday October 9, 2018 indicate a lengthy discussion under Item 6 "Discussion
12 on the Nevada State Engineer's Decision on Water Resources". The Minutes note on page 3: "SNWA
13 commented that the STATE ENGINEER should put Kane Springs into this super basin so they can
14 monitor all the water in that area which makes sense."

15 11. SNWA submitted letters to the STATE ENGINEER on October 5, 2018,
16 October 23, 2018 and December 12, 2018 advocating that Kane Springs be included in the LWRFS
17 and that water right holders in that basin be notified of the LWRFS proceedings to avoid any due
18 process issues.

19 12. Inclusion of Kane Springs in the LWRFS harms the interests of LINCOLN and
20 VIDLER.

21 DATED this 27th day of August, 2020.

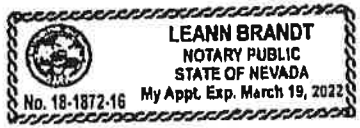
22 
23 DOROTHY A. TIMIAN-PALMER
24 President and Chief Executive Officer

25 NOTARY ACKNOWLEDGEMNT ON FOLLOWING PAGE
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STATE OF NEVADA)
) SS.
CARSON CITY)

On August 27, 2020, personally appeared before me, a notary public, DOROTHY A. TIMIAN-PALMER, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to me that she is the President and Chief Executive Officer of VIDLER WATER COMPANY, INC., a Nevada corporation, and who further acknowledged to me that she executed the foregoing Affidavit of Dorothy A. Timian-Palmer on behalf of said corporation.



Leann Brandt

NOTARY PUBLIC

THIS NOTARY ACKNOWLEDGEMENT GOES TO AN AFFIDAVIT OF DOROTHY A. TIMIAN-PAMER

EXHIBIT 1

To Affidavit of Dorothy A. Timian-Palmer



SOUTHERN NEVADA
WATER AUTHORITY

A G E N D A

SOUTHERN NEVADA WATER AUTHORITY BOARD OF DIRECTORS

**REGULAR MEETING
9:00 A.M. – JULY 16, 2020**

**BOARD CHAMBERS, SOUTHERN NEVADA WATER AUTHORITY
100 CITY PARKWAY, SEVENTH FLOOR, LAS VEGAS, NEVADA
(702) 258-3100**

Board of Directors
Marilyn Kirkpatrick, Chair
Dan Stewart, Vice Chair
Claudia Bridges
Cedric Crear
Jim Gibson
Justin Jones
John Lee

*John J. Entsminger,
General Manager*

Date Posted: July 9, 2020

The Southern Nevada Water Authority makes reasonable efforts to assist and accommodate persons with physical disabilities who desire to attend the meeting. For assistance, call the Agenda Coordinator at (702) 258-3939 at least 24 hours prior to the meeting.

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED IN THE FOLLOWING LOCATIONS:

City of Boulder City, City Hall
401 California Street
Boulder City, Nevada

City of Henderson, City Hall
240 Water Street
Henderson, Nevada

City of North Las Vegas, City Hall
2250 Las Vegas Boulevard North
North Las Vegas, Nevada

City of Las Vegas, City Hall
495 South Main Street
Las Vegas, Nevada

Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada

Clark County Water Reclamation District
5857 E. Flamingo Road
Las Vegas, Nevada

Southern Nevada Water Authority
100 City Parkway, Suite 700
Las Vegas, Nevada

Las Vegas Valley Water District
1001 S. Valley View Boulevard
Las Vegas, Nevada

All items on the agenda are for action by the Board of Directors, unless otherwise indicated. Items may be taken out of order. The board may combine two or more agenda items for consideration, and the board may remove an item from the agenda or delay discussions relating to an agenda item at any time.

Visit our website at <http://www.snwa.com> for Southern Nevada Water Authority agenda postings, copies of supporting material and approved minutes. To receive meeting information, including supporting material, contact Mitch Bishop at (702) 249-3206 or agendas@snwa.com.

CALL TO ORDER

COMMENTS BY THE GENERAL PUBLIC

NO ACTION MAY BE TAKEN: This is a period devoted to comments by the general public pertaining to items on this agenda. If you wish to speak to the Board about items within its jurisdiction, but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Please limit your comments to three minutes or less and refrain from making comments that are repetitious, offensive, or amounting to personal attacks. No action may be taken upon a matter not listed on the posted agenda. Public comment can also be provided in advance of the meeting and submitted to publiccomment@snwa.com. Public comment received through July 20, 2020, will be included in the meeting's minutes.

ITEM NO.

1. *For Possible Action:* Approve agenda with the inclusion of tabled and/or reconsidered items, emergency items and/or deletion of items, and approve the minutes from the regular meeting of May 21, 2020.
2. *For Possible Action:* Appoint a chairman and vice chairman to preside over the Board of Directors for Fiscal Year 2020/21.
3. *For Possible Action:* Appoint three directors to serve as commissioners of the Colorado River Commission for two-year terms.

BUSINESS AGENDA

4. *For Possible Action:* Approve and authorize the General Manager to sign a Subgrant Agreement between the Nevada Division of Environmental Protection and the Authority to receive grant funding in the amount of \$39,950 for regional water quality activities and related public outreach initiatives with the Authority providing up to \$55,273 of non-federal match funds.

SOUTHERN NEVADA WATER AUTHORITY – AGENDA – JULY 16, 2020 – PAGE TWO

5. *For Possible Action:* Approve and authorize the General Manager to sign a water lease agreement between Richard and Leslie Sears and the Authority for the lease of 20 acre-feet annually of Authority groundwater for use on the Sears Ranch in White Pine County for an initial rental rate of \$115 per acre foot, with a 3 percent annual rental rate increase, and approve and authorize the General Manager or his designee to sign any necessary change applications and administrative documents.
6. *For Possible Action:* Award a bid for switchgear to Codale Electric Supply, Inc., for an amount not to exceed \$2,466,334, authorize contract renewals for up to four additional one-year terms with annual increases of up to 3 percent over the previous year for product costs and up to 10 percent for additional product requirements, and authorize the General Manager or his designee to sign the purchase agreement.
7. *For Possible Action:* Award a contract for the road rehabilitation of Lakeshore Road between Highway 93 and Saddle Cove Road, within the Lake Mead National Recreation Area, to Aggregate Industries – SWR, Inc., for the amount of \$2,117,800, authorize a change order contingency amount not to exceed \$500,000, and authorize the General Manager to sign the construction agreement.
8. *For Possible Action:* Ratify the Authority's filing of, and participation in, a petition for judicial review of State Engineer Order 1309 to challenge certain findings relating to the Muddy River Decree.
9. *For Possible Action:* Approve and authorize the General Manager to execute an Agreement for Reimbursement of Professional Services between the Authority and the Muddy Valley Irrigation Company through which the Authority would reimburse Muddy Valley Irrigation Company up to \$200,000 per fiscal year for attorney's fees and costs incurred in litigation that will further the Authority's interests in Muddy River water rights.
10. *For Information Only:* Receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, conservation programs and activities, activities on the Colorado River, and water resource acquisition and development.

COMMENTS BY THE GENERAL PUBLIC

NO ACTION MAY BE TAKEN: At this time, the Board of Directors will hear general comments from the public on matters under the jurisdiction of the Southern Nevada Water Authority. Please limit your comments to three minutes or less and refrain from making comments that are repetitious, offensive, or amounting to personal attacks. No action may be taken upon a matter not listed on the posted agenda.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 16, 2020

Subject: Reimbursement Agreement
Petitioner: Gregory J. Walch, General Counsel
Recommendations: That the Board of Directors approve and authorize the General Manager to execute an Agreement for Reimbursement of Professional Services between the Authority and the Muddy Valley Irrigation Company through which the Authority would reimburse Muddy Valley Irrigation Company up to \$200,000 per fiscal year for attorney’s fees and costs incurred in litigation that will further the Authority’s interests in Muddy River water rights.

Fiscal Impact:

Funds requested for current year expenditures are available in the Authority’s Operating Budget. Funds for future years will be budgeted accordingly.

Background:

Through shares in the Muddy Valley Irrigation Company (“MVIC”), the Authority controls nearly 10,000 acre-feet annually of senior decreed Muddy River water rights. Pursuant to the 1920 Muddy River Decree (“Decree”), the Muddy River is fully appropriated. For decades, the Authority and MVIC have cultivated a productive and cooperative relationship in managing and protecting their respective rights and obligations concerning this vital natural resource.

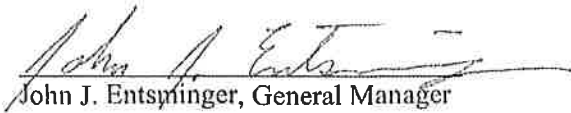
The Muddy River’s headwaters are located within an area that has been designated the Lower White River Flow System (“LWRFS”). In 2018, the Nevada State Engineer identified several areas of concern in the LWRFS, including the impact groundwater pumping has on the Muddy River’s flows. In 2019, the State Engineer held a hearing on these matters. The Authority and MVIC argued that groundwater pumping in the LWRFS reduced the flow of water in the fully appropriated Muddy River. Groundwater pumping, therefore, conflicted with the Muddy River’s senior decreed rights. The State Engineer issued Order #1309 on June 15, 2020, which is generally consistent with the Authority’s position on long-term sustainability in the LWRFS. Order #1309, however, goes beyond the scope of the hearing’s issues by making discrete findings on the Decree that are contrary to law and harmful to the interests of the Authority and MVIC.

To protect its Muddy River water rights, the Authority filed a petition for judicial review on June 17, 2020. MVIC intends to file a similar appeal. With a history of cooperation and aligned interests, the Authority and MVIC prepared a Joint Prosecution and Defense Agreement. This will enhance the parties’ efforts by facilitating the exchange of information and other communications while protecting such communications from disclosure through the attorney-client privilege and other safeguards. In addition, due to MVIC’s financial constraints that would otherwise prevent it from actively litigating this matter of common interest, the parties would negotiate an Agreement for Reimbursement of Professional Services (“Agreement”). If approved, the Agreement would allow MVIC to retain qualified counsel who is familiar with the complex nature of the issues and the common interests of MVIC and the Authority by authorizing the Authority to reimburse MVIC up to \$200,000 per year for attorney’s fees and costs.

Reimbursement Agreement
July 16, 2020
Page Two

This action is authorized pursuant to Sections 6(j) and 6(n) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this item.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "John J. Entspringer", is written over a horizontal line.

John J. Entspringer, General Manager

JJE:GJW:SCA:td

Attachment

AGREEMENT FOR REIMBURSEMENT OF PROFESSIONAL SERVICES

This Agreement for Reimbursement of Professional Services (“Agreement”) is made and entered into this ____ day of July, 2020, by and among the Southern Nevada Water Authority (“SNWA”), and the Muddy Valley Irrigation Company (“MVIC”) (together as “Parties” or individually as “Party”). This Agreement is effective upon execution by all Parties.

WHEREAS, the Muddy River Decree entered in the case of *Muddy Valley Irrigation Company et al. v. Moapa and Salt Lake Produce Company et al., In the Matter of the Determination of the Relative Rights In and To the Waters of the Muddy River and its Tributaries in Clark County, State of Nevada*, dated March 12, 1920 (“Muddy River Decree”), adjudicated the entire flow of the Muddy River including its tributaries, springs, headwaters, and other sources of supply. The Muddy River Decree specifies the entitlement to the waters of the Muddy River to several individuals and companies who were using water from the river prior to 1905 and maintained continuous use through the date of the Muddy River Decree. One of those companies is the MVIC who had certificated water rights in the Upper Muddy River but is, by the Muddy River Decree, entitled to the entire flow of the Muddy River except the flows granted to the other parties to the Muddy River Decree;

WHEREAS, SNWA controls a significant interest in MVIC shares through ownership and lease agreements which for 2018 equated to approximately 10,000 acre-feet annually of Muddy River Decree surface water;

WHEREAS, the Parties desire to work together to protect and defend their common interests in the preservation of senior surface water rights in the Muddy River that were adjudicated and determined in the Muddy River Decree, and which are related to the Lower White River Flow System (“LWRFS”). The Parties agree that it is critical to defend the water rights allocated to MVIC in the Muddy River Decree (historically between 30,600 – 33,900 acre-feet annually), and that Muddy River flows are protected from the impacts of groundwater pumping in the appeal of the Nevada State Engineer’s Order 1309, attached to this Agreement as Exhibit 1;

WHEREAS, the Parties to this Agreement have a common interest in taking necessary steps to ensure their interests are protected in the matter before the Eighth Judicial District Court, Case Number A-20-816761-C, entitled *Las Vegas Valley Water District, and Southern Nevada Water Authority v. Tim Wilson, P.E.*, et al and related proceedings. The matter may be consolidated into ongoing litigation related to the LWRFS;

WHEREAS, the Parties find it mutually beneficial to enter into this Agreement as a best practice for protecting their common interest in protecting the Muddy River Decree surface water rights related to the LWRFS;

WHEREAS, MVIC has determined it would be best represented by retaining legal representation to address the complexity and quantity of litigation and litigation-related work to be performed relating to the appeal of Order 1309;

WHEREAS, the MVIC has determined that representation would be best provided by Robert A. Dotson, Nevada Bar Number 5285, Dotson Law, 5355 Reno Corporate Drive, Suite 100, Reno NV 89511 (“Counsel”);

WHEREAS, Counsel is properly qualified and desires to provide the professional legal services required by MVIC;

WHEREAS, MVIC, in reliance on Counsel’s representations and proposals, agrees to retain Counsel, and Counsel agrees to furnish professional legal services to MVIC, on the limited terms and conditions hereinafter set forth; and

WHEREAS, the Parties believe that the Parties’ common interests are best served by SNWA reimbursing MVIC for costs and fees, as further described herein, associated with Counsel’s legal work related to the litigation resulting from Order 1309;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

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I. PURPOSE

The purpose of this Agreement is for SNWA to provide reimbursement to MVIC for legal costs and fees incurred by Counsel for legal services performed in relation to litigation arising from Nevada State Engineer's Order 1309. This Agreement is made in accordance with the Common Interest Agreement for Joint Prosecution and Defense, attached hereto as Exhibit 2.

II. SCOPE OF SERVICES

A. Counsel shall assist MVIC in completing all legal representation relating to the Order 1309 litigation as a result of the parties' joint efforts to protect the common interests, including negotiations, preparations, District and Supreme Court appeals, administrative hearings and filings, and other necessary associated legal representation, hereinafter referred to as "Work."

B. All Work performed shall be subject to MVIC's direction respecting priorities, legal arguments, and procedures. Counsel will furnish legal services in the amount necessary to complete promptly and effectively the Work assigned under this Agreement. All Work shall be performed by Counsel or Counsel's law office.

C. In performing Work under this Agreement, Counsel shall observe and abide by the terms and conditions of all applicable laws, regulations, ordinances, or rules of the United States, of the State of Nevada, of any political subdivision thereof, and of any other duly constituted public authority or agency.

D. Counsel has, or will secure at its own expense, the qualified personnel required to perform the Work assigned under this Agreement. Such personnel shall not be employed by the United States, the State of Nevada, or any other political subdivision of the State of Nevada.

III. COMPENSATION

SNWA shall compensate MVIC in the following amounts to reimburse MVIC for costs and fees incurred by Counsel:

A. Counsel shall provide itemized monthly invoices for Work performed during the previous month to MVIC. Invoices are to be submitted by MVIC to SNWA and must reference the name and date of the Agreement and the name of a contact person.

B. The Principal-level personnel with Counsel will bill at a rate of Three Hundred Fifty Dollars (\$350.00) per hour for Robert Dotson's time, Associate time ranging between Two Hundred Fifty Dollars (\$250.00) to Three Hundred Dollars (\$300.00) per hour, and rates ranging between Ninety Dollars (\$90.00) and One Hundred Fifty-Five Dollars (\$155.00) per hour for Paralegal and Law Clerk time for Work.

C. Reimbursement under this Agreement shall not exceed TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) per calendar year for all costs and fees incurred under this Agreement.

D. SNWA will pay MVIC's actual costs and expenses incurred by Counsel in performing the Work as defined under this Agreement.

E. Counsel understands that Counsel shall receive its compensation from MVIC when SNWA pays in full MVIC's invoice. Once MVIC has received payment from SNWA, MVIC will remit payment to Counsel.

IV. INDEPENDENT CONSULTANT

The relationship of Counsel to MVIC hereunder shall be that of an independent contractor and not an employee. Counsel shall provide the necessary equipment to perform the services specified herein and, subject to the deadlines identified by MVIC, shall be solely responsible for scheduling and completing the required Work. Counsel shall be available to advise MVIC and MVIC's other legal representative(s) at such reasonable and convenient times and places as may be mutually agreed upon. Counsel shall have reasonable control over its employees and the method of performing its Work under this Agreement. No permitted or required approval by MVIC of personnel, costs, documents, or services of Counsel shall be construed as making MVIC responsible for the manner in which Counsel performs its Work or for any acts, errors, or omissions of Counsel. Such approvals are intended only to give MVIC the right to satisfy itself with the quality of work performed by Counsel.

V. **JOINT VENTURE**

Nothing herein shall be construed to imply a joint venture or principal and agent relationship between SNWA, MVIC, and Counsel, and no Party shall have any right, power, or authority to create any obligation, express or implied, on behalf of the other.

VI. **INTERPRETATION**

The Parties agree that neither Party shall be deemed the drafter of this Agreement and, in the event this Agreement is ever construed by a court of law or equity, such court shall not construe this Agreement or any provision hereof against either Party as drafter of this Agreement.

VII. **CONFLICT**

During the course of performance of this Agreement, Counsel will not contract with any client whose interest is directly adverse to or would require Counsel to take a position contrary to that of MVIC.

VIII. **PROHIBITION AGAINST COMMISSION FOR OBTAINING AGREEMENT**

Counsel warrants that no person or company has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees; nor has Counsel paid or agreed to pay any person, company, corporation, individual, or firm other than a partner or bona fide employee, any fee, commission, contribution, donation, percentage, gift, or any other consideration, contingent upon or resulting from award of this Agreement. For any breach or violation of this warranty, MVIC shall have the right to terminate this Agreement without liability or, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration and any other damages.

IX. **COMPLETENESS AND ACCURACY OF CONSULTANT'S WORK**

A. Counsel shall be responsible for the completeness and accuracy of its work product, research, supporting data, and any final work products or other deliverables prepared or compiled

under its obligation under this Agreement and shall correct all errors or omissions therein which may be disclosed by the date for report submittals.

B. The cost necessary to correct those errors attributable to Counsel and any damage incurred by MVIC as a result of additional costs caused by such errors shall be chargeable to Counsel. The fact that MVIC has accepted or approved Counsel's Work shall in no way relieve Counsel of any of its responsibilities.

X. TERMINATION

Either party may terminate this Agreement on fifteen (15) days prior written notice. In the case of termination by MVIC, MVIC shall pay Counsel for all Work performed to the effective date of termination and the reasonable costs of transferring all documentation of all Work to MVIC.

XI. REVIEWS

A. Counsel shall submit drafts of Work for review by MVIC after completion of the Work performed.

B. Counsel may be asked to attend periodic status meetings to update MVIC and other common interest Parties of the status of Work.

XII. CONFIDENTIAL INFORMATION AND RELEASE OF INFORMATION

Some of the information provided to Counsel by MVIC is Confidential Information and shall not be disclosed by Counsel to any third-party absent specific written permission of MVIC, in accordance with the Common Interest Agreement for Joint Prosecution and Defense, attached hereto as Exhibit 2, and then only in conformance with the terms of this Agreement. The Confidential Information that will not be disclosed includes, without limitation: any non-public information regarding MVIC, SNWA, regardless of whether such information is designated as "Confidential Information" at the time of its disclosure. Counsel shall make public information releases only as provided for and in accordance with this Agreement. Any and all other public releases of information gathered, obtained, or produced during the performance of this Agreement

must be specifically approved in writing by MVIC prior to release. Such information shall include, but is not limited to, all products, ideas, data, reports, background materials, and any and all other materials belonging to MVIC. Such public releases of information shall include, but are not limited to, publication in any book, newspaper, magazine, professional or academic journal, the Internet, radio, television, and presentations to professional, academic, and/or other groups or conferences.

XIII. USE OF MATERIALS

A. The Parties agree that intellectual property, copyright, trademark, technical or trade secret information, or materials created by Counsel at the request of MVIC shall be the property of MVIC, free and clear of all claims thereto by Counsel, and Counsel shall retain no claim of ownership or authorship thereof.

B. All documents, computer files, reports, background materials, or other work products created for or by Counsel under this Agreement shall be the sole property of MVIC. All copyrights thereto except those developed outside the Services performed by Counsel under this Agreement shall be or become the property of MVIC. MVIC shall make available to Counsel such materials from its files as may be required by Counsel in connection with its performance of Services under this Agreement. Such materials shall remain the property of MVIC while in Counsel's possession.

C. Upon termination of this Agreement, Counsel shall turn over to MVIC any property of MVIC in its possession and any calculations, notes, reports, or other materials prepared by Counsel in the course of performing this Agreement. Any proprietary software or other tools of Counsel used to execute the Work shall remain the property of Counsel.

XIV. RECORDS

Counsel shall retain financial and other records related to this Agreement for no less than three (3) years, and shall make available to MVIC for inspection books, records, documents, and other evidence directly pertinent to performance under this Agreement upon reasonable notice.

XV. ASSIGNMENT

Counsel shall not assign or transfer its interest in this Agreement without the prior written consent of MVIC and SNWA.

XVI. MODIFICATION OF AGREEMENT

This Agreement may not be changed or modified except by written instrument executed by both Parties.

XVII. SEVERABILITY

Any provisions or portions of this Agreement prohibited as unlawful or unenforceable under any application of law of any jurisdiction shall as to such jurisdiction be ineffective without affecting other provisions of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding Agreement enforceable in accordance with its terms.

XVIII. APPLICABLE LAW

The Parties hereby agree that the laws of the State of Nevada shall govern the interpretation and enforcement of the Agreement and the venue for any claims arising hereunder shall be the First Judicial District Court of the State of Nevada in and for Carson City.

XIX. NO THIRD-PARTY RIGHTS

This Agreement is not intended by the Parties to create any right in or benefit to parties other than Parties and Counsel. This Agreement does not create any third-party beneficiary rights or causes of action.

XX. WAIVER

The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.

XXI. CAPTIONS

The captions contained in this Agreement are for reference only and in no way to be

When notice shall be given by mail, it shall be deemed served three (3) business days following deposit, postage prepaid, in the United States mail or, if such notice is given by electronic mail transmission, as provided herein, it shall be deemed served immediately upon receipt of transmission if transmitted during normal business hours or, if not transmitted during normal business hours, on the next business day following electronic mail transmission to the following email addresses:

To Counsel	rdotson@dotsonlaw.legal
To SNWA	Sc.Anderson@lvvwd.com Colby.Pellegrino@SNWA.com tammy@legaltnt.com tim@legaltnt.com paul@legaltnt.com
To MVIC	kingmont@charter.net muddyvalley@mvdsl.com trobinsont@mvdsl.com

The Parties may change the place of notice by notifying the other Party set forth herein.

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IN WITNESS WHEREOF, the Parties execute this Agreement as of the day and year first written above.

SOUTHERN NEVADA WATER
AUTHORITY

By: _____
Title: _____

MUDDY VALLEY
IRRIGATION COMPANY

By: _____
Title: _____

DOTSON LAW

By: _____
Title: _____

EXHIBIT 2

ALLISON MacKENZIE, LTD.
402 North Division Street, P.O. Box 646, Carson City, NV 89702
Telephone: (775) 687-0202 Fax: (775) 882-7918
E-Mail Address: law@allisonmackenzie.com

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Case No. CV-0702520

Dept. No. 2

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LINCOLN

LINCOLN COUNTY WATER DISTRICT,
a political subdivision of the State of Nevada,
and VIDLER WATER COMPANY, INC.,
a Nevada corporation,

Petitioners,

vs.

TIM WILSON, P.E., NEVADA STATE ENGINEER,
DIVISION OF WATER RESOURCES,
DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES,

Respondent.

ORDER DENYING
MOTION TO INTERVENE

THIS MATTER COMES before the Court on the Motion to Intervene dated August 20, 2020 filed by MUDDY VALLEY IRRIGATION COMPANY. The Court, having read the papers and pleadings on file herein, and good cause appearing therefor, finds and orders as follows:

IT IS HEREBY ORDERED THAT MUDDY VALLEY IRRIGATION COMPANY's Motion to Intervene is DENIED in its entirety.

IT IS SO ORDERED.

DATED this _____ day of _____, 2020.

DISTRICT COURT JUDGE


ALLISON MacKENZIE, LTD.
402 North Division Street, P.O. Box 646, Carson City, NV 89702
Telephone: (775) 687-0202 Fax: (775) 882-7918
E-Mail Address: law@allisonmackenzie.com

1 Respectfully submitted by:
2 KAREN A. PETERSON, ESQ.
3 Nevada State Bar No. 366
4 ALLISON MacKENZIE, LTD.
5 402 North Division Street
6 Carson City, Nevada 89703
7 Telephone: (775) 687-0202
8 Email: kpeterson@allisonmackenzie.com

9 ~ and ~

10 LINCOLN COUNTY DISTRICT ATTORNEY
11 181 North Main Street, Suite 205
12 P.O. Box 60
13 Pioche, Nevada 89043
14 Telephone: (775) 962-8073
15 Email: dfrehner@lincolncountynv.gov

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11 By: 
12 DYLAN V. FREHNER, ESQ.
13 Nevada State Bar No. 9020
14
15 Attorneys for Petitioners, LINCOLN
16 COUNTY WATER DISTRICT and VIDLER
17 WATER COMPANY, INC.