

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,

Appellant,

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.

SOUTHERN NEVADA WATER
AUTHORITY,

Appellant,

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

No. 84739

FILED

OCT 03 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

No. 84741

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.

CENTER FOR BIOLOGICAL DIVERSITY,

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.

MUDDY VALLEY IRRIGATION

No. 84742

No. 84809

COMPANY,

Appellant,

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.

ORDER GRANTING STAY

These are four consolidated appeals challenging April 19 and May 13, 2022, district court orders resolving petitions for judicial review of State Engineer Order 1309, which designated the Lower White River Flow System (LWRFS) and determined the amount of water that could be sustainably withdrawn therefrom.

Appellants Southern Nevada Water Authority (SNWA) and the Center for Biological Diversity (CBD) filed motions for stay, to which appellant the State Engineer filed a partial joinder, and on August 29, 2022, we temporarily stayed the district court's order vacating Order 1309,

pending our receipt and consideration of further briefing on the State Engineer's joinder to the stay motions. The State Engineer timely filed a supplement to his joinder, and respondents timely filed a response to the supplement.¹

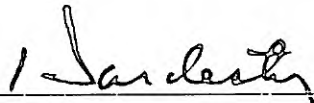
When considering a motion for a stay, we consider the following factors: whether (1) the object of the appeal will be defeated absent a stay, (2) appellants will suffer irreparable or serious harm without a stay, (3) respondents will suffer irreparable or serious harm if a stay is granted, and (4) appellants are likely to prevail on the merits of the appeal. NRAP 8(c); see also *Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 659, 6 P.3d 982, 987 (2000). Additionally, we may consider the public interest in granting or denying a stay. *Clark Cty. Office of Coroner/Med. Exam'r v. Las Vegas Review-Journal*, 134 Nev. 174, 179 n.1, 415 P.3d 16, 20 n.1 (2018) (Cherry, J., concurring and dissenting) (citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987) (providing that courts will consider, as one factor, "where the public interest lies" when deciding a stay motion)). Ultimately, a stay may be issued to preserve the "status quo ante" while the matter is being considered on appeal. See *Nalder v. Eighth Judicial Dist. Court*, 136 Nev. 200, 208-09, 462 P.3d 677, 686 (2020) (quoting *209 Westside Charter Serv., Inc. v. Gray Line Tours of S. Nev.*, 99 Nev. 456, 460, 664 P.2d 351 (1983)).

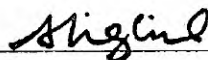
Having considered the parties' arguments and competing interests under the above factors, as well as the public interest, we conclude that maintaining the stay would best preserve the status quo for the

¹SNWA's motion for leave to file a surreply to respondents' response is denied. The clerk of this court shall strike Exhibit 1 to SNWA's motion for leave to file a surreply, which Exhibit was separately filed in this court on September 27, 2022.

collective basins until this court can determine the issues before it. Therefore, we grant the motions for stay pending appeal and uphold the stay imposed by our August 29 order pending further order of this court.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Stiglich


_____, J.
Herndon

cc: Hon. Bitá Yeager, District Judge
Attorney General/Carson City
Brownstein Hyatt Farber Schreck, LLP/Las Vegas
Wingfield Nevada Group
Attorney General/Las Vegas
Robison, Sharp, Sullivan & Brust
Taggart & Taggart, Ltd.
Steven C. Anderson
Coulthard Law PLLC
Schroeder Law Offices, P.C.
Marquis Aurbach Coffing
Lincoln County District Attorney
Dyer Lawrence, LLP
Parsons Behle & Latimer/Reno
McDonald Carano LLP/Reno
Justina Alyce Caviglia
Allison MacKenzie, Ltd.
Michael D. Knox
Kaempfer Crowell/Reno
Great Basin Law
Eighth District Court Clerk