

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADAM SULLIVAN, P.E., NEVADA
STATE ENGINEER, et al.,

Appellants,

vs.

LINCOLN VALLEY WATER
DISTRICT et al.,

Respondents.

Supreme Court No. 84739

**Consolidated with Nos. 84742,
84741, and 84809** Electronically Filed
Oct 24 2022 01:26 PM
Elizabeth A. Brown
Clerk of Supreme Court

**THE CENTER FOR BIOLOGICAL DIVERSITY’S PARTIAL JOINDER
TO THE SOUTHERN NEVADA WATER AUTHORITY’S LIMITED
OBJECTION TO THE COURT’S OCTOBER 14, 2022, ORDER SETTING
BRIEFING SCHEDULE**

Appellant, the Center for Biological Diversity (the “Center”), by and through counsel, hereby partially joins the Southern Nevada Water Authority’s (“SNWA”) Limited Objection to the Court’s October 14, 2022 Order Setting Briefing Schedule.

The Court’s October 14 Scheduling Order requests joint briefing from Appellants on a subset of issues in these consolidated appeals, namely (1) issues of the State Engineer’s statutory authority (referred to as the “basin” issues), and (2) the various due process issues raised at the District Court. The Center is concerned that Appellants may hold differing positions on one or more of the due process issues and as a result, the requirement for joint briefing may, without further clarification, require parties, including the Center, to take inconsistent positions on particular issues or waive particular claims on appeal.

Like SNWA, the Center largely supports Order 1309, but filed its own petition for judicial review of Order 1309 on a discrete issue. The District Court dismissed the Center's petition for review in its May 13, 2022 Order. The Center's objections to Order 1309 are outside the scope of the briefing requested by the Court in its October 14, 2022 Scheduling Order, and the Center takes no position on the due process issues raised by SNWA. Nevertheless, by requiring the Center to file its opening and reply briefs jointly with all other Appellants, the Court's October 14 Scheduling Order may place the Center in a difficult position in two ways.

First, if the State Engineer desires to take a contrary position on SNWA's due process claims in the opening or reply brief, the Center's joinder of those briefs may be construed as taking a position that the Center does not in fact hold. Second, the State Engineer or another appellant may desire to include language prejudicial to the Center's claims against Order 1309 in the joint opening or reply brief. In either case the Center will be unable to fully and effectively represent and advocate for its interests, and in the latter case the Center may be forced to waive or compromise arguments that, while not relevant to this stage of the proceedings, could be determinative should the Court choose to hear the remainder of the issues in the case.

The Center therefore partially joins SNWA's Limited Objection insofar as SNWA recognizes the potential for inconsistent positions among Appellants. The Center also joins SNWA in requesting the Court clarify that parties who file joint briefs may identify portions of the briefs they do not agree with, and that the joint filings will not be construed as a waiver of any contrary arguments.

Affirmation: The undersigned do hereby affirm that the preceding document and/or attachments do not contain the social security number of any person.

Dated this 24th day of October, 2022.

/s/Scott Lake

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CERTIFICATE OF SERVICE

I certify that I am an employee of the Center for Biological Diversity, and that on this 24th day of October, 2022 I served a true and correct copy of the foregoing by electronic service to the participants in this case who are registered with the Nevada Supreme Court's efilings system to this matter.

/s/ Scott Lake
Scott Lake