

IN THE SUPREME COURT OF THE STATE OF NEVADA

EUREKA COUNTY, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA; KENNETH F. BENSON,
INDIVIDUALLY; DIAMOND CATTLE
COMPANY, LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND MICHEL
AND MARGARET ANN ETCHEVERRY
FAMILY, LP, A NEVADA
REGISTERED FOREIGN LIMITED
PARTNERSHIP,

Appellants,

vs.

THE STATE OF NEVADA STATE
ENGINEER; THE STATE OF NEVADA
DIVISION OF WATER RESOURCES;
AND KOBEH VALLEY RANCH, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

MICHEL AND MARGARET ANN
ETCHEVERRY FAMILY, LP, A
NEVADA REGISTERED FOREIGN
LIMITED PARTNERSHIP; DIAMOND
CATTLE COMPANY, LLC, A NEVADA
LIMITED LIABILITY COMPANY; AND
KENNETH F. BENSON, AN
INDIVIDUAL,

Appellants,

vs.

STATE ENGINEER, OF NEVADA,
OFFICE OF THE STATE ENGINEER,
DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES,; AND
KOBEH VALLEY RANCH, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

Case No. 61324
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Case No. 63258

**JOINDER OF WHITE
PINE COUNTY,
NEVADA, GREAT BASIN
WATER NETWORK,
CONFEDRATED TRIBES
OF THE GOSHUTE
RESERVATION, ELY
SHOSHONE TRIBE, AND
DUCKWATER
SHOSHONE TRIBE TO
CLEVELAND RANCH'S
MOTION TO REISSUE
ORDER AS A
PUBLISHED OPINION**

Pursuant to NRAP 26(c), 27(d), and 36(f), non-parties White Pine County, Nevada, Great Basin Water Network, Confederated Tribes of the Goshute Reservation, Ely Shoshone Tribe, and Duckwater Shoshone Tribe [collectively the “Joining SNWA Groundwater Development Project Protestants”] hereby join Cleveland Ranch’s September 28, 2015, Motion to Reissue Order as a Published Opinion, which requests the Court to reissue its September 18, 2015, unanimous unpublished Order of Reversal and Remand (the “Order”) in this matter (the “Eureka County Combined Proceedings”) as a published opinion. This Joinder to Cleveland Ranch’s motion is made based upon the pleadings and papers on file herein and the following Points and Authorities.

The Joining SNWA Groundwater Development Project Protestants agree with Cleveland Ranch that: (i) this matter presents issues of first impression, (ii) alters, modifies, or significantly clarifies a rule of law previously announced by the Court, (iii) involves issues of public importance that has applications beyond the parties, and (iv) the policies of NRAP 36(f)(4) (disfavoring publication if it will result in discussion of additional issues not included in the original unpublished order) are not implicated.

The Joining SNWA Groundwater Development Project Protestants satisfy NRAP 36(f)(3)’s requirement that a non-party must identify its interest

in obtaining publication. The Joining SNWA Groundwater Development Project Protestants are protestants to the Southern Nevada Water Authority's ("SNWA's") 1989 Groundwater Development Project applications, which have been the subject of two prior Nevada Supreme Court published opinions,¹ and which this Court has remanded for further proceedings by three recent unpublished orders,² and which still is partially under this Court's review following the September 2, 2015, argument of Cleveland Ranch's writ petition.³ The reliance on and standard relating to monitoring and mitigation is a critical and contested issue in the context of the Southern Nevada Water Authority's Groundwater Development Project water rights applications.

¹ *Great Basin Water Network v. Taylor*, 126 Nev. Adv. Op. 2, 222 P.3d 665 (2010), *superseded and withdrawn upon rehearing* by *Great Basin Water Network v. Taylor*, 126 Nev. Adv. Op. 20, 234 P.3d 912, 914, n. 1 (2010).

² (1) Case No. 64815, *State Engineer vs. Millard County, Utah*, the subject of this Court's unpublished February 6, 2015, Order Dismissing Appeal; (2) Case No. 65775, *Southern Nevada Water Authority vs. Seventh Judicial District Court, Respondent, Millard County, Utah, et al., Real Party in Interest*, the subject of this Court's unpublished May 21, 2015, Order Denying Petition for Writ of Mandamus or Prohibition; and (3) Case No. 65776, *Jason King, P.E., in his capacity as the Nevada State Engineer, et al., vs. Seventh Judicial District Court, Respondent, and Millard County, Utah, et al., Real Party in Interest*, the subject of this Court's May 21, 2015, Order Denying Petition for Writ of Mandamus.

³ Case No. 65424, *Corporation of the Presiding Bishop of the Church of Latter-Day Saints vs. The Seventh Judicial District Court, Respondent, Jason King, P.E. (State Engineer), Real Party in Interest*, in which oral argument was held September 2, 2015.

Additionally, publication of the Order at issue here will provide needed clarification of the standards applicable to the State Engineer's approval of all water applications in Nevada.

Conclusion

For the reasons stated above, and for the reasons articulated in the Motion to Reissue Order as a Published Opinion filed by Cleveland Ranch, the Joining SNWA Groundwater Development Project Protestants believe that reissuance of the Order as a published opinion of the Court is necessary and proper.

Dated this 2nd day of October, 2015.

/s/ Simeon Herskovits

Simeon Herskovits, Nevada Bar No. 11155

ADVOCATES FOR COMMUNITY

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*Resident Counsel for Joining SNWA Groundwater
Development Project Protestants*

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(d), I hereby certify that on the 2nd day of October, 2015, I caused a copy of the foregoing **JOINDER OF WHITE PINE COUNTY, NEVADA, GREAT BASIN WATER NETWORK, CONFEDRATED TRIBES OF THE GOSHUTE RESERVATION, ELY SHOSHONE TRIBE, AND DUCKWATER SHOSHONE TRIBE TO CLEVELAND RANCH’S MOTION TO REISSUE ORDER AS A PUBLISHED OPINION** to be served on the following parties as stated below:

VIA THE COURT’S EFLEX ELECTRONIC FILING SYSTEM:

Frances Wikstrom	Jeffrey Barr	Gregory Walch
Jessica Prunty	Debbie Leonard	Phillip R. Byrnes
Cassandra Joseph	Josh Reid	Jennifer Mahe
Dana Walch	Theodore Beutel	Dawn Ellerbrock
Gary Kvistad	Karen Peterson	Neil Rombardo
Bradford Jerbic	John Zimmerman	Ross de Lipkau
Daniel Polsenberg	Francis Flaherty	Laura Schroeder
Bradley Herrema	Paul Taggart	Therese A. Ure
Michael Pagni	Michael Rowe	

VIA U.S. MAIL, POSTAGE PREPAID, ADDRESSED TO:

William E. Nork, Settlement Judge
825 W. 12th Street
Reno, NV 89503

Dated this 2nd day of October, 2015.

/s/ Simeon Herskovits
Simeon Herskovits