

SEVENTH JUDICIAL DISTRICT COURT
 GARY D. FAIRMAN
 DISTRICT JUDGE
 DEPARTMENT 2
 WHITE PINE, LINCOLN AND EUREKA COUNTIES
 STATE OF NEVADA



reducing the amount of water a senior right holder is entitled to put to beneficial use under its permit/certificate.

The State Engineer and intervenors contend that once a GMP is approved, the State Engineer is not required to order curtailment by priority. This is true, provided a viable GMP without curtailment can be implemented in a CMA basin. However, there is no language in either NRS 534.110(7) or NRS 534.037 that prohibits or restricts some measure of curtailment by priority as part of a GMP. Likewise, should a GMP prove ineffective, there is no statutory language prohibiting curtailment during the term of the GMP or even during the 10 year period from when a basin is designated a CMA if such action is necessary to prevent continuing harm to an aquifer in crisis as exists in Diamond Valley. Sadler Ranch, the Renners, and the Baileys offered a number of possible plan alternatives that would not violate the prior appropriation doctrine, including, but not limited to, junior pumping reduction, a rotating water use schedule, cancellation of permits if calls for proof of beneficial use demonstrate non-use, restriction of new well pumping, establish a water market for the trade of water shares, a funded water rights purchase program, implementation of best farming practices, upgrade to more efficient sprinklers, and a shorter irrigation system.¹⁴⁸ Many of these alternatives were also considered by the Diamond Valley water users in developing the DVGMP and are recommendations, but not requirements of the DVGMP.¹⁴⁹

"When a statute is susceptible to more than one reasonable, but inconsistent interpretation, the statute is ambiguous," requiring the court "to look to statutory interpretation in order to discern the intent of the Legislature."¹⁵⁰ The court must "look to legislative history for guidance."¹⁵¹ Such interpretation must be "in light of the policy and

¹⁴⁸Sadler Ranch reply brief 7-9; Bailey opening brief 17-18; SEROA 252-254.

¹⁴⁹SEROA 244-245.

¹⁵⁰*Orpheas Trust*, 174, 175.

¹⁵¹*Id.* 175.

spirit of the law, and the interpretation shall avoid absurd results."¹⁵² "The court will resolve
any doubt as to the Legislature's intent in favor of what is reasonable."¹⁵³

Assuming arguendo that NRS 534.037 and NRS 534.110(7) are ambiguous, the

