

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 81224

DIAMOND NATURAL RESOURCES PROTECTION & CONSERVATION ASSOCIATION; J&T FARMS, LLC; GALLAGHER FARMS LLC; JEFF LOMMORI; M&C HAY; CONLEY LAND & LIVESTOCK, LLC; JAMES ETCHEVERRY; NICK ETCHEVERRY; TIM HALPIN; SANDI HALPIN; DIAMOND VALLEY HAY COMPANY, INC.; MARK MOYLE FARMS LLC; D.F. & E.M. PALMORE FAMILY TRUST; WILLIAM H. NORTON; PATRICIA NORTON; SESTANOVICH HAY & CATTLE, LLC; JERRY ANDERSON; BILL BAUMAN; AND DARLA BAUMAN,

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Elizabeth A. Brown
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Appellants/Cross-Respondents,

v.

TIM WILSON, P.E., NEVADA STATE ENGINEER, DIVISION OF WATER RESOURCES, DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES; EUREKA COUNTY; DIAMOND VALLEY RANCH, LLC; AMERICAN FIRST FEDERAL, INC.; BERG PROPERTIES CALIFORNIA, LLC; BLANCO RANCH, LLC; BETH MILLS, TRUSTEE MARSHALL FAMILY TRUST; TIMOTHY LEE BAILEY; CONSTANCE MARIE BAILEY; FRED BAILEY; CAROLYN BAILEY; SADLER RANCH, LLC; IRA R. RENNER; AND MONTIRA RENNER,

Respondents/Cross-Appellants.

Appeal From Order Granting Petitions for Judicial Review
Seventh Judicial District Court of Nevada Case No. CV-1902-348

**APPELLANTS' EMERGENCY MOTION UNDER NRAP 27(e)
FOR STAY PENDING APPEAL
(Relief Requested by July 10, 2020)**

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NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Diamond Natural Resources Protection and Conservation Association
J&T Farms, LLC
Gallagher Farms, LLC
Conley Land & Livestock, LLC
Diamond Valley Hay Co., Inc.
Mark Moyle Farms, LLC
Sestanovich Hay & Cattle, LLC

None of the entities have a parent corporation, nor is there a publicly held company that owns 10% or more of their stock.

The following law firms have lawyers who appeared on behalf of the Appellants or are expected to appear on their behalf in this Court:

Leonard Law, PC
McDonald Carano LLP

Date: July 6, 2020

/s/ Debbie Leonard

Debbie Leonard (Nevada Bar No. 8260)

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I. INTRODUCTION

Pursuant to NRAP 27(e), Appellants Diamond Natural Resources Protection & Conservation Association; J&T Farms, LLC; Gallagher Farms LLC; Jeff Lommori; M&C Hay; Conley Land & Livestock, LLC; James Etcheverry; Nick Etcheverry; Tim Halpin; Sandi Halpin; Diamond Valley Hay Company, Inc.; Mark Moyle Farms LLC; D.F. & E.M. Palmore Family Trust; William H. Norton; Patricia Norton; Sestanovich Hay & Cattle, LLC; Jerry Anderson; Bill Bauman; and Darla Bauman move the Court for a stay to preserve the Diamond Valley Groundwater Management Plan (“GMP”) during this appeal. The GMP has been in effect since January 11, 2019, when it was approved by the State Engineer in Order 1302. Ex. 1 (ROA 2-19). It is the first plan developed pursuant to NRS 534.110(7) and NRS 534.037, which were enacted in 2011 to avoid the catastrophic effects that would result from curtailment by priority in overappropriated groundwater basins throughout the State.

On April 27, 2020, the district court issued Findings of Fact, Conclusions of Law, and Order Granting Petitions for Judicial Review (“Order”) filed by Respondents Ira R. & Montira Renner (“Renner”), Sadler Ranch, LLC (“Sadler”), Timothy Lee Bailey, Constance Maria Bailey, Fred Bailey and Carolyn Bailey (“the Baileys” and, collectively with Renner and Sadler, “the GMP Opponents”). Ex. 2. The Order invalidated the GMP. *Id.* The district court initially granted a stay

to keep the GMP in place temporarily but then declined to grant a stay for the duration of this appeal. Exs. 7 and 13.

Appellants move on an emergency basis because the district court's rejection of the GMP creates great uncertainty for Diamond Valley groundwater users. The 2020 irrigation season is already underway, with farmers and ranchers having made their farm plans based on the GMP's 2020 water allocations and implemented all measures required under the GMP. The GMP and associated orders imposed numerous requirements on water users regarding their water use, which are now in limbo. Accounting for tolling during the district court's temporary stay, the 30-day automatic stay of execution in NRCP 62(a), will expire July 10, 2020, after which the State Engineer will be unable to enforce the GMP.

There is also great uncertainty as to whether stakeholders must engage in yet another multi-year process to develop a new groundwater management plan when they believe the existing one complies with the law. Pursuant to NRS 534.110(7), to prevent mandatory curtailment, Diamond Valley groundwater users had 10 years from when the State Engineer designated the basin a Critical Management Area ("CMA") in 2015 to develop and obtain approval of a groundwater management plan. Because the district court invalidated the GMP, there is no plan in place while the 10-year clock in NRS 534.110(7) continues to tick.

The district court's reasoning would prohibit approval of *any* groundwater management plan that does not involve total curtailment of 60% of the water rights in Diamond Valley. That is the exact opposite result intended by the Legislature. Diamond Valley water users would not have made the significant investments in water-conserving equipment to meet the GMP's reduced water allocations if total curtailment of their rights were inevitable. They will be seriously harmed without the GMP's continued implementation.

On the other hand, there is no evidence that the GMP will harm the GMP Opponents. The Baileys are the only GMP Opponents who have "senior" permits that are subject to the GMP, and the Court can fashion a stay to exempt those permits from the GMP. Because Renner's and Sadler's permits would be entirely curtailed absent the GMP, the GMP helps, not hurts, them. The district court's conclusion that the GMP harms the GMP Opponents' vested rights is unsupported by any evidence and, if accepted, would render NRS 534.110(7) unconstitutional, a point never pressed by the GMP Opponents. Because the Order is fraught with legal errors and the equities favor a stay, Appellants ask the Court to grant this motion and keep the GMP in effect while it decides their appeal.

II. PROCEDURAL BACKGROUND

Appellants appealed the Order on May 14, 2020.¹ The same day, they filed a motion for stay in the district court, in which they presented the same arguments advanced here. Ex. 3. They also sought an order shortening time for briefing and decision on the stay motion. Ex. 4. The State Engineer and Eureka County joined in those motions. Ex. 5; Ex. 6.

On May 19, 2020, the district court denied the order shortening time but granted a temporary stay pending briefing and a decision on the motion to stay. Ex. 7. The GMP Opponents opposed the motion to stay. Ex. 8; Ex. 9. Appellants, the State Engineer and Eureka County filed replies. Ex. 10; Ex. 11; Ex. 12. On July 1, 2020, the district court served the parties with its order denying the motion for stay. Ex. 13. Pursuant to NRAP 8 and 27(e), Appellants now move the Court on an emergency basis to keep the GMP in place pending appeal.

III. STATUTORY AUTHORIZATION FOR THE GMP

Water rights owners structure their livelihoods around their water rights, with Nevada's rural economies depending upon limited water supplies. Previous State Engineers issued more permits than groundwater basins could sustain because, historically, not all appropriators were successful with their farming

¹ The State Engineer filed a notice of appeal on May 15, 2020, and Eureka County filed a notice of appeal on May 21, 2020. Appellants, the State Engineer and Eureka County filed a motion to modify the caption to identify them as Appellants.

efforts. Improved well technology and access to electricity made farming more successful, resulting in overappropriation of aquifers throughout the state.

Long ago, Nevada adopted the doctrine of prior appropriation, meaning “first in time, first in right.” Under the prior appropriation doctrine, in times of shortage, more “junior” water users cannot exercise their rights. In simplest terms, a groundwater basin is essentially a bathtub, in which a shortage exists when the permitted rights exceed the amount of water that can be sustainably withdrawn over the long term, known as the basin’s perennial yield. In Diamond Valley, the perennial yield is 30,000 acre-feet (af) annually, meaning the cut-off between “seniors” and “juniors” appropriators is May 12, 1960. Ex. 1 (ROA 3-4).

If enforced in an overappropriated groundwater basin, the prior appropriation doctrine could require that any water users whose rights are more junior than the date on which the perennial yield is exceeded be cut off completely. This is known as curtailment. In Diamond Valley, anyone with rights that were appropriated after May 12, 1960 could be curtailed completely if the prior appropriation doctrine were enforced. Ex. 1 (ROA 4, 499-501). Understandably, the State Engineer has been hesitant to enforce the priorities of groundwater rights and cut off more “junior” appropriators in Diamond Valley and elsewhere because it would result in devastating economic and social effects throughout Nevada.

Because of these draconian impacts, the Legislature has created certain exceptions to various aspects of the prior appropriation doctrine. It did so again in 2011 when, to protect Nevada's communities from the harsh repercussions of curtailment, the Legislature enacted AB 419, which is codified as NRS 534.037 and NRS 534.110(7). This legislation authorized the State Engineer to designate as a CMA any basin where water withdrawals consistently exceed groundwater recharge, which designation allows stakeholders to develop a groundwater management plan to avoid curtailment:

[I]f a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights, *unless a groundwater management plan has been approved for the basin pursuant to NRS 534.037.*

NRS 534.110(7) (emphasis added). NRS 534.037 sets forth the procedure and criteria for approval of a groundwater management plan. The Diamond Valley GMP is the first plan developed and approved under these statutes.

IV. ARGUMENT

A. Standard for a Stay of a Judgment Pending Appeal

NRAP 8(c) sets forth the following factors in considering a stay:

- (1) Whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied;
- (2) Whether appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied;

- (3) Whether respondent/real party in interest will suffer irreparable or serious injury if the stay or injunction is granted; and
- (4) Whether appellant/petitioner is likely to prevail on the merits in the appeal or writ petition.

When addressing these factors, the movant must “present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay.” *Hansen v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 659, 6 P.3d 982, 987 (2000).

While, generally, one factor does not carry more weight than others, the Court has recognized that, if one or two factors are especially strong, they may counterbalance other weak factors. *See Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004) (citing *Hansen*, 116 Nev. at 659, 6 P.3d at 987). In another case, where the Legislature created a right to engage in a certain procedure afforded by statute, the Court articulated that the first factor takes on added significance and generally warrants a stay pending resolution of the appeal. *Mikohn Gaming*, 120 Nev. at 251, 89 P.3d at 38 (addressing appeal from order compelling arbitration). The other stay factors remain relevant to the Court’s analysis, but “absent a strong showing that the appeal lacks merit or that irreparable harm will result if a stay is granted, a stay should issue to avoid defeating the object of the appeal.” *Id.* at 251–52, 89 P.3d at 38. The same rationale applies here, yet the district court failed to address the *Mikohn* case or adhere to this standard when considering the motion to stay.

B. NRAP 8(c) Warrants That the GMP Remain in Place Pending Appeal to Maintain the Status Quo That Has Existed Since January 2019

1. The Object of the Appeal Will be Defeated if the GMP Does Not Remain in Place While the Appeal is Pending

The absence of a stay could result in increased pumping pending appeal, completely defeating the purpose of NRS 534.110(7). Through benchmark reductions, the GMP was designed to achieve groundwater level stabilization and the sustainable health of the Eureka County economy, while maintaining the tax base and avoiding disruption to the community. Ex. 1 (ROA 5, 228, 592, 706). Between 2017 and 2019, pumping in Diamond Valley was reduced nearly 20,000 af from 76,000 af to 56,339 af. Declaration of Mark Moyle at ¶30, Ex. 3-2; Declaration of Dale Bugenig at ¶8, Ex. 3-3. This is a significant reduction in pumping and was achieved notwithstanding the absence of penalties for non-compliance in 2019, which was GMP Year 1. Ex. 1 (ROA 235). There can be no dispute that a 26% reduction in pumping greatly enhances aquifer health and that continued pumping reductions should be encouraged and enforced. Moyle Decl., Ex. 3-2 at ¶30; Bugenig Decl., Ex. 3-3 at ¶8.

Moreover, hydrographs from the most recent groundwater data indicate a positive influence on water levels in the basin as a result of a decrease in the total groundwater pumping. Bugenig Decl., Ex. 3-3 at ¶11 and exhibit thereto. With one exception outside the main agricultural area, the data show a decrease in the rate of

water level decline in some wells, a stabilization of water levels in other wells and a rise in water levels in the rest of the wells monitored. Bugenig Decl., Ex. 3-3 at ¶¶11-12. The only groundwater decline was in the vicinity of Sadler’s high-capacity well. Bugenig Decl., Ex. 3-3 at ¶¶11-12; Ex. 10-16.

Because Diamond Valley was designated a CMA in 2015, the State Engineer has no obligation to order curtailment by priority until 2025. *See* NRS 534.110(7). Absent the continued validity of the GMP pending appeal, no reductions in pumping will be required, and each groundwater user that would otherwise be subject to the GMP will be able to pump the full amount of its permitted right. This will result in more pumping and further groundwater declines while the appeal is pending, which is antithetical to the GMP’s purpose.

In concluding otherwise, the district court stated that “[i]t is premature to confirm that the DVGMP is actually resulting in less impact on the Diamond Valley aquifer [*sic*] based only on the 2019 growing season.” Ex. 13 at 3:18-20. Yet the only evidence submitted to the district court showed that, from 2016-2019, concurrently with the significant water-saving investments made by irrigators in anticipation of the GMP’s implementation, water use decreased by 26%. Moyle Decl. ¶30, Ex. 3-2; Bugenig Decl. ¶8, Ex. 3-3. Absent continued enforcement of the GMP, it will be impossible to make conclusions regarding the GMP’s

effectiveness. In other words, denial of a stay prevents Appellants from proving the very point the district court faulted them for being unable to prove.

Simply reinstating the GMP later should Appellants prevail on appeal, as the district court suggested (Ex. 13 at 4:5-6), means that, in the interim, the same problems that led to CMA designation will remain unaddressed. That defeats the GMP's purpose to reduce pumping in the near term, timely respond to the CMA designation, and ultimately have that designation removed. Ex. 1 (ROA 228). It also prevents scientists and others from drawing conclusions from groundwater data regarding the GMP's ongoing effectiveness.

Without any citation, the district court asserted that “[e]vidence exists that the DVGMP is actually increasing the volume of water removed from the aquifer [*sic*] rather than reducing at this time.” Ex. 13 at 4:3-4. There is no such evidence. The only evidence shows the exact opposite. Moyle Decl. ¶30, Ex. 3-2; Bugenig Decl. ¶8, Ex. 3-3. The district court only speculates that water users will use shares banked in 2019 such that, in 2020, water use “could exceed the 2016 76,000 acre feet base line pumping in Diamond Valley that was used for the DVGMP.” Ex. 13 at 4:1-3. But this fails to account for the evidence that water users have invested in water-saving technologies that may obviate the need to use banked water. Declaration of Martin L. Plaskett ¶¶4-5, Ex. 3-4. There is simply no evidence to support the district court's conclusion that continued implementation of the GMP

while this appeal is pending will be more harmful to the aquifer than reverting to the conditions that led to the CMA designation in the first instance.

Moreover, the Nevada Division of Water Resources (“DWR”) invested in the GMP by creating and maintaining the shares database, developing procedures and forms to implement the GMP, training GMP participants, and hiring a GMP Water Manager to oversee the GMP using assessments to GMP participants. Moyle Decl., Ex. 3-2 ¶¶29; DWR Forms, Ex. 3-9. The Water Manager manages the GMP, verifies data reporting, and serves as a resource to water users who are subject to the GMP. Moyle Decl., Ex. 3-2 ¶¶29. Absent a stay, the State Engineer will not have authority to enforce the GMP’s restrictions. For these reasons, the first NRAP 8(c) factor favors a stay.

2. Appellants Will Suffer Serious Injury Absent the Continued Viability of the GMP While the Appeal is Pending

With no GMP in place, Diamond Valley groundwater users and the basin as a whole will be irreparably harmed by continued – yet needless – groundwater declines, great uncertainty as to their current and future livelihoods, and the absence of clear and defined rules to reduce groundwater withdrawals.

a. The Stakeholders Spent Years Developing the GMP and Considered the Alternatives Suggested by the District Court

The GMP involved hundreds of hours of meetings and intense efforts over many years by Appellants and other community members to develop a GMP that

could effectively reduce pumping and stabilize the aquifer, with the stakeholders collectively contributing thousands of hours of their time. Ex. 1 (ROA 2, 277-475, 713-715); Moyle Decl., Ex. 3-2 ¶¶7-20, 38. The stakeholders considered numerous concepts, including the plan alternatives suggested by the GMP Opponents and referenced in the district court's Order (Ex. 2 at 32:10-18). Moyle Decl., Ex. 3-2 ¶¶23-24. The GMP incorporates many of these concepts, such as junior pumping reduction, water marketing, implementation of best farming practices, upgrade to more efficient sprinklers, and flexibility to use a rotating water use schedule or a shorter irrigation system in order to reduce pumping according to annual allocations. Ex. 1 (ROA 2-19, 217-247); Moyle Decl., Ex. 3-2 ¶¶23-24. None of these particular strategies is mandatory because the reduction in annual allocations are mandatory. Moyle Decl., Ex. 3-2 ¶23. Each water user must manage its operations to efficiently use reduced water allocations. Moyle Decl., Ex. 3-2 ¶23.

The GMP proponents also determined that those other alternatives alone would not successfully bring the basin into balance while maintaining the Eureka County economic base and the Diamond Valley community because, absent participation by "senior" right holders (i.e., those whose rights predate May 12, 1960), complete curtailment of "junior" rights (i.e., those that post-date May 12, 1960) will always be required. Moyle Decl., Ex. 3-2 ¶24. No matter how much the juniors conserve, pumping will always exceed 30,000 af if the seniors do not

change their practices as well. Moyle Decl., Ex. 3-2 ¶24. Only if juniors reduce their pumping to zero (i.e., total curtailment) will withdrawals equal the perennial yield. Moyle Decl., Ex. 3-2 ¶24; Ex. 1 (ROA 499-509). This would have devastating effects on Diamond Valley and the town of Eureka, severely impacting the economy, including businesses, individuals, family farming operations, and the agricultural base of the community. Moyle Decl., Ex. 3-2 ¶24. Complete destruction of livelihoods and the associated impact to Eureka County's economy defeats the purpose of NRS 534.110(7) and was not a viable plan option. Moyle Decl., Ex. 3-2 ¶37.

Moreover, the ten-year clock is ticking under NRS 534.110(7). Appellants should not be forced to develop a new plan where they have presented significant legal arguments that the GMP complies with Nevada law. *See* Ex. 14. A majority of senior rights approved the GMP. Ex. 1 (ROA 4); Moyle Decl., Ex. 3-2 ¶19. The purpose of the appeal will be defeated if Appellants are forced to engage in a new planning process only to have this Court ultimately uphold the existing GMP.

Even if such wasted effort could be justified (it cannot), given the extensive energy that went into this GMP, it is clear there is insufficient time to develop a new plan before curtailment must start. Moyle Decl., Ex. 3-2 ¶¶20, 38. The uncertainty claimed by Appellants is whether they should start planning now to pack up and abandon Diamond Valley or whether they should continue to invest in

their farms, purchase water-saving technologies to reduce their pumping and plan for a future in the community they call home. Absent a stay, Appellants and the State Engineer will be deprived of the benefits afforded them under NRS 534.110(7). *See, e.g., New Motor Veh. Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (concluding “that any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury”).

The district court asserted, “If this Courts's [*sic*] order granting petitions for judicial review is affirmed on appeal, there remains 5 years of the 10 year period during which another GMP consistent with Nevada law can be implemented.” Ex. 13 at 4:20-24. This demonstrates a serious misunderstanding of the appellate process. The Court could take 18 months or more to decide this appeal, particularly because it presents issues of first impression that have great statewide importance. If the GMP remains in effect while the appeal is pending, equitable tolling principles could prevent the waste of significant time and resources to develop a new plan when the proponents believe the existing one complies with the law. *See, generally, O’Lane v. Spinney*, 110 Nev. 496, 501, 874 P.2d 754, 757 (1994); *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d 490, 492 (1983).

b. The Stakeholders Made Significant Financial Investments to Achieve the Reductions Mandated by the GMP That Will be Lost Should the District Court's Order Not be Stayed

Those who are subject to the GMP have made significant investments in water-efficient technologies and meters in reliance on the GMP. Plaskett Decl. ¶¶4-5, Ex. 3-4; Moyle Decl., Ex. 3-2 ¶37. The GMP required the purchase of a specific type of meter. Ex. 1 (ROA 17, 221, 237); GMP Meters Pamphlet, Ex. 3-5; DWR Meters Presentation, Ex. 3-7. Over 90% of Diamond Valley irrigators have purchased and installed the type of totalizing meters specified in the GMP. Plaskett Decl., Ex. 3-4 ¶4. At an approximate cost of \$3,000/each, these 178 meters represent a total community investment of approximately \$534,000 in meters. Plaskett Decl., Ex. 3-4 ¶5(a).

In order to continue their operations with the reduced allocations mandated by the GMP, approximately 35% of Diamond Valley irrigators purchased a new pivot or converted to the most efficient spray application systems to conserve water. Plaskett Decl., Ex. 3-4 ¶4. This includes the purchase and installation of 58 Low Elevation Spray Application (“LESA”) Systems, at an approximate cost of \$9,000 each, for a total community investment of approximately \$522,000. Due to being low to the ground in the crop canopy, LESA Systems are the most efficient application systems available. Plaskett Decl., Ex. 3-4 ¶5(b). It also includes the purchase and installation of 10 new pivots equipped with LESA systems at an

approximate cost of \$75,000/each, for a total community investment of approximately \$750,000. Plaskett Decl., Ex. 3-4 ¶5(c).

Diamond Valley irrigators also purchased and installed 127 Medium Elevation Spray Application (“MESA”) Systems at an approximate cost of \$3,500 each for a total community investment of approximately \$444,500. Plaskett Decl., Ex. 3-4 ¶5(d). Although some irrigators installed MESA prior to when the groundwater management planning process began in earnest, some have done so only recently in anticipation of the GMP. *Id.* Diamond Valley irrigators also purchased and installed 40 Ag Sense and Field Net Smart pivot controllers and soil moisture field monitoring systems and subscriptions at an approximate cost of \$1,700/each for total community investment of approximately \$68,000. Plaskett Decl., Ex. 3-4 ¶5(e). Based on these equipment upgrades, the total estimated financial investment in water-efficiency measures by stakeholders participating in the GMP is approximately \$2,318,500. Plaskett Decl., Ex. 3-4 ¶5(f).

Those stakeholders made these investments with the good-faith belief that the GMP complied with NRS 534.037 and was what the Nevada Legislature intended in authorizing the GMP process in NRS 534.110(7). Plaskett Decl., Ex. 3-4 ¶6; Moyle Decl., Ex. 3-2 ¶37. They would not have made these investments if the only possible groundwater management plan that could be upheld in court involved curtailment by priority. Plaskett Decl., Ex. 3-4 ¶7; Moyle Decl., Ex. 3-2 ¶37. If

junior appropriators will ultimately be forced to stop irrigating in the face of complete curtailment, which the district court's conclusions necessitate a GMP to require (Ex. 2 at 24:2-25:6), the cost of these investments will be lost and can never be recovered. *See id.* The pumping reductions required by the GMP could not be achieved absent such investments, yet such investments are useless if curtailment is inevitable. Moyle Decl., Ex. 3-2 ¶37; Plaskett Decl., Ex. 3-4 ¶8.

In denying a stay, the district court failed to understand this point, contending instead that “[a]ny water and crop conservation improvements were necessary even if no GMP was in place ... [and] it was misguided for any farmers to make their water conservation investments as alleged solely on the validity of the DVGMP.” Ex. 13 at 4:13-15. Yet the district court's Order essentially leaves open only two possible types of GMP models that it deems lawful: (1) a plan that involves voluntary actions by senior right holders (either sale of their water to juniors or implementation of water-efficient irrigation practices encouraged by payments from juniors); or (2) a plan that involves complete curtailment of rights that post-date May 12, 1960. Ex. 2 at 23:6-25:6, 26:15-29:14, 32:2-36:16). These were considered and rejected by the GMP proponents for multiple reasons, not least of which is that the goal of any GMP was to maintain the viability of Eureka County's agricultural economy and avoid curtailment. Moyle Decl., Ex. 3-2 ¶¶22-24. Funding for buy-outs was unavailable, and in any event, absent the seniors'

willingness to respond to money, curtailment was the only other alternative. Moyle Decl., Ex. 3-2 ¶24.

A GMP that involved complete or nearly complete curtailment of junior rights was no different than what could be achieved without a GMP in place. Appellants would not have spent years developing the GMP or made significant investments in water-saving technologies if curtailment was a foregone conclusion, with or without a groundwater management plan. Moyle Decl., Ex. 3-2 ¶37; Plaskett Decl., Ex. 3-4 ¶8. They would have simply packed up and left Diamond Valley rather than investing in equipment they could never use.

c. Absent a Stay, There is Considerable Uncertainty Regarding the Rules That Govern Management of the Basin

Additionally, the Diamond Valley community and Eureka County as a whole will suffer serious and irreparable harm absent a stay because the aquifer condition will decline, and the district court's Order has left water users with ambiguity as to the rules they should follow. Moyle Decl., Ex. 3-2 ¶31. In furtherance of the GMP, the State Engineer issued other orders regarding management of the Diamond Valley basin, such as Orders 1305 and 1305a, Ex. 3-8. There is now uncertainty regarding the effectiveness of these orders and whether extension requests are now required to prove beneficial use and prevent a forfeiture. Moyle Decl., Ex. 3-2 ¶35.

At the time the district court issued its Order, the 2020 irrigation season (GMP Year 2) had already begun, and the share register showing annual allocations had issued. Moyle Decl., Ex. 3-2 ¶34; 2020 Share Register, Ex. 3-13. Water users made decisions as to what fields to irrigate and other farm management plans based on the existence of GMP. Moyle Decl., Ex. 3-2 ¶34. Absent the continued existence of the GMP, there is no mechanism in place to enforce the cap on annual allocations and no incentive for even the seniors who agreed to the GMP to continue investing in water-saving equipment and reducing their pumping. *Id.*; Ex. 1 (ROA 235).

Because the GMP was developed by local stakeholders, community involvement and buy-in has been outstanding. Moyle Decl., Ex. 3-2 ¶33. However, absent a stay, water rights holders may choose to pump the full amount of their permits, which will lead to increased pumping while the GMP is on appeal, rather than the benchmark reductions required by the GMP. Moyle Decl., Ex. 3-2 ¶¶33-34. This is counterproductive to the goal of reducing pumping in the basin. Moyle Decl., Ex. 3-2 ¶33.

3. Petitioners Will Suffer No Harm Should the GMP Remain in Place

Notwithstanding that the GMP Opponents offered no evidence of actual harm, the district court stated that “[i]t appears the petitioners would suffer serious or irreparable harm if the stay were granted.” Ex. 13 at 4:25-26. The district court

failed to cite to any evidence to support that assertion and none exists. The district court's speculation that "continued trading of water shares, use of banked water shares, and continued over pumping of the Diamond Valley aquifer for up to an additional 30 years will have an adverse impact on petitioners' senior certificated rights, as well as, their vested rights" lacks any evidentiary support. *Id.* at 5:1-4.

It also mimics the flawed reasoning in the Order, which stated (again without evidentiary support) that vested rights will be harmed by the GMP because "[t]he DVGMP on its face fails to reduce the harm caused by overpumping and aggravates the depleted water basin." Ex. 2 at 24:2-3. There is no data to support this conclusion, and the data show otherwise. Bugenig Decl., Ex. 3-3 ¶11 and Monitoring Data attached thereto; *see also* DWR Monitoring Data, Ex. 3-6. After GMP Year 1, positive trends in groundwater levels were nearly ubiquitous in Diamond Valley. *See id.*

The record contains no causal connection between the GMP and alleged negative impacts to vested rights. The district court assumed those impacts because the GMP allows for continued pumping over the 30,000 af perennial yield so that benchmark pumping reductions could occur over time. Ex. 2 at 24:13-15. Yet the district court also concluded that NRS 534.110(7) allowed for continued pumping over the perennial yield and did not require that the basin come into balance within 10 years. Ex. 2 at 15:1-16:7 As stated by the district court,

NRS 534.110(7) does not state a GMP must accomplish the goal of equilibrium in a CMA basin within 10 years from the GMP approval. An undertaking as immense as bringing a depleted aquifer into balance could easily surpass 10 years depending on the extent of harm to the aquifer ... If the State Engineer finds, which he did here, that the DVGMP sets forth the necessary steps for removal of the basin as a CMA, he may approve a GMP even if the DVGMP exceeds a 10 year period.

Ex. 2 at 15:5-18. These conclusions are inconsistent, and the only way to reconcile them would be for the district court to rule that the statute is unconstitutional because it allows vested rights to be impaired. The district court never looked at the constitutionality of NRS 534.110(7) because the GMP Opponents never launched an attack on the statute.

There is no evidence that the GMP's continued existence while the appeal is pending will cause harm to the GMP Opponents' vested rights. To the contrary, the GMP Opponents' wells are interfering with their own and one another's vested springs rights. Ex. 1 (ROA 131); Ex. 10-16. Under the authority of their mitigation permits, Sadler and Bailey have drilled wells in their springs, so any alleged harm to their vested rights is self-inflicted. Ex. 3-10 and Ex. 3-11. Renner only recently applied for mitigation rights, but there has been no determination by the State Engineer that Renner's vested rights have been impacted by Diamond Valley pumping and that mitigation rights should be granted. Ex. 3-12. Sadler's representative stated that pumping by the other GMP Opponents interfere with the

springs on Sadler Ranch. Ex. 10-15. Bailey's predecessor admitted that his farm is more productive with the mitigation well than it was with the spring. Ex. 10-14.

This evidence clearly shows that the purported harm to vested rights assumed by the district court cannot be attributed to the GMP, yet the district court failed to even address it. Based on the district court's conclusion regarding alleged impacts to vested rights, no groundwater management plan could be approved in Diamond Valley other than one that involves immediate and complete curtailment of any rights that post-date May 12, 1960.

The Baileys are the only GMP Opponents who have "senior" groundwater rights that are reduced by the GMP's share allocations. Ex. 1 (ROA 499-501). Contrary to the district court's erroneous conclusion (Ex. 13 at 5:3), Sadler and Renner's groundwater permits are junior, not senior. Ex. 1 (ROA 499-509). According to the district court's analysis, therefore, Sadler and Renner are the cause, not the sufferer, of alleged harm. Because, absent the GMP, Renner and Sadler would be subject to 100% curtailment, they cannot claim irreparable harm from the GMP. Ex. 1 (ROA 499-509).

4. The Respective Equities Warrant a Stay

The history of Diamond Valley presents particular equities that are relevant to this stay request. Most of the groundwater appropriations occurred within a fairly narrow window of time in the early 1960's. Ex. 1 (ROA 499-509). Over 100

appropriations occurred in 1960 alone, and there are approximately 100 “junior” permits with priority dates that post-date May 12, 1960 by just days, weeks and months. Ex. 1 (ROA 499-504). Only a matter of days separates Fred and Carolyn Bailey from the May 12, 1960 cut-off line. Ex. 1 (ROA 501). And only two months separates the most “senior” Bailey rights from the “junior” appropriators that the Baileys contend must be cut off completely. Ex. 1 (ROA 499-500).

No one working the land in Diamond Valley in May 1960 knew or could have known that breaking away from their farming to file paperwork in Carson City a few days later than their neighbors would rob them of 100% of their water permits 50 years later. They cultivated their land and used their water in good-faith reliance upon the State Engineer’s approval of their applications. Ex. 1 (ROA 541, 590, 708, 727, 731-732, 738). Although the permits were issued subject to existing rights on the source, the State Engineer continued to issue permits for new irrigation applications for another nearly 20 years in the total approximate amount of 126,000 af. Ex. 1 (ROA 3, 499-509). Appellants had no control over the State Engineer’s actions. Only later, when better science became available and the effects of overpumping more known, did the State Engineer establish a 30,000 af perennial yield, rendering May 12, 1960 a significant date. *Id.*

For the last decade, Appellants have been working to address the overdraft problem in the basin, including their tireless efforts since 2014 to develop a GMP.

Moyle Decl., Ex. 3-2 ¶¶7-20. The GMP they created was based on a good-faith interpretation of the Legislature's enactment of NRS 534.110(7). Plaskett Decl., Ex. 3-4 ¶6; Moyle Decl., Ex. 3-2 ¶37. It sought to address the overdraft problem while maintaining the social and economic fabric of Eureka County. Ex. 1 (ROA 228). The GMP proponents studied numerous other frameworks for what a groundwater management plan might entail, including those proposed by the Petitioners and suggested by the district court, and ultimately rejected them as infeasible. Moyle Decl., Ex. 3-2 ¶¶23-24. They made significant investments of money and time to implement the GMP the State Engineer approved. Plaskett Decl., Ex. 3-4 ¶¶4-7; Moyle Decl., Ex. 3-2 ¶37. Had their only option been a groundwater management plan that involved curtailment by priority, they would not have made those investments. Plaskett Decl., Ex. 3-4 ¶7-8; Moyle Decl., Motion Ex. 3-2 ¶37. Rather, they would have simply continued to use the full amount of their permitted rights until the State Engineer ordered curtailment, after which they would decide whether to leave Diamond Valley. *See id.*

In denying a stay, the district court failed to identify any equitable reason why the 2020 irrigation season should be disrupted now. *See Haywood v. Nat'l Basketball Ass'n*, 401 U.S. 1204, 1206 (1971) (reinstating order that allowed professional basketball player to play during the stay because the season had already begun). This is particularly so where the GMP Opponents never sought a

stay of the GMP pending their petitions for judicial review. *See* NRS 533.450(5). Given their lack of affirmative conduct to obtain a stay to protect themselves from alleged harm they contend the GMP causes them, the equities weigh against the GMP Opponents. *See Latta v. W. Inv. Co.*, 173 F.2d 99, 107 (9th Cir. 1949) (“[e]quity frowns upon stale demands”); *Daly v. Lahontan Mines Co.*, 39 Nev. 14, 158 P. 285, 286 (1916) (equity requires the timely assertion of rights).

5. Appellants Are Likely to Prevail on Appeal Because the District Court’s Order Renders 534.110(7) Meaningless as to Diamond Valley

The Court has held that where the object of an appeal will be defeated, a stay should only be denied if “appellate relief is unattainable” or “clearly not warranted,” such as where “the appeal appears frivolous or if the appellant apparently filed the stay motion purely for dilatory purposes.” *Mikohn Gaming Corp.*, 120 Nev. at 253-54, 89 P.3d at 40. “[A] stay should generally be granted in other cases.” *Id.* Appellants readily meet this standard, yet the district court did not even address it.

The merits warrant a stay here because, in granting the petitions for judicial review, the district court considered matters outside the record, made assumptions unsupported by the evidence and incorrectly interpreted the law. By concluding that the Legislature did not intend to stray from prior appropriation principles, the district court rendered meaningless the groundwater management plan provisions in NRS 534.110(7) and NRS 534.037. Contrary to the district court’s statements

(Ex. 2 at 29:12-14), Appellants' arguments do not disregard the prior appropriation doctrine. Rather, they demonstrate that the Legislature intended to avoid the heavy-handed effects of curtailment when a basin is designated a CMA. Ex. 14 at 11-18. If the district court's analysis were accepted, no groundwater management plan could be enacted in Diamond Valley that allows pumping in excess of the perennial yield for any period of time. This is no different than complete curtailment by priority, which defeats the statutory purpose. *See* NRS 534.110(7).

The district court's conclusion that the GMP impairs vested rights is unsupported by evidence, contradicts its own conclusion that NRS 534.110(7) allows the perennial yield to be exceeded, and attacks the legality of NRS 534.110(7) itself (a contention never raised by the GMP Opponents). Moreover, the district court's conclusion that the GMP violates the beneficial use statute ignores that the State Engineer properly exercised his discretion under NRS 534.090 when he reached the logical conclusion that initiating forfeiture and abandonment proceedings prior to GMP approval would result in *increased* pumping that would exacerbate, rather than alleviate, the overdraft problem.

The reductions in annual share allocations over time means that, under the GMP, the unexercised rights cannot be used anyway. Ex. 1 (ROA 234-235, 510). This is particularly the case where many of the unexercised rights in Diamond Valley arise from field corners that are not being irrigated using center pivots. Ex.

1 (ROA 465, 467). The State Engineer has discretion to approve the banking and trading provisions under NRS 534.120(2), and the GMP provides a mechanism by which the State Engineer can analyze those procedures. Ex. 1 (ROA 234-237).

Moreover, Appellants presented certain arguments that the district court did not address at all. Ex. 14 at 14-15 (discussing other examples of where the Legislature has departed from strict prior appropriation principles and the State Engineer's authority to approve the GMP based on NRS 534.120(2), which allows him to manage groundwater withdrawals for the public welfare). The district court also ignored that the majority of senior right holders agreed to the GMP. Of the 30,000 af of "senior" rights in the basin, 18,700 afa, or about 64%, signed the petition. Ex. 1 (ROA 4, 148-216); Moyle Decl., Ex. 3-2 ¶19. Some seniors who did not sign the petition nevertheless provided public comments in favor of the GMP. Ex. 1 (ROA 545, 726); Moyle Decl., Ex. 3-2 ¶19. In total, those who voted in favor of the GMP or provided favorable testimony represented 20,957.63 af or 71.4% of the senior rights. Ex. 1 (ROA 499-501); Moyle Decl., Ex. 3-2 ¶19. For context, the Bailey Petitioners represent only 6.4% of senior rights, and Renner and Sadler have no senior groundwater certificates at all. Ex. 1 (ROA 499-501).

Because Appellants have presented legitimate arguments and seek a stay to preserve and protect the Diamond Valley community based on a good-faith interpretation of NRS 534.110(7) and NRS 534.037, the circumstances here are

precisely those where a stay is warranted. *See Mikohn Gaming Corp.*, 120 Nev. at 253-54, 89 P.3d at 40; *Hansen*, 116 Nev. at 659, 6 P.3d at 987. Simply because the district court disagreed with Appellants on the law was not a basis to deny their request for stay. *See NAACP v. Trump*, 321 F.Supp.3d 143, 147 D.D.C. 2018) (partially staying order that vacated agency action because “the fact that the Court has thus far been unpersuaded by [the movant’s] case does not preclude the issuance of a stay”).

V. CONCLUSION

For the foregoing reasons, Appellants respectfully ask the Court to enter a stay to keep the GMP in place pending their appeal.

AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Date: July 6, 2020

/s/ Debbie Leonard
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NRAP 27(e) CERTIFICATE

I, Debbie Leonard, as counsel of record for Appellants, certifies the following pursuant to NRAP 27(e):

1. The telephone numbers and office addresses of the attorneys for the parties and the telephone numbers and addresses for any pro se parties are listed below:

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² Diamond Valley Ranch, LLC; American First Federal, Inc.; Berg Properties California, LLC; Blanco Ranch, LLC; and Beth Mills, Trustee Marshall Family Trust intervened in the district court but did not file briefs or provide argument for or against Order 1302.

2. Appellants are filing their Motion for Stay on an emergency basis to ensure the Court considers and decides it before the 30-day automatic stay afforded by NRCP 62(a)(1), in which a judgment may not be enforced, expires. The 30-day period in NRCP 62(a)(1) began running from April 29, 2020, when Appellants were served with Notice of Entry of the District Court's Findings of Fact, Conclusions of Law, Order Granting Petitions for Judicial Review ("Order"), which is the order on appeal. Ex. 2. This time period was tolled on May 20, 2020 when the District Court granted a temporary stay pending decision on DNRPCA Intervenor's Motion for Stay Pending Appeal. Ex. 7. The temporary stay order was served 21 days into the 30-day period afforded by NRCP 62(a)(1), leaving nine days remaining.

The 30-day period began to run again on July 1, 2020 upon service of the District Court's Order Denying DNRPCA Intervenor's Motion for Stay Pending Appeal. Ex. 13. Therefore, the 30-day period in which the judgment may not be enforced expires on Friday July 10, 2020, which is nine days from service of the July 1, 2020 Order. Ex. 13.

Moreover, as set forth in Appellant's Emergency Motion for Stay Pending Appeal filed concurrently herewith, the District Court's Order, which invalidated the Diamond Valley Groundwater Management Plan ("GMP"), has resulted in considerable uncertainty among Diamond Valley irrigators as to management of

the basin and the rules that govern their water use. The 2020 irrigation season has begun, and the annual water allocations have already been determined. Farm management decisions have already been made in compliance with the GMP. Changing the rules now will result in considerable disruption to irrigators.

Additionally, many irrigators have made significant investments in water-efficient technology. The hydrographs from monitoring wells indicate that, concurrently with these water conservation efforts and GMP implementation, there have been positive trends in groundwater levels. Negative impacts to the aquifer may result if irrigators are not bound by the limits in the GMP and pump as much as their permits allow. The uncertainty and ill-effects of that uncertainty will continue unchecked if the Motion to Stay Pending Appeal is heard in the ordinary course.

There is also considerable uncertainty as to whether the Appellants must start to engage in a new groundwater management process due to the deadline imposed by NRS 534.110(7), even though they, in good faith, believe the GMP complies with Nevada law. These and other facts showing the urgency of the situation are more fully set forth in the Emergency Motion to Stay.

Based on the impending July 10, 2020 expiration of the 30-day period specified in NRCP 62(a) and the considerable uncertainty among Diamond Valley irrigators as to management of the basin and the rules that govern their water use,

Appellants respectfully request that the Court consider the Motion to Stay on an emergency basis by July 10, 2020.

3. Opposing counsel was notified on July 6, 2020 by email and will be served with the Emergency Motion for Stay Pending Appeal through the Supreme Court's EFlex system upon filing.

Date: July 6, 2020

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Attorney for Appellants

INDEX OF EXHIBITS

<u>Ex. #</u>	<u>Document Description</u>
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- | | |
|----|--|
| 1. | Excerpts from Record on Appeal filed by State Engineer in District Court |
| 2. | April 27, 2020 Findings of Fact, Conclusions of Law, Order Granting Petitions for Judicial Review |
| 3. | May 14, 2020 DNRPCA Intervenors' Motion for Stay Pending Appeal of Order Granting Petitions for Judicial Review of State Engineer Order 1302 |

Exhibits:

- | | |
|-----|--|
| 1. | Debbie Leonard Declaration |
| 2. | Mark Moyle Declaration |
| 3. | Dale Bugenig Declaration (with hydrologic data attached) |
| 4. | Marty Plaskett Declaration |
| 5. | GMP Meters Pamphlet |
| 6. | GMP Monitoring Data from DWR Website |
| 7. | DWR Meters Presentation |
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| 10. | Permit 63497 |
| 11. | Permit 82268 and Permit 81720 |
| 12. | Applications 89295 and 89296 |
| 13. | 2019 and 2020 Share Registers |
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| 4. | May 14, 2020 DNRPCA Intervenors' Ex Parte Motion for Order Shortening Time on Motion for Stay of Order Granting Petitions for Judicial Review of State Engineer Order 1302 Pending Appeal |
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Exhibits:

- | | |
|----|----------------------------|
| 1. | Debbie Leonard Declaration |
|----|----------------------------|

5. May 19, 2020 State Engineer's Joinder to DNRPCA Intervenor's Motion for Stay Pending Appeal of Order Granting Petitions for Judicial Review of State Engineer Order 1302
6. May 21, 2020 Eureka County's Joinder to DNRPCA Intervenor's Motion for Stay Pending Appeal of Order Granting Petitions for Judicial Review of State Engineer Order 1302
7. May 19, 2020 Order Denying DNRPCA Intervenor's Ex Parte Motion for Order Shortening Time; Order Granting DNRPCA Intervenor's Motion for Temporary Stay Pending Decision on Intervenor's Motion for Stay Pending Appeal
8. May 26, 2020 Sadler Ranch, LLC and Ira R. & Montira Renner Opposition to DNRPCA Intervenor's Motion for Stay Pending Appeal

Exhibits:

1. September 2018 Draft State Engineer Order limiting groundwater pumping in several basins in southern Nevada
9. May 26, 2020 Opposition of Bailey Petitioners to DNRPCA Intervenor's Motion for Stay Pending Appeal of Order Granting Petitions for Judicial Review of State Engineer Order 1302
10. June 1, 2020 DNRPCA Intervenor's Reply in Support of Motion for Stay Pending Appeal of Order Granting Petitions for Judicial Review of State Engineer Order 1302

Exhibits:

14. Testimony of Wilfred Bailey, In The Matter Of Applications 81719, 81720, 81825, 82268, 82570, 82571, 82572 and 82573, Nov. 21, 2013 Transcript Excerpts
15. Testimony of Levi Shoda, Sadler Ranch Manager, In The Matter Of Applications 81719, 81720, 81825, 82268, 82570, 82571, 82572 and 82573, Nov. 22, 2013 Transcript Excerpts
16. Supplemental Declaration of Dale Bugenig and attached maps
17. State Engineer's Motion to Stay in Case No. 77722, Supporting Declaration and Supreme Court's Order Granting Stay (all other exhibits omitted)

11. June 1, 2020 State Engineer's Reply in Support of DNRPCA Intervenors' Motion for Stay Pending Appeal of Order Granting Petitions for Judicial Review of State Engineer Order 1302
12. June 1, 2020 Eureka County's Reply in Support of Motion for Stay Pending Appeal
 - Attachments:
 1. February 12, 2013 Findings of Fact, Conclusions of Law, and Order Partially Granting Petition for Judicial Review, Case No. CV-1409-204
 2. March 23, 2018 Findings of Fact, Conclusions of Law; Order Partially Granting Supplemental Petition for Judicial Review; Order for Issuance of Mitigation Rights Permit; Order Partially Denying Supplemental Petition for Judicial Review, Case No. CV-1409-204
13. June 30, 2020 Order Denying DNRPCA Intervenors' Motion for Stay Pending Appeal
14. October 23, 2019 DNRPCA Intervenors' Answering Brief

EXHIBIT 1

EXHIBIT 1

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

#1302

ORDER

**GRANTING PETITION TO ADOPT A GROUNDWATER MANAGEMENT PLAN FOR
THE DIAMOND VALLEY HYDROGRAPHIC BASIN (07-153), EUREKA COUNTY,
STATE OF NEVADA.**

WHEREAS, decades of declining water levels in the Diamond Valley Hydrographic Basin is due to the simple fact that groundwater pumping has consistently exceeded the perennial yield of the basin. An obvious solution to the problem caused by *over* pumping is to *reduce* groundwater pumping. Designating Diamond Valley a Critical Management Area (CMA) (the first and only basin thus far in Nevada), provided water right users within the Diamond Valley basin the opportunity to develop a customized groundwater management plan (GMP) that does in fact reduce groundwater pumping to a level that satisfies the State Engineer that the water levels will reach an equilibrium. The CMA and GMP process became law in 2011 specifically to allow those that truly have skin-in-the-game (the water right holders in the basin), to create a means to the same end as curtailment by priority, but without the dire and sudden impacts.

Years before the State Engineer declared the basin a CMA in 2015, the GMP process was initiated by the local community and stakeholders. Work on the GMP continued for an additional three years after the CMA designation with numerous meetings of the community and stakeholders, ultimately arriving at the version presented to the State Engineer in 2018. The testimony, written public comment and background of Appendix C of the GMP demonstrate that this process was emotional and difficult for the participants—yet they persisted in forging a plan in an effort to avoid curtailment by priority to save their community and the established agricultural way of life in Diamond Valley. It is significant that the participants are not professional water right managers, but are ordinary citizens who made a Herculean effort to craft their own plan in response to a complex problem.

WHEREAS, this matter came before the State Engineer on a Petition to Adopt a Groundwater Management Plan (Petition), pursuant to Nevada Revised Statute (NRS) § 534.037 filed on August 20, 2018.

WHEREAS, the history leading up to the subject Petition is as follows:

Diamond Valley is a major groundwater farming area in the Diamond Valley Hydrographic Basin, Basin 153.¹ There are approximately 26,000 acres of irrigated land, which primarily produce premium quality alfalfa and grass hay. In 2013, it was estimated that approximately 110,000 tons of hay were produced annually for a total farming income of approximately \$22.4

¹ GMP, p. 8.

million.² Approximately 126,000 acre-feet annually (afa) of irrigation groundwater rights are appropriated in Diamond Valley, and as of 2016, groundwater pumping for irrigation was estimated to be 76,000 afa. The perennial yield of Diamond Valley is 30,000 acre-feet (af).³

For over 40 years, annual groundwater pumping has exceeded the perennial yield of Diamond Valley.⁴ In the years that groundwater pumping has exceeded the perennial yield, groundwater levels in Diamond Valley have consistently declined at a rate of up to 2 feet per year. Prior to declaring Diamond Valley a CMA pursuant to NRS § 534.110(7), the State Engineer held public meetings on numerous occasions in Diamond Valley to discuss over-appropriation of the basin and to encourage water rights holders to formulate solutions or a plan at the local level to address declining water levels.

Because withdrawals have consistently exceeded the perennial yield of the basin, on August 25, 2015, the State Engineer declared Diamond Valley a CMA pursuant to NRS § 534.110(7).⁵ Once declared a CMA, holders of water rights within the basin have 10 years to create and present to the State Engineer a groundwater management plan; otherwise, the State Engineer is required to curtail the basin by priority.⁶

WHEREAS, the process for approval of a GMP by the State Engineer is as follows:

Nevada Revised Statute § 534.037(1) requires that a petition for the approval of a GMP that is submitted to the State Engineer must be signed by a majority of the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer.

At the time of filing the petition, there were 419 water right permits or certificates in the Diamond Valley Hydrographic Basin. Of these, 257 are represented by at least one signature in the petition. Comparing the signatories with the confirmed owner of record in the files of the Office of the State Engineer demonstrates that 223 water right permits or certificates are represented by the owner of record. If accepting the affirmation made on each page of the signed petition, then 257 rights of 419 rights is 61%. If limiting only to those signatures by a confirmed owner of record, then 223 of 419 is 53.2%. In either case, a majority of permits and certificates in the Diamond Valley Hydrographic Basin are represented in the petition; therefore, the State Engineer finds that the petition satisfies the requirement of NRS § 534.037(1).⁷

The total duty of groundwater rights in Diamond Valley is 130,625 afa. Of these, 126,188 afa are subject to the plan and 4,437 afa are not subject to the plan. The estimated amount of

² GMP, p. 8.

³ GMP, p. 8.; J.R. Harrill, *Hydrologic Response to Irrigation Pumping in Diamond Valley, Eureka and Elko Counties, Nevada, 1950-65*, Water Resources Bulletin No. 35, (Department of Conservation and Natural Resources, Division of Water Resources and U.S. Department of the Interior, Geological Survey), 1968.

⁴ GMP, p. 8.

⁵ Order 1264, official records in the Office of the State Engineer; GMP, p. 8.

⁶ NRS § 534.110(7).

⁷ Exhibit 1, public administrative hearing before the State Engineer October 30, 2018, official records in the Office of the State Engineer. Hereinafter the exhibits and transcript will be referred to solely by the exhibit number or transcript page.

groundwater committed to domestic wells at the statutory maximum of 2 afa per domestic well is 234 afa. By duty, over 96% of the total groundwater commitments are subject to the plan. It is reasonable that the focus of the plan to reduce the groundwater pumping be focused on those manners of use that have the greatest potential effect on the pumping in the groundwater basin.

The GMP assumes that the dividing line between senior and junior water rights holders is where the consumptive use of the water rights is estimated at 30,000 af, which is equal to the perennial yield of Diamond Valley; therefore, those rights with a priority date of May 12, 1960, or earlier are referred to in this Order as the senior rights (with a duty totaling 29,325 afa) and those rights with a priority date after May 12, 1960, are referred to as the junior rights. At the time of filing the petition, there were 77 senior water right permits or certificates, and 36, or 46.8%, of these were represented by at least one signature on the petition. The remaining 342 water right permits or certificate were junior, and 221, or 64.6%, of these were represented by at least one signature on the petition. Of the 29,325 afa of senior water rights, 18,700 afa, or about 64%, is represented by signatories of the petition. The State Engineer finds that significant portions of both senior and junior rights are represented in the petition.

Nevada Revised Statute § 534.037(3) requires that before approving or disapproving a groundwater management plan the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. The State Engineer shall cause notice of the hearing to be:

- a. Given once each week for two consecutive weeks before the hearing in a newspaper of general circulation in the county or counties in which the basin lies.
- b. Posted on the Internet website of the State Engineer for at least two consecutive weeks immediately preceding the date of the hearing.

Notice of a public hearing to be held on October 30, 2018, was published in the *Eureka County Sentinel*, the *Elko Daily Free Press*, and the *Ely Times* during the weeks of the 15th and 22nd of October.⁸ Also, notice of the hearing was posted on the Internet website of the Nevada Division of Water Resources commencing on October 1, 2018.⁹ Additional notice was also sent by certified mail directly to the boards of county commissioners for the counties of Eureka, Elko, and White Pine.¹⁰ The GMP was made available through the Internet website of the Nevada Division of Water Resources commencing on October 1, 2018, and was also available by request.¹¹

A public hearing to take testimony on the proposed GMP was held in Eureka, Nevada, on October 30, 2018, during which testimony in favor of and in opposition to the GMP was received. In addition, the State Engineer held open the period for written public comment for an additional three working days following the hearing, during which time additional public comments were

⁸ Exhibit 4.

⁹ http://water.nv.gov/documents/Hearing_Notice-Diamond_Valley_GMP.pdf

¹⁰ Exhibit 3.

¹¹ <http://water.nv.gov/documents/Final%20DV%20GMP%20for%20Petition.pdf>

received. This Order evaluates the testimony and written comments and other elements required for approval of the Petition.

Nevada Revised Statute § 534.037(1) requires that in a determination whether to approve a groundwater management plan, the State Engineer shall consider, without limitation:

- a. The hydrology of the basin;
- b. The physical characteristics of the basin;
- c. The geographic spacing and location of the withdrawals of groundwater in the basin;
- d. The quality of the water in the basin;
- e. The wells located in the basin, including, without limitation, domestic wells;
- f. Whether a groundwater management plan already exists for the basin; and
- g. Any other factor deemed relevant by the State Engineer.

WHEREAS, the Diamond Valley Groundwater Management Plan is summarized as follows:¹²

The predominant manner of use of existing rights in Diamond Valley is irrigation, where groundwater is pumped and used to produce primarily alfalfa and grass hay. Consequently, the GMP applies to irrigation rights and mining and milling rights with an irrigation base right, while vested rights, other manners of use and domestic wells are excluded from the plan. The GMP requires annual reductions in pumping with a goal of stabilizing groundwater levels and reducing consumptive use to the perennial yield. The GMP applies a formula to calculate the annual duty a rights holder can pump after required reductions, where the formula is based upon the original water right duty and priority of the right to arrive at a number of shares. The formula is defined as:

$$WR * PF = SA$$

Where:

WR = Total groundwater right volume as recognized by DWR, accounting for total combined duty (i.e., overlapping places of use) (measured in acre feet)

PF = Priority Factor based on seniority

SA = Total groundwater Shares

An annual amount of water that can be pumped per share is allocated to a rights holder (i.e., the annual allocation), and the reductions in pumping are accomplished by annually reducing the amount of water each share is allocated. In the initial year of the GMP, the total amount of water that can be pumped is equal to the amount of water currently in use. Unused allocations

¹² Specific components of the GMP are discussed in greater detail below with reference to the public comments received; accordingly, an overview of the major GMP structure is introduced here.

may be banked, traded, leased or sold; thus, the GMP employs a market-based approach. The GMP also contains penalty provisions for pumping in excess of allocations. The GMP is governed by an Advisory Board of elected representatives that are charged with making recommendations to the State Engineer, who ultimately oversees and administers the Plan. The GMP is funded through annual assessments, which, in part, will be used to also fund a water manager employed by the Nevada Division of Water Resources, whose role is expected to involve implementation and management of the GMP.

WHEREAS, the comments made at the October 30, 2018, hearing on the Diamond Valley Groundwater Management Plan and the State Engineer's response are as follows¹³:

I. COMMENTS RELATED TO LEGAL SUFFICIENCY

Several comments were received challenging the legal sufficiency of the GMP as being in violation of established Nevada water law or that the GMP waives existing mandatory provisions required by the NRS including the prior appropriation doctrine, movement of allocations, well abandonment and a banking component without adequate permitting.¹⁴

Prior Appropriation

First, several commenters asserted that the GMP violates the doctrine of prior appropriation by eliminating the bedrock principle of "first in time, first in right." The violation, they allege, occurs because all water rights—both senior and junior—have their allocations reduced annually, rather than reductions being imposed solely on junior rights.¹⁵

While it is acknowledged that the GMP does deviate from the strict application of the prior appropriation doctrine with respect to "first in time, first in right," the following analysis demonstrates that the legislature's enactment of NRS § 534.037 demonstrates legislative intent to permit action in the alternative to strict priority regulation. Nevada Revised Statute § 534.037(1) provides that a groundwater management plan "must set forth the necessary steps for removal from the basin's designation as a [CMA]." Other prior appropriation states have addressed whether a

¹³ The following analysis is intended to address written and public comments received concerning the GMP. In large part, all of the comments made in opposition to the GMP in writing or at the hearing raised issues that were considered during the GMP drafting process. These issues, and many more, are succinctly summarized in a "comment and answer format" in Appendix C at pp. 241-255, entitled *GMP Issues and Concerns Identified Through the Process*.

¹⁴ Written comments of Ira and Montira Renner, Timothy and Constance Marie Bailey, Sadler Ranch, LLC, and Great Basin Resource Watch.

¹⁵ Appendix F to the GMP contains the preliminary table of all rights subject to the GMP and the share calculation for each right. The relative priority dates of all rights subject to the Plan are shown in the table. Notwithstanding the share calculations shown in Appendix F, one commenter acknowledged that if a GMP is not adopted and curtailment is ordered on all rights, that rights junior to about May 1960 would be curtailed. This would include a significant number of irrigation rights, all mining rights, and some municipal rights. See Written Comment of Great Basin Resource Watch, p. 5. In addition, the majority of domestic wells in the basin are junior and would also be completely curtailed. See NRS § 534.110(6) (the State Engineer may order that withdrawals, including withdrawals from domestic wells, be restricted to conform to priority rights).

shortage sharing plan violates the prior appropriation doctrine. For example, in *State Engineer v. Lewis*, 150 P.3d 375 (N.M. 2006), the New Mexico Supreme Court examined whether a settlement agreement entered into by the Interstate Stream Commission, the United States and three irrigation districts, upon which a partial final decree was entered in an adjudication proceeding, violated the New Mexico Constitution, which codified the prior appropriation doctrine.

The appellants, senior rights holders, contended that the settlement agreement violated the New Mexico Constitution, and that due to chronic water shortages for senior rights, the negotiating parties were duty-bound to adhere to the prior appropriation doctrine as it was traditionally understood and enforced, through a priority call. *Id.*

The court's examination focused on a statute that was enacted for the express purpose of achieving compliance with New Mexico's obligations under the Pecos River Compact (the compliance statute). *See id.* at 150 P.3d at 379. In the words of the court, the parties to the settlement agreement sought to cut the water shortage "Gordian knot" through a process more flexible than strict priority enforcement, yet still comply with the prior appropriation doctrine.

In interpreting the legislative intent of the compliance statute, the *Lewis* court found that the intent and purpose of the legislation was beyond dispute—to take charge of resolving a critical situation created by an amended decree, while complying with the obligation of protecting existing rights. In determining that the statute was constitutional, the court assumed that the legislature was aware of the prior appropriation doctrine when it enacted the statute, and that the statute was to be read as a clear signal that the legislature and governmental players wanted to create a solution other than a priority call as the first and only response. *Id.* at 150 P.3d 385.¹⁶ Notwithstanding that the court found the statute constitutional and not violative of prior appropriation, the court found it important that the settlement agreement did not rule out a priority call if needed. *Id.* at 150 P.3d 386.

Nevada Revised Statute § 534.037(1) was enacted in 2011 by A.B. 419. Aside from the six specific and one general consideration codified in the statute, the State Engineer finds that the legislative history contains scarce direction concerning how a plan must be created or what the confines of any plan must be.

Like *Lewis*, in enacting NRS § 537.037, the Nevada legislature expressly authorized a procedure to resolve a shortage problem. And, like *Lewis*, the State Engineer assumes that the Legislature was aware of prior appropriation when it enacted NRS § 534.037,¹⁷ and the State Engineer interprets the statute as intending to create a solution other than a priority call as the first and only response. Nothing in the legislative history of A.B. 419 or the text of NRS § 534.037 suggests that reductions in pumping have to be borne by junior rights holders alone—if that were

¹⁶ Although the prior appropriation doctrine is not codified in the Nevada Constitution, a similar analysis to *Lewis* is appropriate as prior appropriation is the law in Nevada.

¹⁷ The fact that NRS § 534.110(7) requires the State Engineer to regulate by priority after 10 years if no GMP is adopted makes clear that the Legislature was aware of prior appropriation. Also, the remarks of Assemblyman Goicoechea, the bill sponsor, reinforces the Legislature's awareness of prior appropriation when the Assemblyman described regulation by priority (*e.g.*, pumping is curtailed and the basin is brought back into balance with only senior water rights being held). *See Minutes on the Assembly Committee on Government Affairs, 76th Session, p. 66 (March 30, 2011).*

the case, the State Engineer could simply curtail junior rights—a power already granted by pre-existing water law in NRS § 534.110(6). Thus, the State Engineer concludes that NRS § 534.037 provides flexibility outside regulation by priority, and the manner in which the GMP proposes to reduce pumping is authorized by Nevada law.

Notwithstanding, even though NRS § 534.037(1) does not require a GMP to impose reductions solely against junior rights, the most senior rights in the GMP have a higher priority factor than junior rights when the share calculation is made. Thus, the State Engineer finds that the GMP still honors prior appropriation by allocating senior rights a higher priority factor than junior rights.¹⁸

Well Use Approvals

Second, commenters opposed to the GMP challenged the GMP's provision to allow temporary movement (less than 1 year) of allocations, alleging the GMP contravenes existing law by automatically granting such changes, that the temporary approval process diminishes State Engineer and public review and encourages trading on annual bases, rather than filing for a permanent change.¹⁹ On the other hand, other comments were received that supported the flexibility offered by the expedient temporary movement process.²⁰

Existing water law has provisions that deal with temporary changes to water rights²¹ and permanent changes to existing rights.²² Because the GMP unbundles allocations from the place of use where existing water rights are appurtenant, movement of allocations is controlled by a new or existing well serving as the point of diversion.²³ Thus, the GMP was (1) modeled after existing law regarding temporary changes²⁴ and (2) still requires application of NRS § 533.370 to new wells or increased withdrawals exceeding 1 year.²⁵

Section 14.8 of the GMP provides that any new wells or wells having withdrawals in excess of what was approved under the base right be submitted to the State Engineer. Such changes are approved after 14 days if not denied as impairing other rights or contrary to the public interest. The State Engineer finds that the existing law concerning temporary changes (NRS § 533.345(2))

¹⁸ The public comments during the hearing reiterated that the 20% spread of the priority factor likely received the greatest consideration and debate during the GMP process. Ultimately, a spread of priority factor between 0.9997 and 0.80 was what a majority of the plan proponents could agree to.

¹⁹ Written comments of Sadler Ranch, LLC and Great Basin Resource Watch.

²⁰ Written comment of Marty Plaskett; *and see* Transcript, pp. 80-81 (Matt Morrison) (providing an example that when annual reductions are implemented, an irrigator may not have enough water for one pivot, but would have flexibility to combine allocations to water a full crop, while also allowing some irrigation on former irrigation lands to keep them viable until farming on that pivot could resume).

²¹ NRS § 533.345(2).

²² NRS § 533.370.

²³ *See* GMP §§ 14.8 and 14.9.

²⁴ GMP, p. 20 at fn. 20.

²⁵ GMP § 14.9.

expresses a command to grant temporary changes (e.g., “shall approve”) unless the State Engineer determined it impairs existing rights or is contrary to the public interest. Thus, the State Engineer finds that § 14.8 and § 533.345(2) to be entirely consistent. Further, the State Engineers agrees that allowing changes expediently up to the original duty at that well is permissible because the State Engineer already made such an affirmative analysis when the water right was granted. Additionally, the State Engineer finds that § 14.8 of the GMP is not a significant departure from existing law because temporary change applications do not undergo publication or hearing unless required by the State Engineer.²⁶ Thus, it is unpersuasive that § 14.8 diminishes State Engineer and public review. Finally, the potential of a rights holder to serially move allocations for less than 1 year to escape being subject to the procedures of NRS § 533.370, exists under current law, as there is no limitation in statute to the number of temporary applications to change. The State Engineer is mindful that when annual notices are given, to examine such notices to determine there is a motivation to avoid the statutory change process.

With respect to new wells, additional withdrawals exceeding 1 year, or where the State Engineer determined within the 14 calendar days may be not be in the public interest or may impair rights of other persons, the existing procedures under NRS chapters 533 and 534, including publication and protest provisions, still apply.²⁷

Well Plugging Provisions

One commenter asserted that the GMP waived existing law regarding exempting wells from NRS Chapters 533 and 534.²⁸

GMP §§ 14.2 and 14.3 direct when active, unused or inactive wells must be plugged and abandoned, or that a waiver of abandonment can be obtained. The State Engineer finds that these provisions are consistent with existing regulations found in NAC §§ 534.300 and 534.427. Additionally, GMP §§ 14.4 and 14.5 expressly require that well construction and maintenance must comply with the requirements of NRS and NAC Chapter 534. The State Engineer finds that the GMP does not waive or exempt wells from existing laws or regulations.

Banking and Aquifer Storage and Recovery

Lastly, one commenter stated that the banking component of the plan was an aquifer storage and recovery (ASR) project, which lacks a necessary permit required by NRS § 534.250, *et. seq.*²⁹

²⁶ NRS § 533.345(3).

²⁷ GMP § 14.9.

²⁸ Transcript, p. 19 (David Rigdon).

²⁹ Written comment of Sadler Ranch, LLC; Transcript, p. 14 (David Rigdon). The statement at the hearing was that this comment was based upon the report of the hydrogeologist in Appendix I that water banking is a type of aquifer storage and recovery project regulated by the State Engineer. As indicated by further findings, the State Engineer does not agree that the banking component of the GMP is an aquifer storage and recovery project.

Section 13.9 of the GMP allows unused allocations to be carried over and banked for use in a subsequent year to increase the amount of water the rights holder can use in the next year. The banked allocation is subject to depreciation in the amount that is carried over to account for natural losses over time.³⁰ In contrast to banking in the GMP, a typical aquifer storage and recovery project is operated by injecting or infiltrating water from a surface source into the aquifer for the purpose of accumulating storage for future use.³¹ These elements of project operation are not part of the GMP. The State Engineer finds that banking of unused allocations in the GMP is a mechanism to allow flexibility by users to determine when to use their limited allocation and to encourage water conservation practices. Consequently, the State Engineer finds that the banking allocations in the GMP is a reasonable means to facilitate conservation and water planning by water users, as provided for under NRS § 534.037, and that the GMP is not required to fulfill the statutory obligations of NRS §§ 534.250–340.

II. COMMENTS RELATED TO ABANDONMENT, FORFEITURE, AND PROVING BENEFICIAL USE

Some commenters stated that water rights that are currently unused should be abandoned or forfeited prior to reductions in pumping being imposed against existing water rights.³² The State Engineer finds that pursuing forfeiture or abandonment prior to implementing any GMP is ill-advised for several reasons.

First, time is of the essence for rights holders to get a GMP approved prior to August 25, 2025, or curtailment by priority will be ordered for all rights in Diamond Valley. Because forfeiture and abandonment must be shown by clear and convincing evidence, it is doubtful whether there is sufficient time to investigate and assemble evidence concerning abandoned rights, to conduct administrative hearings and engage in any appellate proceedings with time left to secure a final table of water rights to support the GMP. Pursuing abandonment at this moment would likely lead to lengthy administrative and/or appeal proceedings, delaying action on a GMP until a final listing of active groundwater rights would be known.³³

Second, a different problem is presented by forfeiture proceedings. Because the State Engineer conducts an annual inventory in Diamond Valley, information is available concerning those rights that may be subject to forfeiture. However, in 2017, NRS § 534.090 was amended to require that a notice of non-use be served prior to forfeiting unused water rights to provide one year to cure a forfeiture.³⁴ Serving notices of non-use at this stage would require that owners of water rights that are currently unused make efforts to resume beneficial use (*i.e.*, pumping). The

³⁰ Section 13.9 describes that Diamond Valley is divided between the main farming area (generally located in the southern half of the basin) and the groundwater discharge area (the northern half of the basin). Banked water north of the dividing line in the discharge area depreciates at 17% and banked water south of the line at 1%. The depreciation factors are based on numerical flowing modeling analysis to justify and support these amounts. *See* GMP, Appendix I.

³¹ *See, e.g.*, NRS §§ 534.250- 340.

³² Written comments of Sadler Ranch, LLC and Carolyn Bailey.

³³ *See, e.g.*, GMP, Appendix F.

³⁴ *See* NRS § 534.090(2).

consequence of resuming pumping is contrary to the intent of the GMP to *reduce* pumping. Thus, the State Engineer finds that in addition to similar timing problems discussed above, initiating forfeiture proceedings could exacerbate conditions in the basin by increasing pumping, prior to reducing pumping pursuant to the GMP, thereby lessening the effectiveness of the plan.³⁵

Third, assuming *arguendo*, there are water rights existing only on paper (*e.g.*, that could be abandoned or forfeited), reductions in pumping by the GMP start at the ceiling of *actual pumping* (76,000 afa), not at the ceiling of existing rights (126,000 afa). Stated otherwise, even if the State Engineer assumed that the difference between existing rights and actual pumping (50,000 afa) was paper water, the elimination of paper water rights to match active rights will not change that the reductions in *pumping* begin at the component of active rights. The issue of paper water was raised and considered during the GMP drafting process, and it was determined that the GMP contemplated that any valid right in good standing was to be issued shares.³⁶ The State Engineer believes there is a low probability of success for abandonment, and the preceding paragraph describes the likely unanticipated effect of pursuing forfeiture. Therefore, the State Engineer finds that requests to eliminate paper water does not warrant halting this process in order to initiate abandonment or forfeiture proceedings.

Additionally, one commenter stated that existing permitted rights should prove beneficial use and become certificated prior to implementing a GMP. For reasons discussed above, including timing and discouraging increases in pumping, the State Engineer finds that requiring proof of beneficial use prior to implementing a GMP is not in the best interest of taking immediate action to adopt and implement a basin-wide GMP. Further, the GMP petition process expressly applies to the holders of *permits* and *certificates*. Therefore, the GMP statute implicitly recognizes that permitted rights which have not fully proven beneficial use will participate in the GMP process.

III. COMMENTS RELATED TO APPLICABILITY OF PLAN TO ONLY CERTAIN WATER RIGHTS

Some comments were directed to the scope of GMP applying only to irrigation rights and mining and milling rights with a base irrigation right. Some expressed concern that it created a preference for certain manners of use, that there was no environmental component to the plan and it would result in water barons.³⁷ Many comments in favor of the plan described how they believed the plan would allow more irrigators or mines to stay in business, ultimately benefitting the greatest number of operators by providing more favorable conditions such as weed and rodent control.³⁸ The comments favored adoption of a GMP in lieu of curtailment, which many recognized would

³⁵ The issue of forfeiture in Diamond Valley, particularly of pivot corners, pre-dates the 2017 amendments to NRS § 534.090. In the 1980s, the State Engineer pursued forfeiture of unused pivot corners in Diamond Valley, which lead to the enactment of NRS § 534.090(3) (pre-2017 version). *See* Nev. Stat. ch 559 (1983); *and see*, A.B. 597 (1983).

³⁶ *See* GMP, Appendix C, p. 244.

³⁷ Written comments of Great Basin Resources Watch, and Ari Erickson.

³⁸ Written comments of James Gallagher, Mark Moyle and Donald Palmore; Transcript, p. 68 (Jim Gallagher); pp. 80-81 (Matt Morrison).

likely force many junior irrigators into bankruptcy, and as a result, the community would suffer.³⁹ In addition, many comments in favor of the GMP spoke positively about methods for increasing efficiency to continue operations while reducing pumping.⁴⁰

As discussed in the introductory paragraphs section, *supra*, over 96% of committed rights are represented in the plan; therefore, the State Engineer finds that given the overwhelming majority of irrigation rights and mining and milling rights having irrigation base rights, the application of the plan to those rights that will have the most impact and be most impacted, is appropriate. While one commenter opined that the GMP does not address environmental concerns, the State Engineer does not agree. The GMP may not contain express provisions for the environment, but allowing the greatest number of irrigators to remain in business and keep cultivated lands active, will prevent the incursion of weeds, and will provide dust and rodent control. And ultimately, the State Engineer finds that the objective to reduce the pumping of groundwater to stabilize groundwater levels is a benefit of the groundwater basin, the irrigators and other members of the community that rely upon it and live within it, and that it is not necessary to explicitly identify certain areas of environmental concern within the scope of the plan for the plan to have a generalized benefit to the environment.

Finally, the State Engineer finds that comments that the GMP will result in “water barons” or that it will create a preference for certain manners of use, are speculative. Existing water law provides that water rights are a form of real property that are freely alienable and transferrable independent of land where the water was formerly appurtenant. In that way, the ownership of water rights and the manners of use are currently determined by a market of real property transactions.

IV. COMMENTS RELATED TO PRACTICALITY OR REASONABLENESS OF THE PLAN IMPLEMENTATION

Mitigation Rights

Some commenters challenged the fact that the GMP does not provide for mitigation of senior surface water rights that have been negatively impacted by junior groundwater pumping.⁴¹

The requirement for the approval of a GMP is that it “must set forth the necessary steps for removal of the basin’s designation as a critical management area.” NRS § 534.037(1). Neither the plain language nor the legislative history indicate that mitigation of senior surface water rights that have allegedly been adversely affected by groundwater pumping must be mitigated by a GMP.⁴²

³⁹ Written comments of William Norton and Donald Palmore; Transcript, pp. 80-81 (Matt Morrison).

⁴⁰ Written comment of William Norton, Marty Plaskett, Robert Burnham and James Gallagher; Transcript, p. 81 (Matt Morrison).

⁴¹ Written comments of Sadler Ranch, LLC and Daniel Venturacci.

⁴² In fact the opposite appears to be true from the legislative history. As proposed, A.B. 419 would have required the State Engineer “to consider the relationship between surface water and groundwater in the basin,” but this consideration was amended out of the bill after the First Reprint.

Of note is that the State Engineer entered Order 1226, entered on March 26, 2013, which provided a mechanism for mitigation of senior surface water rights allegedly impacted by junior groundwater pumping. Two of the commenters at the hearing who raised this issue have taken advantage of the provisions of Order 1226, by filing for mitigation groundwater rights, which were granted by the State Engineer. Consequently, the State Engineer finds that mitigation is not a required element of the GMP; and in any event, the commenters who raised this issue have already taken advantage of Order 1226.⁴³

Out-of-Basin Transfers

One commenter was concerned that unbundling water rights appurtenant to their place of use creates an incentive for out-of-basin transfers.⁴⁴ The commenter acknowledged that the current GMP prohibits out-of-basin transfers, but suggested the plan proponents may consider amending the plan to strengthen provisions to avoid incentivizing out-of-basin transfers. The State Engineer finds that NRS § 534.037 provides that once adopted, the GMP can be amended by the same procedure which allows for adoption of a plan.⁴⁵ Because the GMP currently prohibits out-of-basin transfers, there is currently no necessity to mandate changes to the GMP to strengthen provisions to disincentivize out-of-basin transfers. Some commenters involved the creation of the plan who spoke in favor of it acknowledged the plan may not be “perfect.” Short of finding the current GMP cannot be approved as a matter of law, the State Engineer finds that denial of the Petition to require years of possible additional negotiations to merely better state existing plan provisions, to be unnecessary.⁴⁶

See A.B. 419 (First Reprint), Senate Committee on Government Affairs, 76th Sess. (May 25, 2011).

⁴³ See, e.g., Permits 81720, 82268, 81825 and 82572, official records in the Office of the State Engineer.

⁴⁴ Written comment of Great Basin Resource Watch.

⁴⁵ NRS § 534.037(5).

⁴⁶ The State Engineer values all comments and testimony received concerning the GMP. While it is clear the *Public Interest Review of the Proposed Diamond Valley Groundwater Management Plan* prepared for Great Basin Resource Watch was thorough in its analysis, the State Engineer gives great weight to comments and testimony from water rights holders in Diamond Valley, senior or junior whom are for or against approval of the GMP. Great Basin Resource Watch does not own water rights in Diamond Valley and it does not appear it was involved in the years of public meetings held in Eureka to negotiate the details of the GMP. See, e.g., GMP Appendix C at pp. 121-240. Indeed, its own written comment appears to recognize it is appropriate to afford great weight to those that created and are affected by the plan. See Written comment of Great Basin Resource Watch at p. 8 (a groundwater management plan should address the varied objectives or goals of water users and residents in the basin, and a worthwhile consideration is whether the GMP promotes bottom-up collaboration to promote broad buy-in from affected individuals and to provide flexibility in decision-making); and see also, Transcript, p. 65 (Mark Moyle) (responding to comments at the hearing, stating that the GMP was developed by the people who live in Diamond Valley and will be most affected and that everyone was making sacrifices).

Public and Local Community Interest

The same commenter stated that the public interest component was not adequately represented and that the description of local community interests could be strengthened.⁴⁷

The State Engineer disagrees that the public interest is not adequately represented. As already discussed under well use approvals, new wells, additional withdrawals exceeding one year, or where the State Engineer rejected a request under § 14.8, is subject to the procedures of NRS § 533.370—including the public interest review for change applications.

Many comments in support of the GMP reflect the reality that it took years for the participants to negotiate an agreement that was able to attain majority support required to petition the State Engineer for approval. Years before the State Engineer declared the basin a CMA in 2015, the GMP process was initiated by the local community and stakeholders.⁴⁸ Work on the GMP continued for an additional three years after the CMA designation with numerous meetings of the community and stakeholders, ultimately arriving at the version presented to the State Engineer in 2018.⁴⁹ Appendix C of the GMP demonstrates that this process was emotional and difficult for the participants—yet they persisted in forging a plan in an effort to avoid curtailment. The written comments overwhelmingly demonstrate the public and local community interests to be preserved by the approval of the plan, which are best stated by the following irrigator:⁵⁰

The irrigators that support this plan understand that we all need to sacrifice for the long-term benefit of the community and the long-term continued success of the farming industry. Diamond Valley is the heart of southern Eureka County's economy. . . . Strong, willing, and giving people who understand that it takes community effort to sustain and survive built Diamond Valley. . . . The purpose of the DVGMP is to continue the ongoing success of the entire southern Eureka County area and the enterprises that exists [sic] there.

This sentiment was repeated in all written comments submitted in support of the plan.⁵¹ In addition, many stirring accounts were given at the public hearing about living and growing up in Diamond Valley, the desire to preserve the established way of life, the hardscrabble efforts made over decades to create the farms that exist in the valley today, and the determination of the community to work together to solve issues, both past and present, which challenged their continued existence.⁵² The State Engineer finds that the GMP materials, written comments and testimony at the public hearing overwhelmingly describe and support the public and local

⁴⁷ Written comment of Great Basin Resource Watch.

⁴⁸ GMP, Appendix B.

⁴⁹ See GMP, Appendices A, C.

⁵⁰ Written comment of Mark Moyle.

⁵¹ See written comments of Robert Burnham, Russell Conley, Jim Etcheverry, James Gallagher, Andrew Goettle, William Norton, Donald Palmore, Marty Plaskett and Ruby Hill Mining Company; and see Transcript, pp. 52-53 (D'Mark Mick).

⁵² Transcript, pp. 57-59 (James Moyle); pp. 75-77 (Vickie Buchanan); pp. 79-82 (Matt Morrison); pp. 84-85 (Lloyd Morrison); pp. 85-88 (Alberta "Birdie" Morrison).

community interests, which weigh heavily in the determination at hand. While many comments in the *Public Interest Review*⁵³ reflect aspirational components of what a plan *may* contain or how it could be best stated, the State Engineer finds that the GMP is acceptable in these areas.

Protections for Domestic Wells

One commenter suggested that domestic wells were not protected because pumping will continue to exceed the perennial yield while the GMP is carried out. The State Engineer finds that NRS § 534.110(7), states that unless at GMP has been approved for a basin pursuant to NRS § 534.037, “withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights.” And that pursuant to NRS § 534.080, domestic wells are assigned the date of priority of the date the well was drilled. Thus, the GMP is protective of domestic wells because it specifically excludes the domestic wells from pro-rata reductions in use and allows for their continued use to the full statutory permitted amount, compared to the alternative that (a) the domestic wells in Diamond Valley are junior in priority to the 30,000 af PY, and (b) since, absent an approved GMP, domestic wells are subject to curtailment based upon their priority.

Advisory Board Makeup

Commenters had differing issues with the makeup of the Advisory Board.⁵⁴ One commenter stated that the GMP favors junior appropriators on the Advisory Board. Alternatively, another commenter posited that after a period of years, the makeup of the Advisory Board could favor non-irrigators over irrigators. The State Engineer finds that the plan was created by the individuals that will be subject to the plan, and the State Engineer accepts that a majority of the rights holders agreed that the makeup and voting structure of the participants agreed this to be a fair manner of representation on the Board.

V. COMMENTS RELATED TO SCIENTIFIC SOUNDNESS

Some commenters challenged the GMP, asserting that the GMP is not supported by science and hydrologic analysis, with the following observations:⁵⁵

- a. The scheduled reduction in pumping would exceed the perennial yield for the life of the GMP and in the process it would deplete aquifer storage in excess of the transitional storage volume.
- b. The GMP is not supported by a hydrogeologic analysis or a groundwater model to provide information on the effects of the plan.
- c. Some commenters had questions about the accuracy of the ET depreciation rate, and whether this rate may change over time because

⁵³ Written comment of Great Basin Resource Watch.

⁵⁴ Written comments of Sadler Ranch, LLC and Great Basin Resource Watch.

⁵⁵ Written comments of Ira and Montira Renner and Sadler Ranch, LLC; Transcript, p. 19 (David Rigdon); pp. 23-24 (David Hillis).

of groundwater recovery and corresponding changes in groundwater ET.

d. One commenter raised the lack of thresholds or triggers in the GMP.

The GMP is based on the simple fact that groundwater pumping is the cause of declining water levels, and therefore pumping must be reduced to solve the problem. The reduction in pumping is set at 3% per year for the first 10 years, and may be adjusted up or down thereafter as informed by groundwater level monitoring data. The goal of this approach is to progressively reduce groundwater pumping until the perennial yield is not consistently exceeded, and the measure of that ultimate outcome is a stabilization of water levels.

Perennial yield is based on the principle of conservation of mass, which dictates that water levels will stabilize when recharge equals discharge. Before any groundwater development occurs, an undeveloped basin is considered to be in equilibrium between natural groundwater recharge and discharge. When wells are developed, groundwater is initially drawn from aquifer storage in the vicinity of the well, but over time that groundwater removal is replaced by a decrease in natural discharge or increase in recharge until a new equilibrium is reached and the discharge by pumping is part of the basin water balance. Water drawn from storage in the period of time between the pre-development equilibrium and the post-developed equilibrium is defined as the transitional storage. The amount of transitional storage consumed before a new equilibrium state is reached may affect the depth to water at a new equilibrium condition, but as long as recharge and discharge are ultimately balanced then an equilibrium condition can be reached and the goal of the GMP to stabilize water levels can be achieved. The amount of storage consumed in the transitional period will not prevent equilibrium from being reached.

Groundwater modeling and hydrogeologic analysis are not the basis for the GMP's determination of pumping reduction rates and target pumping totals at the end of the plan. Instead, the pumping reduction rate was selected by agreement of the GMP authors, and the target for total pumping at the end of the GMP was selected from existing published values. Upon implementation, the real effects of the plan will be monitored and observed by measuring the change in groundwater levels throughout the basin. Those measurements will be the basis for plan review and any modifications of pumping reduction rates that the GMP requires after an observation period of 10 years.

Groundwater modeling is a helpful and informative tool for projecting the effects of pumping reduction and planning accordingly, but modeling is not necessary to conclude that reductions in pumping will lead to reductions in water level drawdown. Groundwater modeling and hydrogeologic analysis beyond what is publicly available in existing published reports would not change the fact that the cause of groundwater decline is due to pumping groundwater and that the stakeholder-authored plan seeks to reduce pumping. Modeling could be a useful tool for future evaluation of the plan and modifications to pumping reduction rates, but it is not required.

One commenter questioned whether the reductions in pumping under the plan combined with rights not subject to plan would bring withdrawals to the perennial yield based on his calculation of rights able to be pumped being excess of 42,000 afa.⁵⁶ As explained, the goal of the

⁵⁶ See written comment of Ari Erickson.

GMP is to reduce consumptive use to the current perennial yield; and, as indicated in the introductory paragraphs, there are 4,437 af of groundwater rights in the basin not subject to the plan. Thus, the State Engineer does not find that there could be total pumping in excess of 42,000 afa in the basin at the end of 35 years under the GMP. Assuming, *arguendo*, that rights subject to the plan and those not subject to the plan were estimated to be 34,437 af, existing evidence used by the State Engineer to designate the basin a CMA demonstrates that there are wide variations in annual pumping—in some years, by several thousand acre-feet more or less than the prior year.⁵⁷ Because the designation of a CMA is based on withdrawals *consistently* exceeding the perennial yield, the State Engineer finds that existing law suggests some tolerance of variations on the annual amount of pumping. In addition, the State Engineer is mindful that perennial yield is an *estimate* of water availability and is only one-half of the equation of GMP success.⁵⁸ Actual observations of water levels are the most direct and reliable means of determining GMP success. The plan to reduce pumping, monitor the effects on water levels, and then adjust pumping reductions is a sound approach to achieving the goal of stabilizing water levels. The lack of a groundwater model or detailed hydrogeologic analysis does not preclude approval of the GMP as written.

One commenter raised the lack of thresholds or triggers in the GMP. The State Engineer finds that there is no express requirement in NRS § 534.037 for thresholds or triggers, and that a reference to thresholds or triggers is commonly in reference to a “Monitoring, Management and Mitigation (3M)” Plan. The State Engineer has historically utilized 3M Plans as a tool in approving new appropriations when impacts to existing rights are unknown. Consequently, the State Engineer finds that a 3M Plan having thresholds and triggers is different than the GMP now pending before the State Engineer, and that the two types of plans serve different functions. Nevertheless, the State Engineer finds that there has been robust monitoring of irrigation groundwater use in Diamond Valley by the State Engineer’s office for many decades and that monitoring groundwater use and groundwater levels is ongoing. Moreover, the GMP requires irrigators to install a smart meter, which will provide increased accuracy and nearly real-time knowledge of groundwater use.⁵⁹ Finally, the GMP incorporates the State Engineer’s enforcement authority concerning over-pumping of a user’s allocation, and contains penalties to be paid in water for over-pumping and stiff administrative fines for meter tampering.⁶⁰

Finally, some commenters had questions about the accuracy of the ET depreciation rate, and whether this rate may change over time because of groundwater recovery and corresponding

⁵⁷ See Order 1264, official records in the Office of the State Engineer.

⁵⁸ Both the GMP and the commenter acknowledged the release of a 2016 report by the U.S. Geological Survey, which estimated the perennial yield may be 35,000 af. GMP, p. 8 at fn. 2; Transcript, p. 37 (Ari Erickson). As part of a different administrative hearing proceeding, the State Engineer was requested to accept the USGS Report as the perennial yield in Diamond Valley. That matter is currently under submission, and no determination has been made by the State Engineer whether to accept this number. Consequently, the GMP was based on the current estimate of perennial yield of 30,000 af.

⁵⁹ See GMP § 15. The most recent groundwater inventory conducted by the State Engineer in 2018 revealed that there was nearly 100% compliance with smart meter installation already. This further affirms that rights holders have already made financial commitments of purchasing and installing smart meters to ensure success of the GMP.

⁶⁰ GMP §§ 16, 17.

changes in groundwater ET. The selection of these rates was the only component of the GMP expressly based on groundwater model simulations. The accuracy of the model and appropriateness of assigning ET depreciation rates based on model interpretation was discussed at GMP planning meetings. The ET depreciation rates in the final GMP were a compromise and there was never a consensus. Adjustments to these rates is provided for under the provisions to amend the GMP, as warranted by the data.

VI. COMMENTS RELATED TO PRECEDENCE

Several commenters were concerned that any GMP adopted in Diamond Valley creates a precedent for other areas in the state that may be designated Critical Management Areas. The proposed GMP under consideration is the first plan in the state adopted through the process required by NRS § 534.037. As with most decisions involving water, the conditions and issues facing Diamond Valley are unique to Diamond Valley, and therefore the requirements of this plan may not be suitable for any other area in the state. Many individuals speaking in support of the plan made this observation, and the State Engineer concurs that the Diamond Valley GMP does not limit the possible solutions that may be employed by other groundwater management plans.

WHEREAS, based upon the foregoing, the State Engineer makes the following findings of fact, conclusions of law and order:

The State Engineer finds that Appendix D to the GMP sufficiently describes (a) the hydrology of the basin; (b) the physical characteristics of the basin; (c) the geographic spacing and location of the withdrawals of groundwater in the basin; (d) the quality of the water in the basin; and (e) the wells located in the basin, including, without limitation, domestic wells.

The State Engineer finds that there is currently no groundwater management plan in existence for Diamond Valley.

The State Engineer finds that the GMP is analogous to the settlement agreement at the center of the *Lewis* case, *i.e.*, an agreement supported by at least a majority of the permit and certificate holders in Diamond Valley to protect existing rights while cutting the Gordian knot of basin over-appropriation. Thus, the State Engineer concludes that adoption of the GMP is expressly authorized by statute and does not violate the prior appropriation doctrine because the statute provides flexibility outside strict regulation by priority.

The State Engineer finds that the GMP is not legally deficient nor waives any authority of the State Engineer to enforce Nevada water law.

The State Engineer finds that due to the length of time required, initiating abandonment or forfeiture proceedings or requiring proof of beneficial use prior to implementing a GMP is not in the best interest of reducing pumping and would only serve to delay such reductions.

As discussed in the introductory paragraphs, over 96% of committed rights are represented in the plan; therefore, the State Engineer finds that given the overwhelming majority of irrigation rights and mining and milling rights having irrigation base rights, and that the application of the plan to those rights that will have the most impact, and that will be the most impacted, is appropriate.

The State Engineer finds that public and local community interests have been considered, and that such interests are a cornerstone of the plan by retaining the greatest number of farms or mines as economically viable, which will provide social, economic, and environmental benefits.

The State Engineer finds that the standard for determining success of the plan by stabilizing water levels is sound.

The State Engineer finds that groundwater modeling is an informative tool for projecting the effects of pumping reduction, and that future model results could add confidence to decisions on any changes to pumping reductions, but that the lack of a groundwater model or hydrogeologic analysis does not preclude approval of the GMP as written.

The State Engineer finds that the GMP's annual reductions in pumping will lead to the entire basin's groundwater pumping approaching the perennial yield and stabilization of groundwater levels.

The State Engineer finds that the GMP is a groundwater management plan and is not a monitoring, management and mitigation plan; therefore, not only is there no requirement that there be a mitigation component or thresholds and triggers for activation of mitigation actions, but also such components would cloud the plan's goal and objectives.

The State Engineer finds that 1 acre-foot is equal to 325,851 gallons pursuant to practice and policy of the Office of the State Engineer, and that this conversion rate will be used.

In light of the foregoing findings, having considered the comments for and against the GMP, the State Engineer concludes that the petitioning parties have met the requirements for the adoption of the Diamond Valley Groundwater Management Plan, and the Petition is accordingly granted.

ORDER

NOW THEREFORE, it is ordered that the Petition to Adopt the Groundwater Management Plan for the Diamond Valley Hydrographic Basin is hereby GRANTED.


P.E.

JASON KING, P.E.
State Engineer

Dated at Carson City, Nevada this

11TH day of JANUARY, 2019.

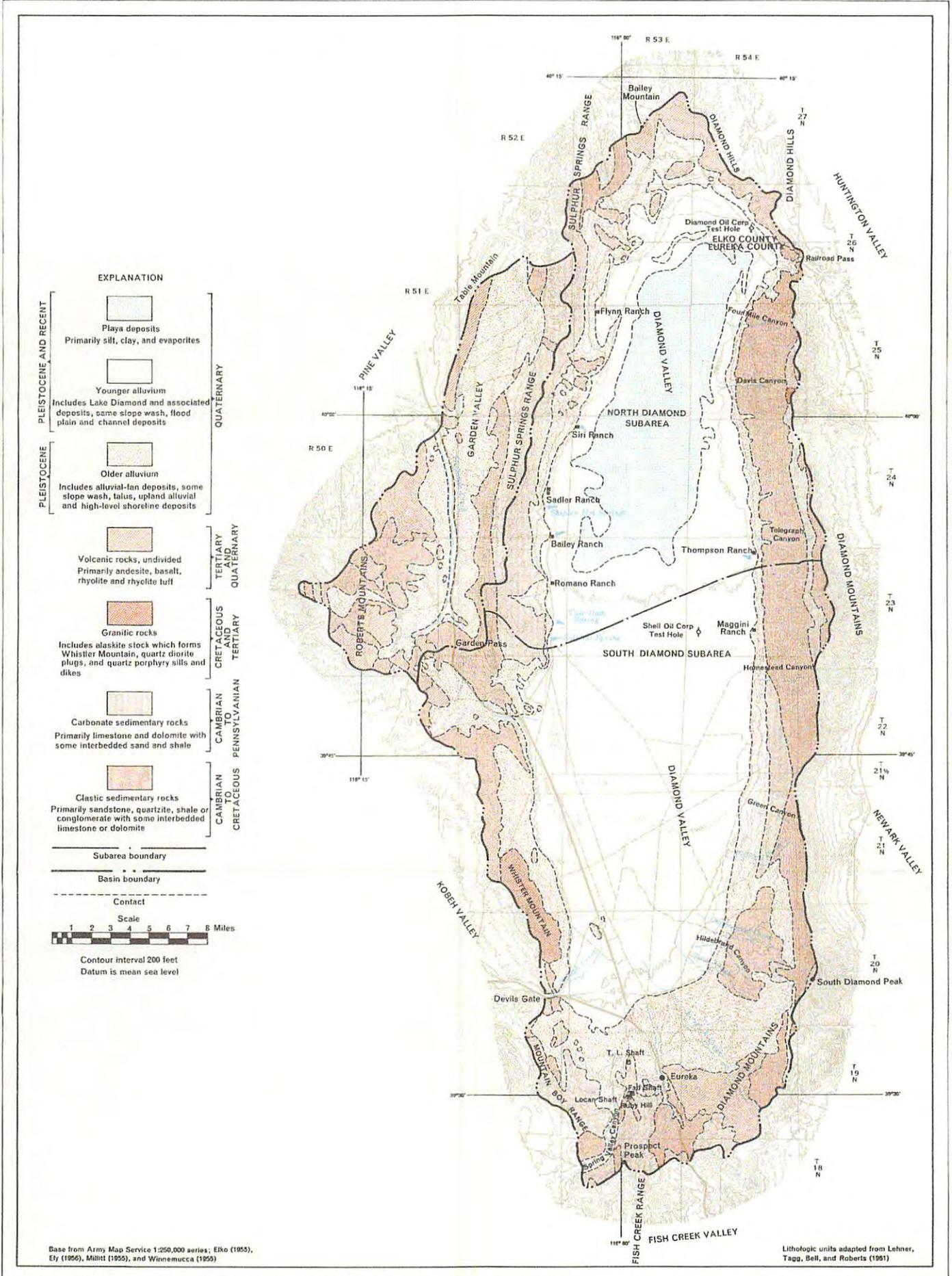


PLATE 1.—MAP OF DISTRIBUTION OF PRINCIPAL LITHOLOGIC UNITS, SUBAREAS, AND GEOGRAPHIC AND CULTURAL FEATURES, DIAMOND VALLEY, EUREKA AND ELKO COUNTIES, NEVADA

DATE: August 16, 2018
TO: Jason King, Nevada State Engineer
CC: Adam Sullivan, Deputy State Engineer
SUBJECT: Petition for approval of Diamond Valley Groundwater Management Plan

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Dear Mr. King:

Enclosed, please find the consolidated petition from groundwater permit holders in Diamond Valley requesting your approval of the also enclosed Diamond Valley Groundwater Management Plan (GMP).

Also enclosed is a table of water rights holders and associated permits used to track receipt of individual petitions and any clarifying notes or follow-up. Based on this table, which is unofficial, 290 of 493, or 58.8%, total groundwater permits signed the petition requesting GMP approval by August 15, 2018. It is understood that your office will independently evaluate the petition signatures and associated permits and the final, official total may be different.

An electronic copy of the GMP may also be downloaded at:

https://drive.google.com/open?id=1jEYzKBsqOg3WbZuNb58v_5OYIrYZDCw5.

If you have any questions or need clarification, please contact the GMP Advisory Board through the Eureka County Department of Natural Resources (Jake Tibbitts).

SE	'S EXHIBITS	1
DATE:	10-30-18	

SE ROA 148

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
Roger B. and Judy B.	Allen		26437, 47591	2	1	2	IP	26-Jun	Recent sale; Dusty Moyle signed
Harlow B. and Bonnie G.	Andersen		18242, 72370	2	1	2	Mail	24-Jul	Valerie Wood, daughter, signed.
Edward B. and Jerry Lee	Anderson		19191, 24214, 47518, 47519, 47520, 47521	6	1	6	Mail	24-Jul	
Timothy Lee and Constance Marie	Bailey		22194, 22195, 49731	3		0			
Fred and Carolyn, Wilfred and Barbara	Bailey	Bailey Family Trust	28035, 28036, 37933, 48948, 49732, 55727, 63497, 67144	8					
James E. and Vera L., Jim	Baumann		19526, 44783	2		0			
Scott Thomas and Kristine Louise	Bell		33817, 33818	2	1	2	IP	26-Jun	
Craig and Kathryn	Benson		18978, 18981, 39552, 39553, 39554, 42019, 42020	7	1	2	IP	24-Jul	

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
Kenneth F. and Patti E.	Benson		21428, 22648, 22921, 22922, 35009, 36321, 36322, 85966, 85967, 86032, 86033, 86034, 86035, 86036, 86037, 86038, 86039	17		0			RECEIVED 2010 JUN 20 AM 11:53
Don and Linda	Bergener		21839	1		0			
Chad and Rosie	Bliss		44784, 78663, 78664, 83852, 83853	5					
James or Pamela	Buffham		20487	1	1	5 IP		26-Jun	20487 -JWL Properties; JWL/Jeff Lommori signed
James or Pamela	Buffham		24262, 24263, 24264, 24265	4	1	1 Mail		24-Jul	24262 through 24265 - Diamond Valley Hay Co., Inc. (Plaskett); Plaskett signed
Dale R. and Elma G.	Conaway		24127, 24128	2		4 IP		26-Jun	

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
Kenneth E. and Beverly A.	Conley	Conley Land and Livestock, LLC	19492, 19500, 19501, 19502, 22217	5	1	5	IP	26-Jun	
Charles E.	Cooper		18999	1	1	1	IP	26-Jun	Matt Morrison signed
Ferno L. and Carrie M.	Dubray		19279, 35374, 35375, 49853, 49854, 67450	6		0			
James F.	Etcheverry		35012	1	1	1	Mail	26-Jun	
A.C. (Angelo)	Florio	Arc Dome Partners, LLC	10824, 10827	2		0			
Gary G. and Melody I.	Garaventa		81612, 81614, 81653	3	1	3	IP	26-Jun	
Daniel E.	Groth		46287, 51647	2	1	2	Mail	15-Aug	
Jayne L.	Halpin		31454, 31455, 81004	3	1	3	IP	26-Jun	
Howard Sr and Kathy	Hill		18911	1	1	1	Mail	26-Jun	
John R.	Hovious		18927, 18928	2	1	2	Mail	15-Aug	Same permits of A.G. Farm Commodities; signed by Gary Betschart.
Richard E and Mari A.	Kephart		26664, 42367, 42368, 42369, 42370, 56652	6					
Reece W.	Marshall		20487	1	1	6	IP	26-Jun	JWL Properties; JWL/Jeff Lommori signed

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
William C. and Rachel G.	Marshall		27976	1		0			
Juanita Ruthel	Martin	The Juanita Ruthel Martin Trust Ruth Martin Ranches, LLC	18786, 18787, 18788, 18789, 86252, 86253	6					
John E.	Marvel		24204, 24262, 24263, 24264, 24265	5	1	6	IP	26-Jun	
Harold R. and Muriel	Miles		19111, 23893	2					Marty Plaskett signed - Diamond Valley Hay Co., Inc.
Lavon and Kristi Anthony	Miller		22566, 22567	2	1	2	Mail	15-Aug	19111 POD and POU on Galen Byler's property; 23893 POD on Mark Moyle's property (same well as 19110) but POU on Byler's. Signed by Galen Byler.
Owen J. and Cheryl	Miller		21085, 23462, 23803, 65481	4	1	2	Mail	24-Jul	
John B. and Nancy	Minoletti		19218, 21561, 23711, 23738, 23739, 41883, 41884	7		0			
David D. & Belinda Faye	Morrison		20565	1	1	7	Mail	15-Aug	Recent purchase by Ropp; signed by Delmar and Trennis Ropp.
			21426, 21843, 66440	3	1	1	Mail	24-Jul	
					1	3	IP	26-Jun	Martin Plaskett signed and added 66440

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
Donald E. and Alberta J.	Morrison		24129, 24130	2	1	2	2 Mail	26-Jun	Also included 24130
D. Lloyd	Morrison		24574, 29405, 66439	3	1	3	3 IP	26-Jun	
James L. and N. Jane, Dusty L.	Moyle		19145, 19378, 19379, 19381, 19492, 20000, 20015, 24605, 29557, 29873, 30102, 30913, 36070, 40402, 43397, 46461, 49185, 49188, 50095, 50650, 81268, 26437, 47591	23					
					1	23	IP	26-Jun	
	Newton		18834, 18835, 19052, 19053	4	1	4	IP	24-Jul	Recent sale; David Groth signed.

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
William H. Jr. and Patricia A.	Norton		23918, 77646, 77695, 77696, 80717, 80718, 80879, 80880, 80881, 80926	10	1	10	IP	24-Jul	
Egidio	Oliveira		29895	1		0			
Sean	Peck		24378	1		0			Ruby Hill Ranch parcel - 5 afa
Walter L. and Tommye J.	Plaskett		19563, 19971, 19972, 19973, 28160, 34948, 46348	7					
Ira R. and Montira	Renner		85131, 85132, 85133, 85134	4	1	7	IP	26-Jun	Martin Plaskett signed
David M. and Sally R.	Rubio		35418	1		0			Roger and Chrissy Hubbard recently obtained Quitclaim Deed clarifying ownership.
Terry F.	Rudd	The Church of Jesus Christ of Latter-Day Saints	47304	1		0			
Robert L. and Arlene	Smith		31389	1		0			Not specifically listed in deed to LC Properties.

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
Craig Allen and Shelba Kay	Smith		18796, 18797	2		0			
Albert L. and Joy D.	Snowden		54409	1	1	1 IP		15-Aug	
Daniel S.	Venturacci		13726, 13727, 81825, 82572	4		0			
Norbert and Eileen B.	Walter		19218, 21561, 24378	3		0			Ruby Hill Ranch property
Dennis L. and Kim Kennedy	West		73899, 78358	2	1	2 Mail		24-Jul	
Larry N.	Wisehart		33668, 33669, 33670, 33671	4	1	4 Mail		26-Jun	
T.C.	Woldrum	Chloe Held Trust U/W Paul R. Held First National Bank of Mpls.	6369	1					On Scott Bell's property (7th St.) in middle of pivot
Tim R.	Zasadny		63052	1		0			

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		American First Federal, Inc. Berg Properties California, LLC Diamond Valley Ranch, LLC	21930, 22316, 22982 43271, 43272, 43273, 43274 19541, 19542, 19904, 20087, 20088, 21929, 23479, 23480, 24606, 24607, 24609, 24610, 78905, 78906	21	1	21	IP	26-Jun	
		Bar D Land and Livestock, LLC	19965, 19966, 31062, 31063, 77666, 78447, 80581, 83567, 83568	9					
		Beck Properties, Arc Dome Partners, LLC	13198, 13200, 13580	3		0			

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Blanco Ranch, LLC	43269, 43837, 43838, 43839, 43840	5	1	5	IP	26-Jun	Arthur Berg signed
		Burnham Farms, LLC	23272, 28641, 29278, 23271	4	1	4	Mail	24-Jul	Recent sale; struck all but 23272, 28641, 29278 and added 23271. Lavon Miller signed.
		Burnham Farms, LLC	19760, 24272, 28061, 46505	4	1	4	Mail	24-Jul	Recent sale; struck all but 19760, 24272, 28061, and 46505. Chuck and Heidi Reinford signed.
		Damele Farms, Inc.	19292, 19293, 24202, 24203	4	1	4	Mail	15-Aug	
		Deanne M. Hicks and Denise L. Moyle	18794, 31108, 31110, 31111, 31113, 31114, 76358, 77569, 78062, 81269	10	1	10	IP	26-Jun	

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Fred L. Etchegaray and John J. Etchegaray Leroy W. Etchegaray and Mary Jean Etchegaray Family Trust	18802, 19360, 19361, 31249, 31563, 39156, 55535, 57777, 65483, 71748	10		0			
		Gallagher Farms, LLC J & T Farms, LLC	18851, 48871, 48872, 70587, 70588, 87072, 87073, 19014, 83615, 83616, 83617	11	1	11 IP		26-Jun	
		Halpin Family Trust	19192, 29765	2	1	2 IP		26-Jun	
		J.W.L. Properties, LLC	78771, 78772, 78773, 78774, 78775, 20487	6	1	6 Mail		24-Jul	RECEIVED 2018 AUG 20 AM 11:54
		LC Properties, LLC	83622, 83623	2		0			

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Lynford and Susan Miller Revocable Family Trust	30927, 30928, 40010, 40013, 44604, 44605, 44606, 44607, 44609	9	1	9	IP	24-Jul	
		M&C Hay Morrison Trust	21844, 34596, 42021, 48225, 48226	5	1	5	IP	26-Jun	
		Mark Moyle Farms, LLC	19110, 20366, 22352, 22353, 34561, 34562, 34939, 43268, 43270, 43836, 48437, 66441, 67172, 70940, 78568	15	1	15	IP	26-Jun	

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Martin P. and Kathleen A. Etcheverry Family Trust and Mark T. Etcheverry and Jennifer Etcheverry	33018, 33019	2	1	2	Mail	24-Jul	
		Michel and Margaret Ann Etcheverry Family Limited Partnership	20694, 21399, 21841, 35013	4	1	4	Mail	15-Aug	Separate note attached to petition signed by Matthew Etcheverry.
		Robert Ithurralde and James P. Ithurralde	80799, 83503, 83504, 73629, 80799, 81229, 81230, 83503, 83504	9	1	9	IP	26-Jun	Recent sale; Chad Bliss signed
		Sadler Ranch, LLC	37933, 50581, 50582, 70305, 77083, 81720, 85145, 86600	8	0	0			RECEIVED 8 AUG 20 AM 11:54

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First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Sestanovich Hay & Cattle, LLC	18975, 18988, 18989, 19324, 34950, 70073, 80780, 80781, 86030	9	1	9	Mail	24-Jul	
		The Donald F. & Eliza M. Palmore Family Trust	14948, 44451, 44452, 53872	4	1	4	IP	26-Jun	

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Ruby Hill Mining Company, LLC	18621, 18622, 19411, 22551, 24378, 25820, 44621, 68923, 73118, 73204, 77447, 77449, 79706, 79707, 83501, 83502, 83505, 83506, 83507, 85645, 85646, 85647, 86794, 87222, 87223, 87224, 87225	27					
					1	27	Mail	24-Jul	Crossed out 25820 and 73118; added 18623 and 79705

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CITY OF DENVER

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Ty and Michelle R. Erickson and Ari and Alisha Erickson, Solarijos, LLC	18623, 42891, 64630, 64631, 64632, 64633, 19490, 85651	8		0			

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Eureka Moly, LLC Kobeh Valley Ranch LLC Ruby Hill Ranch, LLC	19218, 21561, 23711, 23738, 23739, 24378, 81650, 11004, 11008, 24012, 44743, 47907, 50962, 50963, 57835, 57836, 57838, 57839, 57840, 66062, 68122, 86149, 86150, 86151, 86152, 86153, 18621, 18622, 19411, 22551, 24378, 25820, 44621, 68923, 73118, 73204, 77447, 77449, 79706, 79707, 83501, 83502, 83505, 83506, 83507, 85645, 85646, 85647, 86794, 87222, 87223, 87224, 87225	53					
		Mt. Hope Mines, Inc.	29120, 29121	2		0			

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STATE ENGINEERING

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		Eureka County Public Works Devils Gate General Improvement District Town of Eureka Eureka County	63052, 68923, 79707, 18851, 18988, 20565, 22217, 23462, 26542, 26543, 26544, 29603, 49924, 63247, 64117, 65768, 65769, 65770, 67902, 71842, 71843, 87437, 24378, 45534, 55660, 57856, 57857, 66207, 66208, 72936, 76526, 83241, 83242, 83243, 83245, 62928, 62929	37					
		Eureka County Board of Education	20495	1	1	1	1 Mail	24-Jul	

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STATE ENGINEERING

First Name	Last Name	Company Name	Permits	# of Permits	Petition Returned? 1=Yes, 0=No	Permit Count If	Mail or In-Person	Meeting tallied	Notes/Follow Up
		A.G. Farm	18927, 18928	2	1	2	Mail	15-Aug	
		Commodities	24204, 24262, 24263, 24264, 24265	5					
		Diamond Valley Hay Co., Inc.			1	5	IP	26-Jun	
			Totals	493		290			

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18242, 72370

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Harlow B. and Bonnie G. Andersen

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: July 19, 2018

Valerie A. Wood
Printed Name

Valerie A. Wood
Signature

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19191, 24214, 47518, 47519, 47520, 47521

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Edward B. and Jerry Lee Anderson

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-18-18

Jerry Anderson
Printed Name

Jerry Anderson
Signature

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19526, 44783

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

James E. and Vera L., Jim Baumann

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-18-18

JAMES E. BAUMANN

Printed Name

James E. Baumann

Signature

RECEIVED
2018 JUN 23 11:11:24

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

33817, 33818

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Scott Thomas and Kristine Louise Bell

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 5/24/10

Scott T Bell
Printed Name

Scott T Bell
Signature

Kristine L. Bell

Kristine L Bell

RECEIVED
MAY 25 2010
STATE ENGINEER
CARRISVILLE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

44784, 78663, 78664, 83852, 83853

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Chad and Rosie Bliss

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-18-2018

Chad Bliss

Printed Name

Chad Bliss

Signature

Rosie Bliss

Rosie Bliss

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19111, 23893

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Harold R. and Muriel Miles

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: July 27, 2018

Galen F. Byler
Printed Name

Galen F. Byler
Signature

RECEIVED
2018 JUL 20 AM 11:55
Nevada State Engineer

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19492, 19500, 19501, 19502, 22217

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Kenneth E. and Beverly A. Conley
Conley Land and Livestock, LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6/26/18

Russell E. Conley
Printed Name

Russell E Conley
Signature

Lynn A Conley

Lynn A Conley

Beverly A Conley

Beverly A Conley

KENNETH E. CONLEY

Kenneth E Conley

2018 JUN 29 AM 11:54
RECEIVED

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

33018, 33019

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Martin P. and Kathleen A. Etcheverry Family Trust and Mark T. Etcheverry and Jennifer Etcheverry

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-12-18

MARTIN ETCHEVERRY

Printed Name

Martin Etcheverry
Signature

Kathleen A Etcheverry

Kath A Etcheverry

Mark Etcheverry

Mark Etcheverry

Jennifer Etcheverry

Jennifer Etcheverry

RECEIVED
2018 AUG 23 AM 11:54

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

20694, 21399, 21841, 35013

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Michel and Margaret Ann Etcheverry Family Limited Partnership

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 8-13-18

Mark Etcheverry
Printed Name

Mark Etcheverry
Signature

MARTIN ETcheverry

Martin Etcheverry

Day Etcheverry

[Signature]

RECEIVED
2018 AUG 23 AM 11:45

DATE: July 25, 2018
TO: Diamond Valley Groundwater Rights Holders
SUBJECT: Final date to submit petition for Diamond Valley Groundwater Management Plan and associated meeting – August 15, 2018

Previously, you were sent a copy of the Final Diamond Valley Groundwater Management Plan (GMP) and associated petition. This packet included a schedule of meetings intended to open petitions received and tally the signatures. Here are the results thus far as of the July 24 meeting:

- 53 of 99 names of record which equals 53.5%
- 266 of 493 permits which equals 53.9%

While an overall majority has been exceeded, there were at least two water rights holders whom provided notice before the July 24 meeting that their petition was either in the mail or would be very soon and they wanted their petition counted. Further, one entity representative attending the meeting noted they had not yet ran the petition through their channels for a formal decision. Since the July 24 meeting, more petitions have come in and we have received additional phone calls from water rights holders informing they are sending petitions in and wish to be counted.

At the July 24 meeting, one individual asserted July 24 was the "cut off" date for any petitions to be sent and tallied and for the petitions as of July 24 to be sent on to the State Engineer for consideration. The rest of the group attending the meeting did not believe July 24 was intended to be a "cut off" date and wanted to set August 15 as the final date to allow those that have provided notice they are sending in their petitions and want their petitions counted and any others that have not yet made a decision to have a clear deadline. The group decided, with the one individual remaining opposed, to schedule a meeting on August 15 and to provide formal notice to water rights holders this would be the final deadline to get any remaining petitions in.

If you feel inclined to sign the petition and have not yet sent in your petition, please **ensure it is sent in enough time to be received by August 15.**

Please mark your calendars and plan to attend the **final GMP petition tallying meeting on August 15 at 6:00 pm at the Opera House.**

You may return any signed petition **through US Mail** to:

Diamond Valley GMP
PO Box 509
Eureka, NV 89316

Or, you may **hand-deliver** your signed petition at the August 15 meeting.

This will serve as a petition by the Etcheverry Family Limited Partnership (EFLP) Signed by myself Matthew Etcheverry as President.

Matthew Etcheverry SE ROA 176

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

35012

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

James F. Etcheverry

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-15-18

James F. Etcheverry
Printed Name


Signature

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

81612, 81614, 81653

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Gary G. and Melody I. Garaventa

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: JUNE 25- 2018

GARY G GARAVENTA
Printed Name

Gary G Garaventa
Signature

Melody I Garaventa

Melody I. Garaventa

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

46287, 51647

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Daniel E. Groth

Note: write in any other water right holders

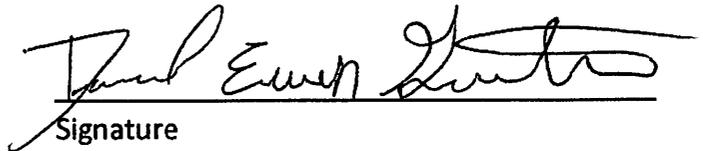
I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-23-18

Daniel Evan Groth

Printed Name



Signature

2018 JUL 23 10:11 AM
STATE ENGINEER
CLARK COUNTY

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

31454, 31455, 81004

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Jayme L. Halpin

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6/26/18

JAYME L. HALPIN
Printed Name

[Signature]
Signature

RECEIVED
2018 JUN 29 AM 11:55

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19192, 29765

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Halpin Family Trust

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: June 26 - 2018

Tim HALPIN Trustee
Printed Name

[Handwritten Signature]
Signature

RECEIVED
JUN 26 2018
STATE ENGINEER
DIVISION OF WATER RESOURCES

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18911

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Howard Sr and Kathy Hill

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-15-18

Howard Hill SR
Printed Name

Howard Hill SR
Signature

Kathy M. Hill

Kathy M. Hill

RECEIVED
STATE ENGINEER
OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

80799, 83503, 83504, 73629, 80799, 81229, 81230, 83503, 83504

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Robert Ithurrealde and James P. Ithurrealde
James P. and Robert Ithurrealde

Note: write in any other permit numbers held or cross out any permit numbers not held

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-18-2018

Chad Bliss
Printed Name

Chad Bliss
Signature

Rosie Bliss

Rosie Bliss

RECEIVED
STATE ENGINEER
DIVISION OF WATER RESOURCES
CARRINGTON, NEVADA

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

26664, 42367, 42368, 42369, 42370, 56652

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Richard E and Mari A. Kephart

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-25-18

RICHARD KEPHART
Printed Name

Richard Kephart
Signature

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18786, 18787, 18788, 18789, 86252, 86253

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

**Juanita Ruthel Martin
The Juanita Ruthel Martin Trust
Ruth Martin Ranches, LLC**

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-26-18

Vickie Buchanan
Printed Name

Vickie Buchanan
Signature

RECEIVED
STATE ENGINEER
DIVISION OF WATER RESOURCES
CARRISVILLE, NEVADA

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

22566, 22567

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Lavon and Kristi Miller

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-2-18

Lavon Miller
Printed Name

[Signature]
Signature

RECEIVED
2018 MAR 20 11:11:55

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

30927, 30928, 40010, 40013, 44604, 44605, 44606, 44607, 44609

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Lynford and Susan Miller Revocable Family Trust

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-24-18

Lynford Miller
Printed Name

Lynford Miller
Signature

RECEIVED
COUNTY CLERK
CLATSOP COUNTY
JUL 27 2018

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

20565

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

John B. and Nancy M. Minoletti

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7/21/18

John Minoletti

Printed Name



Signature

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

24129 * 24130

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Donald E. and Alberta J. Morrison

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-22-18

Alberta J. Morrison
Printed Name

Alberta J. Morrison
Signature

(Donald E. Morrison - Deceased 2016)

RECEIVED
JUN 23 11:11:15
CLARK COUNTY

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

21844, 34596, 42021, 48225, 48226, 18999

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

M&C Hay Morrison Trust

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-26-18

Matthew L. Morrison
Printed Name

Matthew L. Morrison
Signature

Cheryl Ann Morrison

Cheryl Ann Morrison

RECEIVED
JUN 28 2018
STATE ENGINEER
DIVISION

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

24574, 29405, 66439

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

D. Lloyd Morrison

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: June 20 2018

Donald Lloyd Morrison
Printed Name

Donald Lloyd Morrison
Signature

RECEIVED
JUN 20 2018
STATE ENGINEER
OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

21426, 21843, 66440 (stock).

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Lloyd D. & Belinda Faye Morrison → TOMMYE J. PLASKETT (Deceased).
→ MARTIN L. PLASKETT

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6.25.2018

MARTIN L. PLASKETT

Printed Name

Martin L. Plaskett

Signature

RECEIVED
STATE ENGINEER
DIVISION OF WATER RESOURCES
CARRISVILLE, NEVADA

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

24204, 24262, 24263, 24264, 24265

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Diamond Valley Hay Co., Inc.

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6.25.2018

MARTIN L. PLASKETT

Printed Name

Martin L Plaskett

Signature

RECEIVED
2018 AUG 20 AM 11:56
NVE ENGINEERING

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19563, 19971, 19972, 19973, 28160, 34948, 46348

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Walter L. and Tommye J. Plaskett → *MARTIN L. PLASKETT*

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: *6.25.2018*

MARTIN L. PLASKETT
Printed Name

Martin L Plaskett
Signature

2018 JUN 24 AM 11:06

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

26437, 47591

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

~~Roger B. and Judy B. Allen~~ DUSTY L. MOYLE, OWNER. TRANSFER

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: June 26 2018

DUSTY L. MOYLE
Printed Name

Dusty L Moyle
Signature

RECEIVED
JUN 27 2018
STATE ENGINEER
DIVISION OF WATER RESOURCES

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19145, 19378, 19379, 19381, 19492, 20000, 20015, 24605, 29557, 29873, 30102, 30913, 36070, 40402, 43397, 46461, 49185, 49188, 50095, 50650, 81268, 26437, 47591

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

James L. and N. Jane, Dusty L. Moyle

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: _____

JAMES L. MOYLE
Printed Name

James L. Moyle
Signature

N JANE MOYLE

N Jane Moyle

DUSTY L. MOYLE

Dusty Moyle

RECEIVED
DIVISION OF WATER RESOURCES
STATE ENGINEER
NOV 14 2013

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18794, 31108, 31110, 31111, 31113, 31114, 76358, 77569, 78062, 81269

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Deanne M. Hicks and Denise L. Moyle

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6/26/18

Denise Moyle
Printed Name

[Signature]
Signature

Deanne Moyle-Hicks

[Signature]

RECEIVED
JUN 27 2018
STATE ENGINEER
DIVISION OF WATER RESOURCES

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18834, 18835, 19052, 19053

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Debra Newton

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7/6/18

David Groth
Printed Name

David Groth
Signature

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2018 JUN 24
11:11:55

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

23918, 77646, 77695, 77696, 80717, 80718, 80879, 80880, 80881, 80926

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

William H. Jr. and Patricia A. Norton

Note: write in any other water right holders

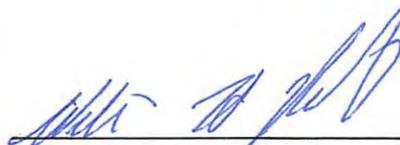
I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-24-18

William H Norton

Printed Name



Signature

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2018 AUG 20 AM 11:55
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

14948, 44451, 44452, 53872

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

The Donald F. & Eliza M. Palmore Family Trust

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-26-18

Donald F Palmore

Printed Name

Donald F Palmore

Signature

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2018 AUG 20 AM 11:56
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19760, 20046, 23272, 24272, 28061, 28561, 28641, 29279, 40011, 40014, 44810, 46505, 70249

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Chuck D Reinford, Heidi N Reinford

~~Burnham Farms, LLC~~

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-2-2018

Chuck D Reinford

Printed Name

Chuck D Reinford

Signature

Heidi N. Reinford

Heidi N. Reinford

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2018 AUG 20 AM 11:55
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19218, 21561, 23711, 23738, 23739, 41883, 41884

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

~~Owen J. and Cheryl Miller~~ Delmar Ropp and Trenni's Ropp

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 8/3/18

Delmar Ropp
Printed Name

Signature
Delmar Ropp

Trenni's Ropp

Signature
Trenni's Ropp

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Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

54409

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Albert L. and Joy D. Snowden

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 8-15-18

ALBERT L. SNOWDEN
Printed Name

Albert Snowden
Signature

Joy D. Snowden

Joy D. Snowden

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2018 AUG 20 11:11:56

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

73899, 78358

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Dennis L. and Kim Kennedy West

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-15-18

Dennis West

Printed Name

[Handwritten Signature]

Signature

2018 JUL 15 12:57 PM
STATE ENGINEER'S OFFICE
CARRISVILLE, NEVADA

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

33668, 33669, 33670, 33671

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Larry N. Wisehart

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 06-22-2018

LARRY N. WISEHART
Printed Name


Signature

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2018 AUG 20 AM 11:56

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18927, 18928

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

A.G. Farm Commodities

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7.23.18

GARY BETSCHART
Printed Name

Gary Betschart
Signature

2018 JUN 23 AM 11:15

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

21930, 22316, 22982, 43271, 43272, 43273, 43274, 19541, 19542, 19904, 20087, 20088, 21929, 23479, 23480, 24606, 24607, 24609, 24610, 78905, 78906

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

American First Federal, Inc.
Berg Properties California, LLC
Diamond Valley Ranch, LLC

Note: write in any other water right holders

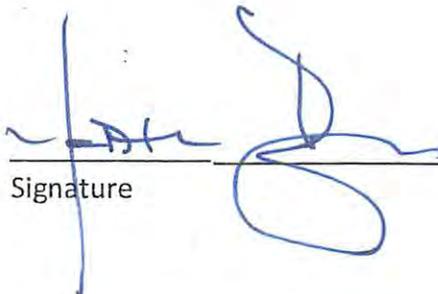
I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6/26/18

ARTHUR BERG

Printed Name


Signature

REC'D
2018 AUG 20 AM 11:55

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

43269, 43837, 43838, 43839, 43840

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Blanco Ranch, LLC

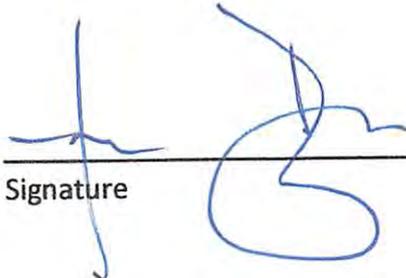
Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6/26/18

ARTHUR BERG
Printed Name


Signature

RECEIVED
2018 AUG 20 AM 11:56

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

~~19760, 20046, 23272, 24272, 28061, 28561, 28641, 29278, 40011, 40014, 44610, 46505, 70249~~
23271

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Burnham Farms, LLC Lavon Miller or LK Farm LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-2-2018

Lavon Miller
Printed Name

[Signature]
Signature

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2018 AUG 20 AM 11:56
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19292, 19293, 24202, 24203

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Damele Farms, Inc.

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: July 8- 18

Leo Q Damele
Printed Name

Leo Q Damele
Signature

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2018 AUG 20 AM 11:56

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

20495

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Eureka County Board of Education

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7-10-2018

Robert E Burnham
Printed Name


Signature *Board President*

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2018 AUG 20 AM 11:56

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18851, 48871, 48872, 70587, 70588, 87072, 87073, 19014, 83615, 83616, 83617

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Gallagher Farms, LLC
J & T Farms, LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: June 24, 2018

James Travis Gallagher
Printed Name

[Handwritten Signature]
Signature

JAMES E. GALLAGHER

[Handwritten Signature]

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2018 AUG 20 AM 11:56

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

78771, 78772, 78773, 78774, 78775, 20487

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

J.W.L. Properties, LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 7/2/2018

Jeffrey J. Lommoni
Printed Name

[Signature]
Signature

RECEIVED
2018 AUG 20 AM 11:56
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

19110, 20366, 22352, 22353, 34561, 34562, 34939, 43268, 43270, 43836, 48437, 66441, 67172, 70940, 78568

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Mark Moyle Farms, LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-26-2018

Mark S Moyle
Printed Name

Mark S Moyle
Signature

RECEIVED
2018 AUG 20 AM 11:56
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18621, 18622, 19411, 22551, 24378, ~~25820~~, 44621, 68923, ~~73118~~, 73204, 77447, 77449, 79706, 79707, 83501, 83502, 83505, 83506, 83507, 85645, 85646, 85647, 86794, 87222, 87223, 87224, 87225
18623, 79705

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Ruby Hill Mining Company, LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: June 8th 2018

Jack McMahon
Printed Name

[Signature]
Signature

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2018 AUG 20 AM 11:55
STATE ENGINEER'S OFFICE

Petition

To the Nevada State Engineer for Approval of the Diamond Valley Groundwater Management Plan

Water Right Permit(s):

18975, 18988, 18989, 19324, 34950, 70073, 80780, 80781, 86030

Note: write in any other permit numbers held or cross out any permit numbers not held

Name of groundwater right holder on file in the Office of the State Engineer:

Sestanovich Hay & Cattle, LLC

Note: write in any other water right holders

I, the undersigned holder of permit(s) to appropriate groundwater in the Basin 153, Diamond Valley, petition the Nevada State Engineer to approve the Diamond Valley Groundwater Management Plan.

By signing this Petition, I as the signatory, do hereby declare that I am the holder of the above groundwater permit(s) or portion thereof or am legally authorized to sign as the representative of the named holder of the groundwater permit(s) or portion thereof upon which I place my signature.

Date: 6-24-18

JERRY SESTANOVICH
Printed Name

Jerry Sestanovich
Signature

Cheri Sestanovich

Cheri Sestanovich

2018 JUN 20 AM 11:56
RECEIVED

Diamond Valley Groundwater Management Plan

2018 JUN 20 AM 11:52

SE	'S EXHIBITS	2
DATE:	10-30-18	

Executive Summary

For over 40 years, annual groundwater pumping has exceeded the perennial yield of Diamond Valley, located in southern Eureka County, Nevada. Groundwater levels since 1960 have declined on average two feet per year. In 2015, the State Engineer designated Diamond Valley as a Critical Management Area (CMA). By law, this designation provides 10 years for groundwater rights holders to develop a Groundwater Management Plan (GMP) to remove the basin from CMA designation.

If the GMP is not developed, supported by a majority of water right holders, approved by the State Engineer, and implemented in that timeframe, the State Engineer is mandated to regulate the groundwater basin by strict priority. Junior groundwater rights and domestic wells (after about May 1960) would be prohibited entirely or severely restricted from pumping.

The Diamond Valley Groundwater Management Plan applies to groundwater rights that serve an irrigation purpose and mining or milling rights that have an irrigation base water right. Priority (seniority) is factored into these rights using a formula which converts the rights to a set amount of shares. The shares are used on a year-to-year basis for calculating the volume of water (annual allocation in acre-feet of water per share) allowed to be used, sold, traded and banked. The GMP does not apply to vested water rights (including mitigation rights), municipal, industrial, stockwater, or existing domestic wells.

The GMP provides an alternative approach to ensure that over time groundwater levels stabilize. Existing water users may continue to use water in proportion to their water rights and seniority. The GMP requires reductions in pumping over time. This is accomplished by a system of shares with annual allocations (acre-feet of water per share) of water being available based on a formula.

$$WR * PF = SA$$

Where:

WR = Total groundwater right volume as recognized by DWR, accounting for total combined duty (i.e., overlapping places of use) (measured in acre feet)

PF = Priority Factor based on seniority

SA = Total groundwater Shares

Using the formula, shares are set for each water right and do not change. However, annual allocations (acre-feet of water per share) are reduced each year under the GMP to meet the required pumping reductions. Water rights holders and users can use the table in Appendix F and cross reference to the pumping reduction table in Appendix G to calculate the water allocation for any given year under the Plan.

Share calculation example using 160 acres with a duty of 4 acre-feet per acre:

Most senior water right: 640 acre-feet x 1.0 PF = 640 shares

Mid senior water right: 640 acre- feet x 0.90 PF = 576 shares

Least senior water right: 640 acre-feet x 0.80 PF = 512 shares

Year of GMP	Allocation in acre-feet per share (Appendix G)	Most Senior (water in acre-feet)	Mid-senior (water in acre-feet)	Least Senior (water in acre-feet)
1	0.670	428.495	385.645	342.796
5	0.569	364.221	327.798	291.376
10	0.469	299.946	269.952	239.957
15	0.435	278.522	250.669	222.817
20	0.402	257.097	231.387	205.677
25	0.368	235.672	212.105	188.538
30	0.335	214.247	192.823	171.398
35	0.301	192.823	173.540	154.258

The Plan creates a system to track water allocations and use. The State Engineer will administer and manage the Plan while being advised by a locally elected Advisory Board. The State Engineer is authorized to hire a Water Manager to assist.

The approval of the GMP by the State Engineer requires that a majority of the groundwater rights holders sign a petition requesting approval.

This Executive Summary provides a reference to the most important aspects of the plan but it is highly encouraged that all affected water right holders read and understand the entire document.

Contents

Section 1. Defined Terms

Definitions of terms and acronyms used in the Plan

Section 2. Diamond Valley Background

Description of the area as a groundwater basin

Section 3. Need for a Groundwater Management Plan (GMP)

Explanation of the Critical Management Area designation by the State Engineer, what that means for Diamond Valley water users, and why a Groundwater Management Plan is needed.

Section 4. GMP Process

Description of the multi-year process that led to the development of the plan beginning in 2014, prior to CMA designation, including the notification process for all groundwater right holders in Diamond Valley.

Section 5. Nevada Statutory Criteria for GMP Approval

Nevada Revised Statutes for the GMP

Section 6. GMP Goals

The eight GMP goals emphasize stabilizing groundwater levels while preserving the agricultural economy of the area.

Section 7. GMP Boundary and Out-of-Basin Transfers

The GMP applies to groundwater uses within the Diamond Valley Hydrographic Basin and prohibits out-of-basin transfers of groundwater.

Section 8. Scope of Groundwater Included in the GMP

The GMP scope includes all water rights that serve an irrigation purpose and mining or milling rights that have an agricultural base right. The GMP does not apply to vested water rights, municipal, industrial, stockwater, or existing domestic wells which are regulated directly by the State Engineer.

Section 9. Authority of State Engineer to Analyze Potential for Conflicts

The State Engineer has the authority to take appropriate actions regarding groundwater withdrawals that may conflict with existing rights or domestic wells or impacts to vested claims.

Section 10. GMP Administration and Enforcement

The State Engineer administers and enforces the GMP and considers recommendations of the GMP Advisory Board (AB). The State Engineer may hire a Water Manager to coordinate with the AB and carry out the Plan. The State Engineer has the ultimate decision-making authority, but his decisions are subject to an appeals process and judicial review as provided under state law.

Section 11. GMP Advisory Board

The GMP Advisory Board has seven members, elected by the Shareholders subject to the GMP. The AB may make specific recommendations to the State Engineer to address any issue or concern. This section describes the composition, election, and replacement of Advisory Board members.

Section 12. Groundwater Shares and Share Register

All groundwater rights within the scope of the GMP receive groundwater Shares according to the formula. The formula takes into account the priority date or seniority of the permit or certificate.

The formula is: $WR * PF = SA$

Where:

WR = Total groundwater right volume as recognized by DWR, accounting for total combined duty (i.e., overlapping places of use) (measured in acre feet)

PF = Priority Factor based on seniority

SA = Total groundwater Shares

The shares are recorded in the Share Register by owner. The registry is maintained by the State Engineer. Appendix F is a preliminary table/spreadsheets of the groundwater rights and corresponding Shares projected.

Section 13. Annual Groundwater Allocations and Groundwater Account

An Annual Groundwater Allocation is the amount of groundwater allocated to each Share each year in acre-feet per Share. Each Allocation is placed into a Groundwater Account or Accounts as determined by the base water rights holder and linked to the Share Register. The State Engineer makes Annual Allocation assignments to each Groundwater Account in February. Groundwater subject to this GMP may be withdrawn from Diamond Valley for any beneficial purpose under Nevada law as long as the groundwater use is linked to and withdrawn from a Groundwater Account with a positive balance and consistent with all of the provisions of the GMP. Water Allocations can be used, traded or sold, or banked for future use. Banked water carried over to the next year will be reduced to account for natural losses based on location within the basin. Year 1 is introductory to allow water users a better understanding of how their groundwater use and management coordinates with the GMP. Section 13.15 provides information on how new and previously existing mining pit lakes are considered.

Section 14. Well Use Approvals

This section explains how existent and future wells in the planning area will be approved and managed including exemption from NRS required abandonment procedures if the well is used to pump water from the Annual Allocation. This does not apply to water uses separate from the GMP. (See Section 8.2)

Section 15. Groundwater Use Metering and Reporting

All groundwater pumped under the GMP shall be metered using an approved Smart-capable flow meter or equivalent, for uniformity, standardization, and to ensure high quality data and accurate reporting.

Section 16. Overdrawing a Groundwater Account

If a Groundwater Account is overdrawn, the water user is responsible for transferring groundwater Allocations from another account. After 30 calendar days, the overdrawn Groundwater Account is subject to penalty.

Section 17. Other Penalties

Penalties may apply for violations of any provision of the GMP. Fines and fees are appealable to the State Engineer through a petition process, and are subject to judicial review.

Section 18. Groundwater Uses Without Allocations.

Groundwater uses within Diamond Valley not expressly included within this GMP remain under the provisions of Title 48 of the Nevada Revised Statutes. Water conservation best management practices by these water users could reduce use of groundwater.

Section 19. Non-Consumptive Groundwater Uses

Some groundwater withdrawals, such as mine pit dewatering, are non-consumptive because much of the groundwater is returned to the Diamond Valley aquifer through injection or infiltration. Non-consumptive groundwater withdrawals remain under the authority of the State Engineer.

Section 20. Funding of GMP

Implementation, management and administration of the GMP will be primarily funded through the State Engineer special annual assessment authority where groundwater rights in Diamond Valley are assessed to cover expense in management of groundwater used. The base right receiving Shares will continue to be the avenue for levying of the assessment through the County tax roll.

Section 21. Relinquishment of Groundwater Rights or Allocations

Groundwater rights may be relinquished with the written consent of all parties with an interest in the right of Allocation.

Section 22. Lands Retired from Irrigation

Funds raised through the special annual assessment may be used for land stabilization and weed and rodent control on lands retired from irrigation (permanently and temporarily) in order to prevent land degradation and detrimental impacts on neighboring lands.

Section 23. Other Land Management

The State Engineer shall work with land management agencies to enhance groundwater recharge.

Section 24. Annual Meeting

The State Engineer and AB shall hold a joint annual public meeting between November 1 and December 15.

Section 25. GMP Publically Accessible

The approved GMP shall be posted on the State Engineer's website and any other website that may be developed for the GMP.

Section 26. GMP Review, Modification or Discontinuation

Amendment or discontinuance of the GMP must be done by following state law. In Year 6, the State Engineer and the AB must review the Plan. Section 26.5 states that many appendices to the GMP are living documents that will change as the Plan progresses. Updates to any appendix are not amendments to the GMP.

Appendices and Footnotes

The appendices and the footnotes provide detailed information and background, and are useful to a full understanding of the GMP.

Appendix A is the petition signed by a majority of water holders, for submission to the State Engineer.

Appendix B is the GMP Scoping Report by Walker and Associates.

Appendix C outlines the GMP process.

Appendix D covers the hydrologic setting of Diamond Valley.
Appendix E contains a basic model of the job description for the Water Manager.
Appendix F is a table of groundwater rights and shares included in the GMP.
Appendix G contains the groundwater allocation and pumping reduction tables.
Appendix H is flow meter water testing results.
Appendix I is the groundwater flow modeling report supporting banking depreciation.

1. Defined Terms

Acre-foot: The amount of water it takes to cover an acre of land with water to a depth of 1 foot. It is equivalent to 325,900 gallons of water. The annual duty of a water right is commonly defined in terms of acre-feet per year.

Agricultural Positions: the Groundwater Management Plan Advisory Board (AB) Members who represent groundwater rights holders whose water rights are used for irrigation purposes

Annual Groundwater Allocation (Allocation): the amount of groundwater allocated to each Share each year (measured in acre feet) in accordance with Section 13

Aquifer: An underground layer of porous rock, sand, or gravel containing amounts of water in sufficient quantity to constitute a usable supply for wells and springs.

At-Large Positions: the positions on the AB that may be held by any Shareholder after Year 8 in accordance with Section 11.4

Allocation and Benchmark Reduction Table: the table of preliminary annual groundwater Allocations and benchmark pumping reductions contained in Appendix G.

Base Water Right: The original groundwater right in good standing according to the records of the State Engineer converted to Shares in this GMP.

Critical Management Area (CMA): Critical Management Area within the meaning of NRS 534.037 and NRS 534.110.

Eureka Conservation District (ECD): Eureka Conservation District

ET Depreciation: the rate of annual depreciation of a banked Allocation (expressed in a percentage) to account for evapotranspiration.

Evapotranspiration: The combined processes by which water is transferred from the earth surface to the atmosphere; evaporation of liquid or solid water plus transpiration from plants. Evapotranspiration occurs through evaporation of water from the surface, evaporation from the capillary fringe of the groundwater table, and the transpiration of groundwater by plants whose roots tap the capillary fringe (phreatophytes) of the groundwater table.

Division of Water Resources (DWR): the Nevada Division of Water Resources, a division of the Nevada Department of Conservation and Natural Resources

Groundwater Management Plan (GMP): this Groundwater Management Plan

Groundwater Account: the account tied to the Share Register held by a groundwater user for all of that groundwater user's Allocations, as described in Section 13.2

Groundwater Management Plan Advisory Board (AB): the Advisory Board initially elected by the participants in the GMP development as described in Section 4 and that shall thereafter be elected and serve in accordance with Section 11

Mining Position: the AB Member who represents groundwater rights holders whose water rights are used for mining and milling purposes

MOU: Memorandum of Understanding; the to-be-drafted document that may be executed between the DWR and the Advisory Board in accordance with Section 10

Perennial Yield: The maximum amount of groundwater that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for perennial use. The perennial yield cannot be more than the natural recharge to a groundwater basin and in some cases is less. If the perennial yield is exceeded, groundwater levels will [continue to] decline and steady state conditions will not be achieved, a situation commonly referred to as groundwater mining.

Phreatophyte: Plants whose roots tap the capillary fringe of the groundwater table.

Priority Factor (PF): the percentage that is used to convert a groundwater right to a Share, in accordance with Section 12.4

Recharge: The process by which water is added to an aquifer, including natural recharge by which precipitation or stream flow makes its way into the groundwater supplies, secondary recharge by which water used for irrigation or other purposes infiltrates the ground and adds to the groundwater supplies, or artificial recharge which includes actions specifically designed to increase groundwater supplies.

Senior Positions: the AB Members who represent groundwater rights holders who hold water rights with a priority date within the first 30,000 acre feet appropriated in Diamond Valley

Share: the product of multiplying the groundwater right volume (measured in acre feet) by the Priority Factor, in accordance with Section 12.3, resulting in the number of Shares a groundwater right holder receives under this GMP. This results in the unit used to calculate an amount of groundwater received under this GMP

Share Register: the database of all Shares that shall be maintained by DWR in accordance with Section 12.8

Shareholder: a person or entity who holds one or more Shares of groundwater that is subject to the GMP

Smart meter: an electronic flow meter that has the capability to record water pumping in desired intervals (including near-real-time) and to communicate that information back to an entity (user or regulatory agency) for monitoring, billing, and administration. Smart meters may enable two-way communication between the meter and the central system.

State Engineer: the Nevada State Engineer

Vested Position: the AB Member who represents groundwater rights holders claiming vested rights to springs in Diamond Valley

Vested Water Right: The water right to use either surface or groundwater acquired through water put to beneficial use prior to the enactment of water law pertaining to the source of the water (i.e., prior to 1905 for surface water)

Water Manager: the employee or independent contractor of the DWR whose role and responsibilities are specified in Section 10

Year X: The word “Year” followed by a number refers to the year following GMP approval, starting on January 1.

2. Diamond Valley Background

Diamond Valley is a major groundwater-reliant farming area in the Diamond Valley Hydrographic Basin, Basin 153 and collectively referred to as “Diamond Valley” in this Groundwater Management Plan (GMP). There are about 26,000 acres of irrigated land, which primarily produce premium-quality alfalfa and grass hay. In 2013, it was estimated that approximately 110,000 tons of hay are produced annually for a total farming income of approximately \$22.4 million¹.

About 126,000 acre-feet of irrigation groundwater rights are appropriated in Diamond Valley while the perennial yield recognized by the State Engineer is 30,000 acre-feet per year.² Groundwater pumping as of 2016, was about 76,000 acre-feet per year. While the primary groundwater usage is irrigation, nearly two-thirds of Eureka County’s residents receive their domestic water needs from groundwater in Diamond Valley, including most of the water needed by the Town of Eureka (which serves numerous businesses and the Eureka County schools), two General Improvement Districts, and domestic wells. Groundwater in Diamond Valley also supplies water needs for mines and other commercial and industrial uses. There are also multiple stockwatering wells that supply the water for many livestock production operations.

For over 40 years, annual groundwater pumping has exceeded the perennial yield of Diamond Valley, and groundwater levels since 1960 have declined at an average rate of approximately two feet per year.

3. Need for a Groundwater Management Plan (GMP)

Recognizing the continuing decline of the groundwater resource in Diamond Valley, on August 25, 2015, the State Engineer used his authority³ to designate Diamond Valley a Critical Management Area (CMA) through Order #1264. By statute, this designation provides a ten-year period in which the groundwater rights holders may come together to develop a Groundwater Management Plan (GMP) to remove the basin from CMA designation. If a GMP is not developed, approved by the State Engineer, and implemented by the end of ten years, the State Engineer is mandated by law to regulate by strict priority. At the expiration of this 10-year period following CMA designation, the law does not provide the State Engineer with any discretion or flexibility other than to regulate by priority⁴. In this case, NRS 534.110(7)(b) would require prohibiting the pumping of junior groundwater rights and domestic wells that were appropriated more recently than a date determined by the State Engineer to bring the withdrawals below the perennial yield. State water law allows

¹ Hansford Economic Consulting, June 2013.

² This perennial yield is based on Harrill (1968). The recent 2016 U.S. Geological Survey Scientific Investigations Report on the Diamond Valley Flow System (Berger et al. 2016) defines the pre-development groundwater discharge, often used by the State Engineer to establish perennial yield, to be 35,000 acre-feet annually.
<http://dx.doi.org/10.3133/sir20165055>.

³ NRS 534.110(7)(a)

⁴ NRS 534.110(7)(b)

development of a GMP in a hydrographic basin designated as a CMA and defers to the GMP on the processes needed to remove the basin from the CMA designation. With or without the CMA designation, the drafters of this GMP recognize that a concerted effort to reduce pumping in Diamond Valley to sustainable levels is needed for protection of the resource itself.

4. GMP Process

Well before CMA designation, many groundwater rights holders, primarily irrigators, came together to start making progress towards a GMP in anticipation that the State Engineer would designate Diamond Valley as the State's first CMA⁵. In March 2014, this group held a meeting and decided to request that the Eureka Conservation District (ECD), a locally elected, third-party, local government entity⁶, take the lead role in facilitating development of a GMP. At its meeting in March 2014, the ECD officially accepted the role of facilitating the development of a GMP.

ECD contracted with Walker & Associates (Walker) in May 2014 to assist in scoping the GMP. ECD sent a letter to every groundwater right holder and all known domestic well holders in Diamond Valley to inform them that Walker would be hosting facilitated workshops and private meetings (if requested) to scope the issues, hurdles, and opportunities that stakeholders believed were relevant to development of a GMP, including potential strategies to reduce pumping. Walker held many facilitated public workshops and private meetings. The results of Walker's work are in Appendix B.

Nevada Revised Statute 534.037(1) requires that a GMP must receive the signatures (through petition) of a majority of groundwater rights holders before it can be officially submitted to the State Engineer for approval⁷. ECD and the groundwater rights holders who attended the various meetings chose to involve everybody who might be affected by a GMP and to build consensus on its content. In April 2015, ECD approached a respected facilitator with the University of Nevada Cooperative Extension, Dr. Steve Lewis, along with Mr. Steve Walker of Walker & Associates and ECD leadership, to assist ECD leadership in this process. Many efforts were made to ensure all groundwater right holders in Diamond Valley were informed of meetings and opportunities to engage in the process. Certified letters were sent to every groundwater right holder in the Diamond Valley hydrographic basin on record with the State Engineer and every documented domestic well owner. An article was also published in the local newspaper, the Eureka Sentinel, about the GMP meetings, encouraging interested and affected persons to attend. Over the course of ten months

⁵ AB 419, which passed in the 2011 Nevada legislative session, created the CMA and GMP statutes. Much of the testimony received during the session on AB 419 was how this could be a tool applied in Diamond Valley. Additionally, the State Engineer held a workshop in Eureka on February 25, 2014 outlining his desire that local solutions be developed through a GMP, regardless of CMA designation. Groundwater rights holders were well aware that CMA designation was likely.

⁶ See NRS 548 for more information on the duties and powers of a conservation district.

⁷ NRS 534.037

between April 2015 and February 2016, seven facilitated workshops were held, at which major portions of the GMP were developed.

In February 2016, participants in these GMP development meetings elected a Groundwater Management Plan Advisory Board (AB) by nomination and majority vote. Thereafter, the AB took over much of the responsibility for facilitating GMP development from the professional facilitators. The AB made recommendations for consideration to the entire group of groundwater rights holders who were participating in the GMP process. From February 2016 until submittal of the GMP to the State Engineer, there were an additional twenty-three formal Advisory Board meetings and twenty formal full-group meetings.

During this process, the groundwater rights holders received presentations on the potential development and implementation of a water market-based system meant to provide ultimate flexibility in using water, while incentivizing conservation and allowing willing participants' quick sale, lease, trade, etc. of water in times when needed⁸. This GMP was developed adapting these concepts to local needs, desires, and constraints.

All meeting reminders, sign-in sheets, meeting notes, outlines, etc. developed at these meetings are included in Appendix C.

5. Nevada Statutory Criteria for GMP Approval

NRS 534.037(1) requires that a GMP submitted for approval to the State Engineer must be accompanied by a petition for approval signed by a "majority of the holders of permits or certificates to appropriate groundwater in the basin that are on file in the Office of the State Engineer...." This GMP is submitted to the State Engineer for approval, accompanied by the required petition, included as Appendix A.

The only statutory requirement for a GMP is that it "must set forth the necessary steps for removal of the basin's designation as a critical management area."⁹ Only basins where "withdrawals of groundwater consistently exceed the perennial yield of the basin" may be designated as a critical management area,¹⁰ as has occurred in Diamond Valley.

NRS 534.037(2) further identifies, without limitation, elements the State Engineer "shall consider" when "determining whether to approve a groundwater management plan submitted pursuant [NRS 534.037(1)]..." These include:

⁸ See Young, M. (2015) *Unbundling Water Rights: A Blueprint for development of robust water allocation systems in the western United States*. NI R 15-01 Durham, NC. Duke University. <http://nicholasinstitute.duke.edu/publications>.

⁹ NRS 534.037(1)

¹⁰ NRS 534.110(7)(a)

- (a) The hydrology of the basin;
- (b) The physical characteristics of the basin;
- (c) The geographic spacing and location of the withdrawals of groundwater in the basin;
- (d) The quality of the groundwater in the basin;
- (e) The wells located in the basin, including, without limitation, domestic wells;
- (f) Whether a groundwater management plan already exists for the basin; and
- (g) Any other factor deemed relevant by the State Engineer.

Appendix D was developed and included to assist the State Engineer's consideration of these required considerations.

6. GMP Goals

- A. Remove the basin's CMA designation within 35 years by stabilizing groundwater levels in Diamond Valley
- B. Reduce consumptive use to not exceed perennial yield
- C. Increase groundwater supply
- D. Maximize the number of groundwater users committed to achieving GMP goals
- E. Preserve economic outputs from Diamond Valley
- F. Maximize viable land-uses of private land
- G. Avoid impairment of vested groundwater rights
- H. Preserve the socio-economic structure of Diamond Valley and southern Eureka County

7. GMP Boundary and Out-of-Basin Transfers

- 7.1 The GMP shall apply to those groundwater uses within the Diamond Valley Hydrographic Basin that come within the scope of the GMP, as discussed in Section 8.1.
- 7.2 Out-of-basin transfers of groundwater that is subject to the GMP are prohibited¹¹.

8. Scope of Groundwater Included in the GMP

- 8.1 The GMP applies only to the following groundwater rights that exist at the time the GMP is approved by the State Engineer:
 - 1) Groundwater rights that serve irrigation purposes;
 - 2) Groundwater rights that serve mining and milling purposes if they have irrigation base rights; and
 - 3) Groundwater that is imported to Diamond Valley only if it is injected or infiltrated into the Diamond Valley aquifer.

¹¹ Out-of-basin groundwater transfers may be considered by the State Engineer in the future should (1) a majority of groundwater rights holders petition the State Engineer under the provisions of NRS 534.037(1) to approve an amendment to the GMP that authorizes out-of-basin transfers and (2) only when groundwater levels have reached some threshold of stabilization, as determined under the provisions of this GMP.

8.2 The following are not subject to the requirements of the GMP and will remain within the purview of the State Engineer's administrative jurisdiction and standard regulatory scheme:

- 1) Vested water rights, including spring vested rights that have been mitigated with groundwater rights through State Engineer or court order, ruling, decree or other legal decision;
- 2) Groundwater rights that exist at the time of GMP approval that are not irrigation groundwater rights (including stockwater, municipal, commercial, and mining groundwater rights without an irrigation source permit); and
- 3) Domestic wells, as defined by NRS 534.013.

9. Authority of State Engineer to Analyze Potential for Conflicts

9.1 Nothing in this GMP shall impair or supersede the authority of the State Engineer to analyze or take appropriate actions regarding groundwater withdrawals that may conflict with existing rights or domestic wells or impacts to vested rights (or claims).

9.2 The well-use approval process in Section 14 of this GMP is the mechanism for the State Engineer to complete conflict analyses for new wells or increases in diversion rate in existing wells higher than permitted under the base right.

10. Diamond Valley Groundwater Management Plan Administration and Enforcement

10.1 This GMP will be administered and enforced by the State Engineer, who will consider the recommendations of the AB.

10.2 The shareholders agree that a Water Manager employed or contracted by the State Engineer may be charged with managing the terms and conditions of the GMP. If a Water Manager is necessary, the Water Manager shall be employed or contracted by the DWR with job role and responsibilities, funding, administration of penalty provisions, etc. clearly spelled out in a to-be-drafted Memorandum of Understanding (MOU) executed between the AB and DWR. A proposed job description of the Water Manager is included in Appendix E. Whenever this GMP references "State Engineer" this may include the Water Manager or State Engineer designee, as determined through State Engineer discretion.

10.3 The State Engineer in coordination with the AB will conduct annual meetings as set forth in Section 24. In addition to the annual meeting, the State Engineer may meet with the AB as often as deemed necessary and appropriate, within the State Engineer's discretion and, except as otherwise stated herein, shall conduct GMP meetings and business in an open forum with advance notice provided of these meetings but not less than three business days before the meeting.

- 10.4 The State Engineer may task the Water Manager with preparing agendas, taking notes, and preparing meeting minutes or may hire a secretary for these duties, depending on funding availability.
- 10.5 All decisions by the State Engineer shall be in accordance with this GMP and the State Engineer retains ultimate decision making authority over the GMP.
- 10.6 Any person aggrieved by a final decision of the State Engineer under this GMP, which includes any penalties imposed, may appeal the decision to the State Engineer within 30 calendar days after the final decision. The appeal must be in writing and must outline the specific actions requested to be taken by the State Engineer. The State Engineer shall provide detailed, documented reasoning regarding any appealed decision the State Engineer modifies or supersedes. This provision does not waive the judicial review process established in NRS 533.450.

11. GMP Advisory Board

- 11.1 The Advisory Board (AB) shall consist of seven members elected by the Shareholders subject to this GMP.
- 11.2 In addition to other duties specifically outlined in the GMP, the AB is tasked with keeping apprised of local issues and concerns related to the GMP and communicating these issues and concerns to the State Engineer. The AB may make specific recommendations to the State Engineer to address any issue or concern.
- 11.3 The AB in place at the time of the GMP submittal to the State Engineer for approval consisted of eight (8) seats as follows¹²:
 - Seat 1; One person representing mining groundwater rights holders (Mining Position)
 - Seat 2; One person representing groundwater rights holders with primary interests in ranching in Diamond Valley and representing claimants with vested spring rights claims on the valley floor (Vested Position)
 - Seats 3 through 6; Four farmers with both senior and junior rights (Agriculture Positions)
 - Seats 7 and 8; Two farmers with all of their groundwater rights being within the first 30,000 acre-foot to have been appropriated in Diamond Valley (Senior Positions)

Except for one of the Senior Positions, Seat 8 which shall expire upon GMP approval, AB members in place at the time shall maintain their positions on the AB for the first two (2) years following GMP approval. After GMP approval, the AB shall consist of the seven remaining seats - Seats 1 through 7.

¹² The specific AB members at GMP submittal: Ari Erickson (Seat 1), Ira Renner (Seat 2), Mark Moyle (Seat 3), Bob Burnham (Seat 4), Russell Conley (Seat 5), Marty Plaskett (Seat 6), Jim Gallagher (Seat 7), and Vickie Buchanan (Seat 8).

- 11.4 After the end of Year 8 of the GMP,¹³ the AB shall consist of the Mining Position, two Agriculture Positions, and four open seats (i.e., groundwater allocation used for any use) (At-Large Positions) according to the following step-wise progression:
- 1) At the end of Year 2, Seats 3, 4, and 5 shall be open for election to a four-year term and shall be filled by individuals representing agriculture (i.e., groundwater allocation used for agriculture).
 - 2) At the end of Year 4, Seats 1, 2, 6, and 7 shall be open for election to a four-year term. Seat 1 shall be filled by an individual representing mining (i.e., groundwater allocation used for mining) and Seats 2, 6 and 7 representing agriculture (i.e., groundwater allocation used for agriculture).
 - 3) At the end of Year 6, Seats 3, 4, and 5 shall be open for election to a four-year term. Seats 3 and 4 shall be filled by an individual representing agriculture (i.e., groundwater allocation used for agriculture) and Seat 5 shall be filled with any groundwater right holder (i.e., groundwater allocation used for any use).
 - 4) At the end of Year 8, Seats 1, 2, 6, and 7 shall be up for election to a four-year term. Seat 1 shall be filled by an individual representing mining (i.e., groundwater allocation used for mining) and Seats 2, 6, and 7 filled with any groundwater right holder (i.e., groundwater allocation used for any use).
- 11.5 Elections occurring after the eighth year of the implementation of this GMP shall be held every two years for each position in which the four-year term has expired.
- 11.6 All AB elections shall be held at the annual meeting described in Section 24 at which all groundwater rights holders under this GMP may attend, make nominations, and cast their vote in-person¹⁴. Nominations shall be made from the floor, and votes shall be weighted according to number of Shares held by a voting water rights holder. Counting of the votes shall be open to view by all attending the meeting and recorded in the minutes.
- 11.7 Any AB seat that becomes vacant before the expiration of a term shall be filled by appointment by the remaining AB members. The term of the appointment expires at the end of the term of the vacant seat.
- 11.8 The AB may meet as often as it deems necessary and appropriate, within its discretion, and meetings shall be in an open forum with advance notice provided of these meetings but not less than three business days before the meeting.
- 11.9 A secretary may be hired to assist with preparing agendas, taking notes, and preparing meeting minutes on behalf of the AB.

¹³ References to events that occur following GMP approval are designated Year 1, Year 2, Year 3, etc., with the year commencing on January 1 following approval by the State Engineer.

¹⁴ No votes by proxy allowed

12. Groundwater Shares and Share Register

- 12.1 All groundwater rights within the scope of this GMP as set forth in Section 8.1 and that are in good standing according to the records of the State Engineer, upon approval of this GMP, shall receive groundwater Shares according to the formula specified in this Section. Calculation of the number of Shares issued for a mining groundwater right with an irrigation base permit shall be established by the volume of the irrigation base permit, not the volume of the mining permit.
- 12.2 The base right receiving the Shares shall continue to be tied to the specific land and well(s) described in the respective permits or certificate at the time of GMP approval. Shares shall not be severable from the base permit or certificate they are attached to.
- 12.3 The State Engineer shall record the number of Shares for each permit or certificate number (and associated owner of record) and link this information to a Share register that shall be established according to the provisions of this GMP.
- 12.4 The formula used to calculate the number of Shares for each groundwater permit or certificate under the GMP shall take into account the priority date (i.e., seniority) of the permit or certificate. The formula being:

$$1) \text{ WR} * \text{PF} = \text{SA}$$

Where:

WR = Total groundwater right volume as recognized by DWR, accounting for total combined duty¹⁵ (i.e., overlapping places of use) (measured in acre feet)

PF = Priority Factor based on seniority

SA = Total groundwater Shares

- 12.5 The Priority Factor (PF) for the Share formula shall be determined by seniority of any given groundwater right, where the spread between the most senior groundwater right and the most junior groundwater right shall be 20%. All irrigation groundwater rights and mining groundwater rights with an irrigation base permit and that are in good standing according to the records of the State Engineer, shall be sorted according to seniority, and each total groundwater right multiplied by its relative senior percentage, resulting in the most senior right receiving a PF of 1.0 and the most junior right receiving a PF of 0.80. The most senior water right under rights consolidated under a total combined duty shall receive the shares.
- 12.6 Some separate groundwater rights in Diamond Valley share the same priority date. Rights sharing the same priority date will have their PF averaged and this average PF applied to each right with the same date.
- 12.7 A preliminary table/spreadsheets of the groundwater rights and the corresponding number of Shares projected at the time of GMP submittal to the State Engineer is included in Appendix

¹⁵ The most senior water right under total combined duty rights shall receive the shares.

- F. This table shall be considered preliminary due to the fact that groundwater rights in Diamond Valley continue to be used and managed in various ways, including potential transfer of ownership, during GMP development. The official record of groundwater rights used for the purpose of establishing Shares shall be groundwater rights as they exist at the time of GMP approval by the State Engineer. Upon approval of the GMP by the State Engineer, the final table/spreadsheet will substituted for the preliminary version in Appendix F.
- 12.8 After Shares are issued, the State Engineer, in coordination with the AB, shall send certified letters to notify each appropriator of record of the following:
- A. That the GMP has been approved and groundwater use in Diamond Valley within the scope of the GMP must follow the GMP;
 - B. Of the status of the owner's groundwater right, the official appropriator name on record, and the number of Shares that shall be assigned to each permit or certificate;
 - C. That all appropriators of record should work with the DWR to address, clarify and correct any discrepancies asserted in groundwater rights or name of record and file any necessary documents required by NRS 533.384 and consistent with NRS 533.024(2); and
 - D. Of any other information deemed appropriate by the State Engineer, in consultation with the AB.
- 12.9 Any certified letter that is returned as undeliverable shall be reviewed by the State Engineer and AB, and every reasonable effort shall be made to contact the groundwater right holder to ensure receipt of the letter.
- 12.10 The State Engineer in coordination with the AB shall oversee creation of a Share Register and shall use all reasonably available technology in the maintenance of the Share Register. The State Engineer will make reasonable efforts to provide for the integrity of the register.
- 12.11 The Share Register shall be accessible by the groundwater right owner of record.
- 12.12 When there is a change of ownership of a base right under the scope of the GMP, the associated change shall be made in the register. The same process for change of ownership under the requirements of NRS 533.384 and consistent with NRS 533.024(2) shall be applicable to any change of ownership of a base right under the scope of the GMP.
- 12.13 New Shares shall not be issued after initial Share issuance unless physical, "new" groundwater is imported into Diamond Valley or the issuance of new Shares is legally required (i.e., ordered by a court with jurisdiction). If physical groundwater is imported into Diamond Valley, additional groundwater Shares may be issued if the imported water is injected or infiltrated into the Diamond Valley aquifer and applying the respective ET Depreciation factor. The base water right in the source basin remains under the authority of the State Engineer, not this GMP.

13. Annual Groundwater Allocations and Groundwater Account

- 13.1 An Annual Groundwater Allocation (Allocation) is defined as the amount of groundwater allocated to each Share each year in acre-feet per Share.
- 13.2 The State Engineer shall place each Allocation into a Groundwater Account or Accounts, as determined by the base water rights holder, and link it to the Share register.
- 13.3 The State Engineer shall be the custodian of documents and records for the transfer and record of groundwater Allocations as maintained by the Division of Water Resources.
- 13.4 The Division of Water Resources will manage the transfer and banking of groundwater Allocations. This management may be contracted to a third-party if it is determined that outside assistance is needed or is better suited to managing the transfer and banking.
- 13.5 Requests to access or make changes to a Groundwater Account may incur a nominal fee sufficient to recover the cost of maintaining the account. Any fee, if established, shall be set by the State Engineer through an open and transparent process in coordination with the AB.
- 13.6 The State Engineer shall determine and make Annual Allocations and assign to the appropriate Groundwater Account by January 1 each year. After January 15 and by February 1 each year, Groundwater Accounts will be reconciled to account for ET Depreciation (see Section 13.9) and any relevant overdraw penalties (Section 16) using the previous year's fourth-quarter pumping data.
- 13.7 A summary of information in the overall Groundwater Account (e.g., amount of groundwater used or unused at any given time period) may be aggregated and made available to the public provided personal identifying information is not disclosed pursuant to NRS 603A.040.
- 13.8 Groundwater subject to this GMP may be withdrawn from Diamond Valley for any beneficial purpose under Nevada law as long as the groundwater use is linked to and withdrawn from a Groundwater Account with a positive balance and consistent with all of the provisions of the GMP¹⁶.
- 13.9 Any unused Allocation shall remain as a balance in the Groundwater Account (i.e., banked) for use in a subsequent year and shall not be subject to future reduction except as otherwise provided herein. There shall be no restrictions on the volume of groundwater that can be banked. Banked groundwater Allocations for use in subsequent years shall depreciate to account for natural losses through evapotranspiration (ET Depreciation). The Diamond Valley hydrographic basin shall be divided between the main farming area and the groundwater discharge area as depicted and described in Appendix I. Banked groundwater shall be reduced at seventeen percent (17%) annually for water banked north of the dividing line and one percent (1%) annually for water banked south of the dividing line. These ET Depreciation factors are based on numerical flow modeling analysis completed to justify and support the amount. A report on this analysis is included in Appendix I.

¹⁶ Includes metering with the approved flow meter using a legal well with a well use approval as discussed in this GMP.

- 13.10 All or part of any Allocation in any individual Groundwater Account may be transferred to any other individual groundwater account through confirmed willing-party transactions in a format prescribed by the State Engineer. Notification of any transaction completed will be confirmed and provided back from the State Engineer to above said parties.
- 13.11 All liens, encumbrances, notices of pledge, other security interests, leases and sales on all or part of any Allocation shall be recorded in the register to provide a mechanism for creditor or beneficiary tracking and recording.
- 13.12 Both benchmark and most-aggressive pumping reductions and associated preliminary¹⁷ annual groundwater Allocations are outlined in the table in Appendix G. While pumping reductions are outlined in the table for 35 years for benchmark reductions, and stabilization of the water table and net-pumping in Diamond Valley reaching perennial yield are expected to be reached within 35 years¹⁸, a more, or less, aggressive reduction schedule may be followed (see Section 13.13 below). If it is determined that the most aggressive pumping reduction schedule is to be followed, net-pumping reaching perennial yield would occur around year 22 of this GMP.
- 13.13 Two goals of the GMP are to (1) stabilize groundwater levels of the aquifer and (2) reduce consumptive groundwater use to the perennial yield. To provide some certainty for water users, and since groundwater level trends may take years to determine, annual Groundwater Allocations shall be firmly set for the first ten years of the GMP. Annual Allocations after Year 10 are anticipated to follow the benchmark reductions (1% cumulative reduction per year) but may be adjusted up or down by the State Engineer, in consultation with the AB, as informed by groundwater level monitoring data multi-year trends. However, after Year 10, annual Allocations cannot exceed a cumulative adjustment of plus or minus (+/-) two (2) percent (%)¹⁹.
- 13.14 Year 1, expected to be 2019, shall be considered “introductory” to allow water users to develop a better understanding of how their groundwater use and management coordinates with the GMP and will provide opportunities to fine-tune GMP management and administration. Groundwater users who do not use a full Year 1 Allocation in any specific Groundwater Account may rollover (i.e., bank) any unused Year 1 Allocation with the respective ET Depreciation factor. No penalties shall accrue nor shall replacement water be required for any individual Groundwater Account that is overdrawn during Year 1, provided that the user does not exceed the permitted duty allowed under the base water right permit.

¹⁷ As previously noted, a preliminary table/spreadsheet of the groundwater rights and the Share projected at the time of GMP submittal to the State Engineer for approval is included in Appendix F. Groundwater rights in Diamond Valley continue to be used and managed in various ways, including potential transfer of ownership, during GMP development until GMP approval. The annual groundwater allocation table shall also be considered preliminary due to the fact that annual allocations are calculated based on the total groundwater Shares available in Diamond Valley. Groundwater rights as they exist at the time of GMP approval by the State Engineer shall be the official rights converted to groundwater Shares in which the final, official annual allocation table will be based.

¹⁸ Water table monitoring is an important component of the GMP and future studies may refine perennial yield to be different than what is known at GMP approval.

¹⁹ Reduction percentages are cumulative beginning in Year 1. Year-to-year reduction percentages may be more or less than cumulative pumping adjustments.

13.15 All mining operations and other man-made excavations extending below the groundwater table (and therefore creating a pit lake after cessation of dewatering) which did not possess a state or federally approved Plan of Operations by the date the GMP was approved by the State Engineer will be required to dedicate groundwater rights (with associated Shares and Allocations) to account for estimated evaporative losses from the surface of the water body. Groundwater rights dedicated for pit lake groundwater evaporation will be placed into special category of the Share Register and will continue to receive annual groundwater allocations. The quantification of the evaporative loss of groundwater will be determined by the State Engineer case-by-case and based upon the best available science and data. The mining operator or property owner will be invited to offer input into the evaporative loss calculation. The quantification of evaporative groundwater losses from a pit lake shall be calculated at the rate of evaporation when the lake is in equilibrium with the groundwater system. The total number of groundwater rights dedicated must have an estimated Allocation at Year 30 of the projected reduction table in Appendix F equal to or greater than the calculated evaporation rate. The dedication of groundwater rights (and associated Allocations) to account for pit lake evaporative losses must be in place when water is first present in the pit bottom after the cessation of mine dewatering activities. The liability of addressing the projected effects to water rights resulting from pit lake evaporative losses is assignable to successor operators and companies or future property owners. If the GMP be discontinued, the operator at the time of cessation will then relinquish water rights in accordance with the process outlined in the November 1, 2016 letter from the State Engineer regarding Pit Lake Evaporation. Payment of the annual assessment for Shares dedicated to evaporative losses is outlined in Section 20.7.

14. Well Use Approvals

- 14.1 Any well (and its associated meter system components) used, or anticipated to be used, to withdraw groundwater in Diamond Valley for uses required to have an Allocation under the GMP shall be linked to a specific Groundwater Allocation Account before any groundwater withdrawal occurs.
- 14.2 Wells kept active and linked to a Groundwater Allocation Account shall be exempt from well abandonment requirements pursuant to NRS 534 and NAC 534. Any well that is kept active, but unused, must have a secure cap or other covering acceptable to the State Engineer to prevent exposure to open air or sources of contamination or otherwise enable a pollutant to be carried to the waters of the State as prohibited by NRS 445A.465.
- 14.3 Wells not kept active and linked to a Groundwater Allocation Account will be subject to well abandonment pursuant to NRS 534 and NAC 534. Waivers for well abandonment requirements may be requested to allow any well not intended for use by the well owner to be used as a monitoring well, if needed, as determined by the State Engineer.
- 14.4 Any well withdrawing groundwater under the GMP must comply with the requirements of the GMP and NRS 534 and NAC 534.

- 14.5 All well construction activities shall be in accordance with applicable well drilling laws and regulations pursuant to NRS 534 and NAC 534.
- 14.6 As provided in Chapters 533 and 534 of the NRS, the State Engineer may deny any application to drill a new well if the State Engineer determines that withdrawal of groundwater from the proposed well will create a conflict with existing rights or domestic wells.
- 14.7 The State Engineer may disallow additional withdrawals from an existing well that exceeds the volume and flow rate that was initially approved under the base permit if the State Engineer determines that the additional withdrawal would create a conflict with existing water rights, domestic wells, or existing uses under the GMP.
- 14.8 Before any new wells or additional withdrawals from an existing well that exceeds the volume or flow rate that was initially approved under the base permit are used, the proposed new well use or additional withdrawal shall be provided to the State Engineer for review. The State Engineer will evaluate the new well use or additional withdrawal within 14 calendar days to determine if the new use or additional withdrawal is in the public interest and would not impair the water rights held by other persons. If the new well use or additional withdrawal is not denied within this 14 calendar days, the new well use or additional withdrawal would be deemed approved by the State Engineer for a period not to exceed one (1) year.
- 14.9 For new wells or additional withdrawals proposed for periods exceeding one (1) year or which the State Engineer determined within the 14 calendar days outlined above may not be in the public interest or may impair the water rights held by other persons, the regular procedures under NRS 533 and NRS 534 for changing the point of diversion or diversion rate shall be required, including publication and protest provisions.²⁰

15. Groundwater Use Metering and Reporting

- 15.1 All groundwater pumped from Diamond Valley that is subject to this GMP shall be metered using an approved Smart²¹ flow meter. A specific, approved flow meter²² is required under this GMP for uniformity, standardization, and to ensure high quality data and accurate and reliable reporting.
- 15.2 The approved flow meter shall be properly installed, fully operational, and certified for use, as required by this GMP, before any groundwater subject to the GMP may be put to use.

²⁰ Sections 14.8 and 14.9 follow a process consistent with NRS 533.345(2) through (4).

²¹ A Smart meter is an electronic flow meter that has the capability to record water pumping in intervals that are near-real-time and communicate that information back to an entity (user or regulatory agency) for monitoring, billing, and administration. Smart meters may enable two-way communication between the meter and the central system.

²² The approved Smart meter at GMP approval is the Siemens SITRANS F MAGFLO MAG 5100W. This magnetic flow meter has been rigorously and independently tested the Utah Water Research Laboratory (UWRL), a National Institute of Standards and Technology (NIST) traceable lab in Logan, Utah. At the time of GMP development, this flow meter was a top performing meter for accuracy and reliability. The USU specifications for the testing of this and other flow meters and testing results of this specific meter is included as Appendix H.

- 15.3 Metered water use data shall be linked to the appropriate Groundwater Account using the data reporting mechanism and frequency as determined by the State Engineer in coordination with the AB²³.
- 15.4 The approved Smart meter shall be installed at or near the point of diversion and shall meet manufacturer installation specifications.
- 15.5 A variance for use of the required Smart meter may be considered on a case-by-case basis through petition to the State Engineer. The State Engineer, in consultation with the AB, may require site-specific engineering to justify consideration of any variance petition. At a minimum, the State Engineer shall require that any variance in use of the approved meter ensure an alternate Smart meter that is as accurate as, or otherwise is better suited to the application, than the meter otherwise authorized by this GMP. If a petition for variance is submitted and granted, the groundwater user bears the risk of whether the alternative meter will perform as expected. If an alternative meter approved for a variance by the State Engineer is later found by the State Engineer, in the State Engineer's discretion, to be inadequate, the variance shall be withdrawn and the water user shall install another acceptable meter at its expense within the deadline established by the State Engineer.
- 15.6 Owners or operators who are granted a variance under Section 15.5 and install the approved flow meter without the minimum straight length spacing requirements, or otherwise inconsistent with manufacturer's specifications, shall provide an adequate testing section of straight pipe located somewhere on the diversion system either upstream or downstream of the installed flow meter. This testing section may be excavated pipeline as long as the section of pipe carries all groundwater being measured through the installed flow meter. Groundwater users choosing to expose pipe must excavate the pipe at their expense.
- 15.7 After installation of any approved flow meter, the meter and installation shall be field-tested by the State Engineer, through the Water Manager or other designee (e.g., DWR staff) using the meter manufacturer's "field verifier" and a portable standard flow meter authorized by the State Engineer to ensure the meter is properly installed and functioning and accurate to within $\pm 10\%$ of the rate of flow and volume measured with a portable standard flow meter. The State Engineer, through the Water Manager or other designee, is authorized to conduct other field checks of installed meters as it deems appropriate. If a meter does not pass an initial installation test or any other field check, the State Engineer may require the groundwater user to replace the meter at the groundwater user's expense and within the deadline established by the State Engineer.
- 15.8 The State Engineer, in consultation with the AB, is authorized to adopt different approved flow meters, data transmission modules, data reporting mechanisms, or groundwater account

²³ At the inception of the GMP, State Engineer December 8, 2017 Order 1292 will be used as the mechanism to collect pumping data and manage the GMP. Order 1292 requires monthly pumping data to be reported at the end of each calendar quarter. Groundwater Accounts will be updated quarterly using this reported data and reconciling of accounts will be completed with year-end data. As the GMP progresses and penalties or other administrative actions are imposed, data reporting and GMP management may be required through automatic transmission of data (e.g., cellular or radio transmission) or a combination of methods.

linkage devices as new technologies or other alternatives become available that are as accurate as, or otherwise are better suited to accurately measure or administer groundwater use subject to this GMP.

- 15.9 Groundwater users shall maintain the installed and certified approved flow meter system (meter and data recording and transmission devices) in proper operating condition within measurement guidelines as set forth in Section 15.4.
- 15.10 If a groundwater user is aware of or is notified that its meter system is not operating correctly, the user shall have seven calendar days to remedy the issue or replace the meter or meter system component. Failure to remedy the issue within seven calendar days may result in the State Engineer requiring that all pumping through that system cease and desist until the issue is fully remedied. The State Engineer within its discretion, on a case-by-case basis, may allow for short-term remedies to extend past seven calendar days if extenuating circumstances exist (e.g., a specific part may not be available and installation may not be possible within seven calendar days). For example, a portable flow meter (e.g., clamp-on ultrasonic meter) may be installed, if appropriate, as determined by the State Engineer, until the approved flow meter system can be serviced, replaced, or otherwise becomes certified as fully operational. The State Engineer, through the Water Manager or designee, may at the groundwater user's expense, assist the groundwater user to remedy issues that arise in a metering system.
- 15.11 Within its discretion, the State Engineer may fill any pumping data gaps due to failed or faulty metering systems using power data and/or average pumping rates on that system before a meter system failure arose.

16. Procedures and Penalties for Overdrawing a Groundwater Account

- 16.1 If a Groundwater Account is overdrawn, the water user that holds the overdrawn account shall be responsible to immediately take actions so as to enable the transfer of groundwater Allocations from another account to the overdrawn account (i.e., buys or borrows water credit from someone else's account). A Groundwater Account that remains in a deficit for greater than 30 calendar days is subject to penalty.
- 16.2 At a minimum, the State Engineer shall withhold or reduce or prohibit use of the immediate next year's groundwater Allocation, if applicable, of the overdrawn Groundwater Account until any overdrawn account is fully settled as outlined in Sections 16.3 and 16.4.
- 16.3 Any water right user whose Groundwater Account becomes overdrawn shall have 30 calendar days from the time overdraw of the account occurs to transfer groundwater Allocations from another account to the overdrawn account at a 1:1 ratio. If sufficient replacement groundwater cannot be secured from another account before the end of the 30-calendar-day period, the water user may elect to replace any remaining overdraw with up to 5% of that groundwater user's immediate next year Allocation (calculated based on the Groundwater Allocation and benchmark reduction table) at a 2:1 ratio as long as this occurs within this 30-calendar-day period.

- 16.4 If an overdrawn groundwater account is not fully balanced within 30 calendar days from the time overdraw of the account occurs, the groundwater user shall be required to replace the overdrawn volume of groundwater at a ratio of 2:1 at least 30 calendar days prior to use of the immediate next year Allocation, or February 1, whichever is applicable. If sufficient replacement groundwater cannot be secured from another account at least 30 calendar days prior to use of the immediate next year Allocation, or February 1, the groundwater user may elect to replace any remaining overdraw with up to 5% of that groundwater user's immediate next year Allocation (calculated based on the Groundwater Allocation and Benchmark Reduction Table) at a 3:1 ratio, so long as this occurs within the 30 calendar days prior to use of the immediate next year Allocation, or February 1, whichever is applicable.

17. Other Penalties

- 17.1 Penalty provisions under NRS Chapter 534.190 through 534.195 may be applied to individuals violating any of the provisions of the GMP.²⁴ While the State Engineer holds the authority to impose penalties under NRS Chapter 534, the State Engineer will consult with the AB before imposing any penalties as set forth in the MOU. Nothing in this GMP shall be construed to alter the authority conferred on the State Engineer under NRS 534.195.
- 17.2 Tampering of a meter or meter system or bypassing or attempting to bypass groundwater use through the approved meter system is prohibited and shall be considered an egregious and purposeful violation. Such violations shall be considered for penalty at the maximum fine amount of \$10,000 per day for each violation (NRS 534.193(1)(a)).
- 17.3 Any groundwater user who is subjected to a fine or assessment of fees resulting from any violation of any provision of this GMP may petition the State Engineer for reconsideration, elimination, or reduction of the fine or fee. Before making any such recommendation, the State Engineer shall accept and consider information submitted by the petitioner and shall consult with the AB. Any order imposing a monetary penalty is subject to judicial review under NRS 533.450.

18. Groundwater Uses without Allocations

- 18.1 As set forth in Section 8.2, this GMP expressly excludes certain specified water rights within Diamond Valley. Water rights expressly excluded from this GMP include vested water rights, including spring vested rights that have been mitigated with groundwater rights²⁵, other groundwater rights existing at GMP approval that are not irrigation groundwater

²⁴ Such penalties may include the following non-exhaustive list: violators may be guilty of a misdemeanor for violating any provision of NRS Chapter 534; the State Engineer, after notice and opportunity for hearing, may impose a fine not to exceed \$10,000 per day for each violation; the State Engineer may require any violator to pay the costs of any proceeding, including investigative costs and attorney's fees; and the State Engineer may seek injunctive and other relief against violators.

²⁵ Through State Engineer or court order, ruling, decree or other legal decision.

rights, including stockwater, municipal, commercial, mining groundwater rights without an irrigation source permit, and domestic wells. These water rights expressly excluded from this GMP will not receive groundwater Shares and are not required to receive an Allocation before being used under this GMP.^{26 27}

- 18.2 Groundwater uses within Diamond Valley not expressly included within this GMP shall remain under the provisions of Title 48 of the Nevada Revised Statutes. These uses cannot receive Shares or Allocations and cannot be used for groundwater uses required to have an Allocation (i.e., these GMP-excluded uses must remain under the manner of use under the respective permit at GMP approval)²⁸.
- 18.3 After approval of this GMP, any proposal approved by the State Engineer to convert use of a water right that is already under the GMP to a use under one of the groundwater rights categories listed in Section 18.1 (either through a new or change application) will require an Allocation and Shares, as applicable, and shall fall under all requirements of the GMP. If applicable, the Allocation and Benchmark Reduction Table in Appendix G will be used to project maximum groundwater needs for the life of any project or use (which may be in perpetuity) and would require that a sufficient amount of groundwater be dedicated for this period of time.²⁹
- 18.4 This GMP makes the following recommendations to encourage groundwater conservation for those uses that do not fall under the GMP:
- Full consideration of the options described under NRS 534.090(2) and (3) by the State Engineer for the uses listed in Section 18.1 to minimize unnecessary groundwater use (e.g., waive “use it or lose it”).
 - Enforcement by the State Engineer of the statutory requirements for domestic wells at the maximum total allowable withdrawal and for domestic purposes only (i.e., single-family residence only with no commercial use). NRS 534.180.
 - Enforcement by the State Engineer of permit terms for all groundwater rights not receiving Shares or otherwise within the scope of the GMP.
 - With the State Engineer’s support, the AB will request of and work with Eureka County to:

²⁶ Based on State Engineer records, all of these uses combined, not including vested rights, account for less than 5% of the total groundwater appropriations and less than 3% of the total groundwater pumped in Diamond Valley at the time of the GMP submission to the State Engineer.

²⁷ Since expressly excluded from this GMP, these uses cannot receive groundwater Shares or Allocations and non-vested water uses under Section 18.1 cannot be used for new groundwater uses required to have an Allocation (i.e., non-vested GMP-excluded uses must remain under the manners of use under the permit at GMP approval).

²⁸ It is understood that valid vested rights for irrigation or mining purposes and mining rights without an irrigation base permit will continue to be used for irrigation or mining purposes.

²⁹ Example: A developer buys a farm, subdivides the land, and proposes a housing development. This developer would need to dedicate water rights to cover the water use of the homes, which is an “excluded” use under Section 18.1. However, this is a “new” use that did not exist at GMP approval. The developer would need to convert an irrigation base water right to a quasi-municipal use through the application and permitting process of the State Engineer. If approved by the State Engineer, this “new” quasi-municipal use would fall under all provisions of the GMP including metering and pumping reduction requirements. The State Engineer would require enough water to be dedicated in perpetuity for this new use, considering the future pumping reductions required under the GMP.

- Relinquish (to the Diamond Valley basin) any County groundwater rights not reasonably needed in the foreseeable future;
 - Implement effective tiered-rates on municipal use to incentivize groundwater conservation;
 - Waive hookup fees for groundwater users near the municipal groundwater system to incentivize hookups and reduce new domestic wells;
 - Offer domestic well credits to those abandoning current domestic wells and hooking into a municipal water system and potentially assist in cost-sharing to abandon any old domestic well in accordance with Nevada law;
 - Invest in infrastructure to better enable hookups to a municipal system; and
 - Amend the County groundwater dedication ordinance for new parcels to require groundwater rights and/or Allocations in an amount that equals two acre-feet per year for the life of this GMP (based on the Allocation and Benchmark Reduction Table).
- The State Engineer and AB should work with appropriate entities to:
 - Develop and distribute educational materials on groundwater conservation practices, especially for domestic and municipal uses;
 - Develop and distribute educational materials to domestic well users outlining typical domestic use at or below two acre-feet per year; and
 - Pursue and implement incentive programs for groundwater conservation (e.g., xeriscaping, turf removal, irrigation scheduling).

19. Non-Consumptive Groundwater Uses

- 19.1 Some groundwater withdrawals, such as mine pit dewatering, are non-consumptive because much of the groundwater is returned to Diamond Valley aquifers through injection or infiltration. Groundwater withdrawals that are non-consumptive will remain under the authority of the State Engineer.
- 19.2 Based on net-consumption analysis by the State Engineer, the consumptive use portion of the groundwater withdrawal will require a Groundwater Allocation, but non-consumptive groundwater use will not.
- 19.3 The State Engineer, working with any entity proposing withdrawing groundwater in Diamond Valley and then returning groundwater to Diamond Valley, will consult with the AB to develop measures, as feasible, that return water to Diamond Valley in a manner that provides a net-benefit to the alluvial aquifer.

20.6 For water rights dedicated to the State Engineer for evaporative groundwater losses from applicable pit lakes or other man-made surface water bodies as outlined in Section 13.15, an average of all past annual assessments at the time water rights are dedicated will be calculated and that average amount multiplied by 15 and assessed to the water right/allocation holder to account for 15 subsequent years of assessments. Payment can be made at the time that water is dedicated or continue to be paid on an annual basis by the operator/owner. In lieu of paying the 15-year projected assessment, water allocations may be dedicated to the evaporative loss at 2:1 where the additional associated annual allocations above the amount of evaporation will become available and equally disbursed to the remaining groundwater users under the GMP.

21. Relinquishment of Groundwater Rights or Allocations

- 21.1 Groundwater rights (with the associated Shares) or any portion of an already received Allocation under the GMP may be relinquished with the written consent of all parties with an interest in the right or Allocation³¹.
- 21.2 Any groundwater right or Allocation relinquished in Diamond Valley shall be removed from the Share Register and Groundwater Account, respectively, and shall not be re-issued.
- 21.3 If any groundwater right or Allocation under the GMP is relinquished, the State Engineer shall update the Groundwater Allocation and Benchmark Reduction Table (Appendix G) to reflect this change and future annual Groundwater Allocations shall be divided among the remaining overall groundwater Shares.

22. Lands Retired from Irrigation

- 22.1 There are likely lands in Diamond Valley that will be retired from irrigation (permanently and temporarily). This GMP expresses a preference that these lands retain a beneficial land use and be managed to prevent land degradation due to soil erosion, weeds, and rodents and to avoid detrimental impacts on neighboring lands. The State Engineer and AB will rely on, and may work with, the relevant entities that already have legal jurisdiction over these issues including, but not limited to, Eureka County, Eureka Conservation District, Diamond Valley Weed Control District, Diamond Valley Rodent Control District, and Nevada Department of Agriculture.
- 22.2 Funds raised through the special annual assessment may be used for land stabilization projects, weed control, and rodent control, but any expenditure of special assessment funds for these purposes shall go through the annual, public budgeting processes as described in Section 20.

³¹ There have been efforts by other parties in Diamond Valley to acquire funding to purchase and retire groundwater rights as an effort to reduce pumping. As an example, the Eureka Producers Cooperative entered into an agreement with General Moly, Inc. to establish the Diamond Valley Agricultural Sustainability Trust which, when funded, is anticipated to be potentially used for this purpose.

- 22.3 Separate funds may be pursued from grants, gifts, etc. and spent by the State Engineer, in coordination with the AB, for land stabilization projects, weed control, and rodent control.
- 22.4 The GMP does not mandate that owners of fallow lands plant cover crops and control weeds and rodents. However, any funding acquired and spent through this GMP for these purposes or to retire groundwater shall require that landowners, before receiving any funding assistance, sign a contractual agreement accepting these responsibilities as condition of receiving funding. The State Engineer shall perform at least an annual inspection of grant recipient projects to ensure that funds were used according to the grant terms. The State Engineer, on recommendation from the AB, may demand reimbursement from grant recipients who failed to use funds according to grant terms. The State Engineer, with input from the AB, shall develop standard criteria to evaluate the use of grant funding by funding recipients.
- 22.5 This GMP recommends that funding mechanisms outside of the GMP (e.g., Agricultural Sustainability Trust, NRCS Farm Bill programs) require that fallowed lands in Diamond Valley be subjected to weed and rodent control and cover crop requirements.

23. Other Land Management

- 23.1 The State Engineer, in coordination with the AB, shall work with appropriate entities, including land management agencies, to enhance groundwater recharge in Diamond Valley. This may include, but is not limited to:
- Vegetation management (e.g., pinyon and juniper removal) in areas where vegetation grows outside its desired ecological state or impairs groundwater recharge;
 - Directing surface runoff to catchment basins where surface water can infiltrate to benefit the alluvial aquifer;
 - Use of aerators or infiltration equipment (i.e., rotary subsoiler); and
 - Cloud seeding.
- 23.2 No groundwater Shares or Allocations shall be issued for any land management activities intended to enhance groundwater recharge in Diamond Valley³².

24. Annual Meeting

- 24.1 In addition to any other meetings held by the State Engineer or AB, the State Engineer and AB shall hold a joint annual meeting each year between the dates of November 1 and December 15.
- 24.2 Notice shall be posted at least two weeks in advance of the meeting.
- 24.3 The annual meeting shall be a public meeting where the State Engineer and AB shall:
- Accept input from Shareholders and groundwater users on ways to improve GMP management and administration;

³² This prohibition does not apply to import of physical groundwater into Diamond Valley.

- Present the proposed upcoming year's Allocation with a special focus on proposed changes from the benchmark reductions (after Year 10);
- Present the proposed GMP budget, including the proposed annual special assessment, for the upcoming fiscal year;
- Conduct AB elections, if in an election year, as described in Section 11;
- Present groundwater level monitoring results;
- Present any other relevant data or information, as the State Engineer and AB deem necessary and appropriate; and
- Conduct any other business as the State Engineer and AB deem necessary and appropriate.

24.4 The State Engineer, with input from the AB, may take final action on items at the annual meeting or may elect to postpone final action if desired, based on input received at the meeting.

25. GMP Publically Accessible

- 25.1 The approved GMP shall be posted on and downloadable from the State Engineer's website and any other website that may be developed for the GMP.
- 25.2 Upon request, the State Engineer shall provide a copy of the GMP so long as the requestor pays any associated costs that may be charged by the State Engineer.

26. GMP Review, Modification, or Discontinuation

- 26.1 This GMP may be amended at any time according to the requirements of NRS 534.037(5) or any other pertinent provision of Nevada law that may now exist or exist in the future, subject to State Engineer approval and potential judicial review.
- 26.2 At a minimum, the State Engineer, in coordination with the AB, shall review this GMP in Year 6. At that time, the State Engineer and AB shall jointly send a letter to every groundwater right and Water Account holder in Diamond Valley informing them of the review and requesting input as to whether this GMP should continue, be amended, or be discontinued. The letter shall set a date for a joint State Engineer and AB meeting to discuss the GMP review and provide a 30-day deadline for written responses. The joint State Engineer and AB meeting shall be held on the date and time identified in the letter, at which the State Engineer and AB shall accept input, discuss and consider whether to continue, amend, or discontinue this GMP.
- 26.3 Discontinuation of the GMP, if desired by the groundwater rights holders, shall follow the same rules as an amendment of a GMP pursuant to NRS 534.037(5).
- 26.4 Should the GMP be discontinued, groundwater management shall revert back to the base groundwater right with the same status that existed at the time of GMP approval and any subsequent changes in the base right during GMP implementation. It is required that

holders of water rights ensure proper paperwork is filed with the State Engineer to reflect any change in ownership or location of the associated groundwater right (e.g., point of diversion or place of use of the base right) that occur during the period of GMP operation.

26.5 Many appendices to the GMP are, by nature, living documents that must change as the GMP progresses. Reasonable updates to any appendix shall not be deemed an amendment to the GMP.

26.6 Specific references to Nevada law in this GMP may change as the GMP progresses. Updates in legal citations or added references to other pertinent provisions of Nevada law that may now exist or exist in the future shall not be deemed as amendments to the GMP.

Appendix C – GMP Process

Below is a list of Diamond Valley Groundwater Management Plan (GMP) workshops held and a summary of actions taken toward development of a GMP. Meeting reminders, sign-in sheets, meeting notes, outlines, etc. developed at these meetings are included below this summary.

- **April 23, 2015**
 - Meeting notes of outcomes attached
 - Sign-in sheet attached
 - Decision by attendees to have GMP to State Engineer by January 2017
- **June 11, 2015**
 - Sign-in sheet attached
 - Main outcome of meeting was preliminary Diamond Valley Groundwater Management Plan Outline/Working Model (attached)
 - Decision by attendees to put article in Eureka Sentinel informing about GMP process and seeking involvement. Article ran week of July 2 and asked for stakeholders to attend next meeting which was published in paper. Article attached.
- **July 16, 2015**
 - Two separate meeting reminder emails attached
 - Sign-in sheet attached.
 - GMP outline continued
- **August 18, 2015**
 - Reminder email attached
 - Sign-in sheet attached
 - GMP outline continued
- **October 12, 2015**
 - Reminder email attached
 - Sign-in sheet attached
 - GMP outline continued
- **January 11, 2016**
 - Emails selecting date attached
 - Agenda attached
 - Sign-in sheet attached
 - GMP assumptions developed by group (attached)
 - Directed completion of Chapter 1 that addresses requirements of NRS 534.037(2). This was completed and sent to everybody on February 26 for review. It is attached.
 - Group agreed that a letter needed to be sent out to all water rights holders informing about process, outlining GMP, and asking them to validate their water rights and come to next meeting schedule February 29 and gave contacts if there were any questions. Certified letters sent by Eureka Conservation District (attached).
- **February 29, 2016**
 - Two reminder emails attached. Meeting agenda outlined in January 30 email.
 - Sign-in sheet attached
 - Advisory Board was elected to make progress and bring items back to full group for decisions. 7 individuals were elected to represent the entire group - 2 members with only senior groundwater rights, 1 mining representative, 1 ranching representative, and 2 members with both senior and 1 member with just junior rights.

- **March 23, 2016 Advisory Board (AB)**
 - Developed recommendations for discussion and action at next full group meeting.
- **March 28, 2016**
 - Reminder email with agenda attached
 - Sign-in sheet attached
 - Voted on recommendation of Advisory Board or sent items back to AB for continued discussion.
- **April 18, 2016 Advisory Board**
 - Continued developing recommendations for discussion and action at next full group meeting.
- **April 25, 2016**
 - Reminder email with items for discussion and possible action attached
 - Sign-in sheet attached
 - GMP outline/working model Items for discussion and action attached.
- **May 16, 2016 Advisory Board**
 - Continued developing recommendations for discussion and action at next full group meeting.
- **May 23, 2016**
 - Reminder email with items for discussion and possible action attached
 - Sign-in sheet attached
 - GMP outline/working model Items for discussion and action attached.
- **June 20, 2016 Advisory Board**
 - Continued developing recommendations for discussion and action at next full group meeting.
- **July 21, 2016 Advisory Board**
 - Continued developing recommendations for discussion and action at next full group meeting.
- **July 25, 2016**
 - Two reminder emails attached.
 - Second email (July 23) outlined items for discussion and action and all previous items that had been determined so far.
 - Sign-in sheet attached
 - GMP outline/working model Items for discussion and action attached.
- **August 9, 2016 Advisory Board**
 - Continued developing recommendations for discussion and action at next full group meeting.
- **August 22, 2016 Advisory Board**
 - Continued developing recommendations for discussion and action at next full group meeting.
- **August 29, 2016**
 - Reminder email attached
 - Most recent GMP outline/working model attached.
 - Sign-in sheet attached
 - Follow-up email attached that includes updated outline/working model based on actions by the attendees.
- **September 13, 2016 Advisory Board**

- Continued developing recommendations for discussion and action at next full group meeting.
- September 19, 2016
 - Two reminder emails attached.
 - Second email outlined items for discussion and action and all previous items that had been determined so far.
 - Sign-in sheet attached
 - GMP outline/working model Items for discussion and action attached.
- October 10, 2016 Advisory Board
 - Continued developing recommendations for discussion and action at next full group meeting.
- October 24, 2016
 - Reminder emails attached.
 - Sign-in sheet attached
 - GMP outline/working model Items for discussion and action attached.
 - Group determined that draft GMP was at a point where it could be submitted to the State Engineer for review and feedback.
- November 17, 2016
 - Draft GMP sent to State Engineer for review and feedback.³³
 - Also sent to all individuals on GMP email list; copy of email is attached.
 - Reminder that this draft GMP would be the main item for discussion and action at next full-group meeting.
- December 7, 2016
 - Two reminder emails attached.
 - Second email included copy of draft GMP that was submitted for to the State Engineer for review.
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and State Engineer preliminary review and items were referred to AB to address and bring back to full group.
- January 5, 2017 Advisory Board
 - Continued developing recommendations for discussion and action at next full group meeting.
- January 11, 2017 Advisory Board
 - Continued developing recommendations for discussion and action at next full group meeting.
- January 12, 2017
 - Two reminder emails attached.
 - Second email included most recent copy of draft GMP.
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- February 22, 2017 Advisory Board

³³ Nearly all full-group meeting reminders after November 2016 included a copy of the most recent draft GMP with red-line edits. These are not included in this appendix due to their length and the fact that these iterations are all included in the final GMP and would be duplicative to include.

- Continued developing recommendations for discussion and action at next full group meeting.
- February 27, 2017
 - Two reminder emails attached.
 - Second email included most recent copy of draft GMP.
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- March 20, 2017 Advisory Board
 - Continued developing recommendations for discussion and action at next full group meeting.
- April 7, 2017 Advisory Board
 - Continued developing recommendations for discussion and action at next full group meeting.
- April 10, 2017
 - Reminder email attached
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- April 12, 2017 Advisory Board
 - Continued developing recommendations for discussion and action at next full group meeting.
- May 2, 2017
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- May 2, 2017 Advisory Board
- May 16, 2017
 - Two reminder email attached
 - Second email included most recent copy of draft GMP.
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- May 18, 2017 Advisory Board
- May 22, 2017
 - Reminder email attached
 - Included copy of draft GMP and noted that the GMP was “nearly at the point of being ready for gathering signatures.”
 - Sign-in sheet attached
 - Draft GMP was discussed and group had very minor suggestions for change. The group had consensus that the Draft GMP should be submitted to the State Engineer for a “formal, informal” review to ensure that there were not any major hurdles before the signatures were gathered on the required petition.
 - Draft GMP was submitted to State Engineer after this meeting.
 - Emails transmitting Draft GMP attached
- September 28, 2017 Advisory Board

- **October 9, 2017**
 - Two reminder emails attached
 - Sign-in sheet attached
 - State Engineer review of Draft GMP was discussed and Draft GMP was amended according to attendee input to address State Engineer and items were referred to AB to address and bring back to full group.
- **November 15, 2017**
 - Two reminder emails attached
 - Noted that the previous meeting has “some relatively significant changes” based on the State Engineer review and this meeting would be meant to adopt language changes accordingly.
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- **December 13, 2017**
 - Email reminder attached
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- **January 8, 2018 Advisory Board**
- **January 22, 2018**
 - Email reminder attached
 - Notes that “GMP is getting very close to being complete with a couple important details to still work out.”
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- **February 5, 2018 Advisory Board**
- **February 21, 2018**
 - Three email reminders attached
 - **January 26 email**
 - Most recent Draft GMP was included
 - Noted that this version was submitted to State Engineer for another review; and
 - This meeting “could be the final full-group meeting before moving forward with gathering signatures on the petition.”
 - **February 14 email**
 - Noted that the State Engineer completed review of the Draft GMP referenced in the January email and this updated version was attached.
 - **February 20 email**
 - Included a list of comments and issues presented on the GMP over the last couple years
 - Sign-in sheet attached
 - Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.
- **March 26, 2018 Advisory Board**

- **March 29, 2018**
 - **Reminder email attached**
 - **Sign-in sheet attached**
 - **Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.**
 - **Primarily Executive Summary, descriptive Table of Contents, and Frequently Asked Questions/Issues and Concerns Identified**
- **April 19, 2018 Advisory Board**
- **April 24, 2018**
 - **Reminder email attached**
 - **Most recent Draft GMP included**
 - **Sign-in sheet attached**
 - **Draft GMP was discussed and amended according to attendee input and items were referred to AB to address and bring back to full group.**
 - **Primarily Executive Summary, descriptive Table of Contents, Frequently Asked Questions/Issues and Concerns Identified, and preservation of protest provisions.**
 - **Group decided to include the document of issues and concerns identified and responded to throughout the process as a way to memorialize it.**
- **May 7, 2018 email**
 - **Sent final administrative draft GMP with “last few edits” including completed Executive Summary and Contents sections. Noted that “there are no anticipated changes to the substance of the Plan” and that only “various needed grammatical, formatting, or other changes [would] take place.”**
 - **Also included a document outlining the petition schedule and process (attached)**
- **May 22, 2018 Advisory Board**
 - **Reviewed completed Final GMP to ensure it was ready for printing and distribution**

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Wednesday, April 15, 2015 5:31 PM
Subject: GMP meeting agenda and Steve Lewis Bio
Attachments: Diamond Valley Groundwater Management Plan.docx; bio 2014.doc

Attached is the agenda for the Groundwater Management Plan workshop next Thursday as well as a biographical sketch for Steve Lewis. Feel free to distribute.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010
Fax: 775-237-6012

**Diamond Valley Groundwater Management Plan
Planning Session
Thursday, April 23, 2015
9:00am – 4:00pm
Eureka County Commission Chambers**

Vision

Craft a vision for Diamond Valley agriculture and other water users

History

Review history of events and actions leading up to today. Record the major hurdles and issues. What do we know to be certain, what has been accepted or agreed upon and what are some critical decisions yet to be made.

CMA & GMP

Discuss the details of a Critical Management Area (CMA) and Groundwater Management Plan (GMP). Identify the parameters under which we know we must operate.

Ideal GMP Governance

Describe the duties and characteristics of an ideal governance body. What must a local regulatory authority be capable to handle – what are the duties (oversight, administration, enforcement, penalties, etc.)? What mechanisms will insure efficiency, transparency and accountability?

Build the Governance Entity

With the description of the ideal governance body in mind now construct a real-life entity that possesses these qualities and capabilities. Is it a combination of a newly-formed GiD under the direction of a re-vamped Conservation District, or is it something completely different?

Water User Participation

How will the water users be legitimately involved in the process? What are the key decisions in which their input is needed? What is (are) the process(es) by which they are involved?

Timeline

Form a timeline of actions required to develop and implement a GMP.

Next Steps

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka.nv.org>
Sent: Tuesday, April 14, 2015 5:11 PM
To: 'Jason King'; 'Kelvin Hickenbottom'; 'Rick Felling'
Subject: RE: GMP Facilitated Session - April 23

With the farming season upon us, there will likely not be much happening towards the GMP during the summer so we thought we should get a jump now and then come back to the table later in the year after we see where SB 81 goes and if you decide to designate the basin as a CMA/AMA. The conservation district is taking the lead and we are going to keep the conversation moving so we are on a good path if/when the designation occurs, especially if under a 5 year rather than 10 year timeline. The 5 year language in SB 81 has a few folks here worried and has created some motivation.

Steve Lewis is the Extension Educator in Minden. He has become well respected and established in facilitation and helping develop strategic plans. He was the Extension Educator in Eureka during the mid-1980's and is familiar with the history in DV. Steve Walker is still going to help out.

Jake

From: Jason King [mailto:jking@water.nv.gov]
Sent: Tuesday, April 14, 2015 3:54 PM
To: 'Jake Tibbitts'; Kelvin Hickenbottom; Rick Felling
Subject: RE: GMP Facilitated Session - April 23

Thanks Jake. I'm somewhat surprised – I thought nothing more would happen until we designated it a CMA (or AMA).

Who's Steve Lewis? Steve Walker?

Jason King, P.E. | State Engineer
Nevada Division of Water Resources
P: (775) 684-2861 | F: (775) 684-2811
E: jking@water.nv.gov | W: water.nv.gov

From: Jake Tibbitts [mailto:natresmgr@eureka.nv.org]
Sent: Tuesday, April 14, 2015 3:49 PM
To: Jason King; Kelvin Hickenbottom; Rick Felling
Subject: GMP Facilitated Session - April 23

Gentlemen:

Wanted to keep you in the loop. We are hosting a facilitated session next week, April 23, regarding the Diamond Valley GMP. Steve Lewis will be the facilitator. This will be one of many. Hoping to start making significant progress. I'll keep you updated.

Best,

Jake Tibbitts
Natural Resources Manager
Eureka County, NV

April 23, 2015

PLEASE SIGN IN:

NAME	PHONE #	EMAIL
Jake Tibbitts ✓	237-6010	naturesngr@earthlink.org
Tim Bailey ✓	237-7263	tcbailey@yahoo.com
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Bob Buchanan ✓	775-718-0020	buchananhaystack.com
Lloyd & Marcia Morrison ✓	775-293-0166	lloyd89316@yahoo.com
Michael Tannacchione ✓	775-237-1952	mianacchione@earthlink.com
PATRICK PROGES ✓	775-748-6008	proges@earthlink.com
Vickie BUCHANAN ✓	775-318-0322	vkbuchanan@gmail.com

Meeting notes for Diamond Valley (DV) Groundwater Management Plan (GMP) workshop held April 23, 2015

Facilitated by Steve Lewis

Attendees:

- 1) Tim Bailey
- 2) Ken Benson
- 3) Chad Bliss
- 4) Vickie Buchanan
- 5) Dale Bugenig
- 6) Bob Burnham
- 7) Russell Conley
- 8) Carrie Dubray
- 9) Fred Etchegaray
- 10) Doug Frazer
- 11) Jim Gallagher
- 12) Travis Gallagher
- 13) Tim Halpin
- 14) Michael Iannacchione
- 15) Anthony Miller
- 16) Lloyd Morrison
- 17) Marcia Morrison
- 18) Matt Morrison
- 19) Denise Moyle
- 20) Dusty Moyle
- 21) Jim Moyle
- 22) Bill Norton
- 23) Chug Palmore
- 24) Patrick Rogers
- 25) Jake Tibbitts

1. **Purpose** – Outline the components, process, and timeline of a GMP.
2. **Vision** – Identify the conditions of Diamond Valley that has benefitted to the extreme by the GMP – what does the valley have that doesn't exist today?

The group identified the following Vision Elements:

- Progressive mindset
- Integrated, educated, united across all users
- Fair reduction between water users
- Water use equals water availability
- Economic stability (community and individually)
- Prosperity based on diversification

3. **History** –Review the history of events and actions leading up to today. What has been accepted or agreed upon? What are the critical decisions and hurdles?

Jake Tibbitts led discussion of the recent history leading up to today including:

- State Engineer workshop, March 19, 2009, where the SE outlined the history and status of DV and had open discussion on future management and regulation of DV. Essentially, SE asked water users to come up with solutions so he didn't have to.
- AB 419 that passed the 2011 Legislature that allows designation of a Critical Management Area and development of a Groundwater Management Plan.
- Hansford Economic Consulting June 2013 study of financial feasibility of a General Improvement District (GID) to execute a water management program to enhance the sustainability of underground water supply and storage for Basin 153.
- Hansford Economic Consulting May 2014 study of potential water use set-aside programs for DV.
- State Engineer workshop, February 2014, about CMA and GMP and again asking users to move forward with a GMP to reduce pumping in DV.
- Eureka Conservation District (ECD) retained Steve Walker in summer 2014 to facilitate a scoping of the issues, hurdles, and solutions for a GMP in DV.
- ECD sent out a questionnaire in October 2014 asking opinions of DV water users regarding designation of CMA by SE.
- 2015 NV legislation SB 81 that clarifies and provides additional tools in basins designated as CMAs (also changes term to Active Management Area rather than Critical).

All above reports, documents and presentations are available upon request to Mr. Tibbitts.

The group discussed and outlined what has been accepted or agreed upon:

- Over allocation by State Engineer has resulted in situation we're in. People only using at or less than what allowed.
- Beneficial use still rules; must pump and farm to avoid losing water rights.
- Declining water table for decades.
- Need a GMP.
- Declining recharge – drought and less snow; no consensus on why.
- Buy-in of most irrigators has occurred. Some still not "coming to the table."
- Over use of water above crop needs; "running water rather than irrigating."
- DV ag industry is major economic driver in Eureka County; figure of \$12M annually in tax revenue was asserted.
- It's our problem to fix; now is the time to make real progress.

The group discussed and outlined critical decisions and hurdles:

- How do we overcome our own fear?
- Mandatory regulation of GMP
- How do we use less and not give the unused water rights up? Don't want to be penalized for water conservation (i.e., fear of "use it or lose it").
- Meters or no meters?

- Disconnect/lack of participation of all water users (municipal, mining, domestic)
- How do we keep it simple?
- Resentment by domestic users – pointing fingers at farmers.
- Weigh productivity and prosperity with longevity. Short or long view? Do we give up some today (10% example given) to progress to long-term solutions?
- Benchmark reductions needed. What reductions are we shooting for under what timelines?
- Flexibility and adaptive management needed if we are making significant progress.
- Education, acceptance and implementation of current and best technology and management practices to irrigate efficiently

4. Critical Management Area and Groundwater Management Plan – Discuss the details of a CMA and GMA. Identify the parameters under which we must operate.

The group identified the following “sideboards” the GMP must operate under:

- Currently State law only allows solutions through a GMP if a basin designated as a CMA.
- GMP must be accepted by the State Engineer.
- No GMP developed in NV yet. DV is the “guinea pig” and essentially “flying the airplane as we are building it.”
- Nothing is 100% and there will be provisions in the GMP that will be seen as both good and bad.
- Must be specific to irrigation since irrigation is 95% of the water use in DV.
- By law, must be accepted by majority of permit holders through formal petition (does not include domestic wells).
- GMP changes/amendments must go through same process (i.e., petition).

5. Ideal Groundwater Management Plan Governance – Describe the duties and characteristics of an ideal governance structure. This would include duties such as oversight, administration, enforcement, penalties/fines, etc. and mechanisms such as efficiency, responsiveness, transparency, and accountability.

The group identified the following characteristics of “ideal” GMP governance:

- Fair for all.
- Willing to come to the middle in finding things all are willing to give up in the short-term to reach the long-term vision (or get close).
- Responsible to constituency.
- Must be effective; able to monitor plan, give it teeth (i.e., enforcement);
- Legal authority to collect and administer funds to retire water rights.
- Helps and is able to raise funds and get grants.
- Able to keep things simple; everybody must be able to understand plan implementation.
- Must accept this “opportunity” head-on.
- Funds raised stay within the “district.”
- Locally accountable.
- Elected; proportional representation of affected water users; majority made up of irrigators.
- Flexible/Adaptive.

- Measured advancement toward vision; baby-steps are okay if progress being made.
- Boundaries include recharge areas, not just pumping areas; include other agencies.
- Must be a sense of urgency.
- State funds defense of the GMP if/when challenged.
- Governing board must make unbiased decisions.
- Governing board must be able to interface with all partners.
- Make and enforce regulations; able to implement and enforce GMP.

6. Build Governance Entity – Construct an entity that possesses the qualities and characteristics of the ideal entity. In other words, who can do what needs to be done?

DNRPCA was suggested as a governing entity. Conservation district was suggested as a governing entity (NRS 548). County was suggested as a governing entity. There were pros and cons for each entity that highlighted these may not meet the “ideal” standard. Discussion was that there was not likely a current specific entity that met all items for ideal entity. However the group discussed that a plan should be developed that creates this entity and we could go to the 2017 NV Legislature to develop the entity to match the GMP if necessary.

Various entities were discussed and each entities potential contribution to the GMP governing board outlined:

- **Governing board**
 - Handles complaints
 - Employs oversees plan managers and field staff
 - Be available for recognition
 - Advisors of technology
- **Irrigators**
 - Bulk of members on governing board
 - Plan developers
 - Stewards; self-regulators of resource.
 - Be the plan
- **Domestic users**
 - Share the urgency and understand opportunity
 - Cut use at same percentages
 - Provides political capital and support
- **Mt. Wheeler**
 - Pumping and estimates
 - Grants for updating efficiency
 - Conservation incentives
 - Policing; control pumps through turning power on or off.
- **County**
 - Tax revenues
 - Record management and administration; institutional memory.
 - Impose land use regulations.
 - Enforce local ordinances

- Hold municipal water rights for GIDs and Town of Eureka. Must be part of plan.
- Federal agencies such as NRCS and BLM.
 - Fund retirement or incentive programs (NRCS).
 - Technical assistance.
 - Management of public lands to help recharge and watersheds; PJ thinning was provided as an example.
- Conservation District
 - Elected board by registered voters.
 - Can be regulatory.
 - Access funding for implementation, education.
 - Supply technical assistance and education.
 - Potentially have a seat on the governing board?
 - Buy and hold property including water rights.
- Mining industry
 - Funding
 - Short term drawdown alleviation through disposal of dewatering water.
- State Engineer
 - Communicates with governing entity and water users
 - Approves plan
 - Defends plan
 - Represented on board?

7. *Water User Participation* – How will water users be involved? What are the key decisions in which their input is needed?

Ideas to involve water user stakeholders:

- Stress the regulatory aspect of the GMP.
- Word of mouth; sell the plan. Each attendee committed to bring 2 or more people with them to the next meeting that were not at this one.
- Social media; Facebook.
- Send draft plan outline to all and make the next meeting. Jake Tibbitts committed to work with Lynn Conley to get the outline distributed.
- Email reminders. DNRPCA's distribution list was suggested for use (Lynn Conley).
- Front page article in Sentinel. Dale Bugenig committed to drafting article.
- Make mailers visually appealing and eye-catching so they are not thrown away before being read.

8. *Timeline and Next Steps*

- Draft plan outline by May 14th. Next meeting, May 28th.
- Plan finalized to SE by January 2017. This is before next NV Legislative Session and would allow legislation needed to be able to implement GMP.
- Start working on steps for removing basin from a CMA. Determine timeframe (e.g., 35 year plan? 50 year plan?)
- Attempt to get a 10% reduction within next year.

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eurekaenv.org>
Sent: Friday, May 22, 2015 9:48 AM
To: 'Russell and Lynn Conley'; 'Haystax@icloud.com'; 'Denise Moyle'; Jim Gallagher (jgeu45@gmail.com); 'Lynn Conley'
Subject: GMP meeting postponed until June 11?
Attachments: April 23, 2015 GMP attendance.pdf

All:

Due to obligations I have at the legislature (and otherwise) and some conflicts with Steve Lewis', we need to postpone the next GMP workshop until June 11. Do you think this date will work for everybody? If so, please help me spread the word about the cancellation of the 28th and the new date. Lynn, I think you have the most comprehensive email list to put out the notice to irrigators. Attached is the sign-in sheet from the first meeting so we can be sure all that attended there have notice of the change.

Jake

June 11, 2015

PLEASE SIGN IN:

NAME	PHONE	EMAIL
Sake Tibbitts ✓	237-6010	hahesngr@eurkahu.org
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Diamond Valley Groundwater Management Plan Outline/Working Model

Vision

Diamond Valley and southern Eureka County are prosperous and economically stable by all means including education and diversification. We are a community that is united, fair and forward thinking about our water usage in order to ensure stability for ourselves now and our future generations.

Below is an outline of thoughts and steps developed by Diamond Valley Irrigators & Southern Eureka County water users to establish a groundwater management plan for the Diamond Valley Basin. Our recommendations have been influenced significantly by a Blueprint for Western Water Management that builds upon the Australian water sharing & permit unbundling and was presented to us by Prof. Mike Young on Thursday, June 11, 2015. It is the intent of the persons in attendance at that meeting to write a groundwater management plan based on the information shared and ideas developed at this meeting. Following a further meeting, we intend to present this plan to the Nevada State Water Engineer for adoption as the working model to stabilize the Diamond Valley Basin.

Meeting participants were asked the following question.

"Are you in favor of changing our water rights system?"

The resounding answer was yes, especially if we plan to adopt a system similar to that being used and proven in Australia. This system unpacks existing water rights into a new much more enhanced and simpler system. This is achieved by redefining rights as shares, issuing annual allocations and turning beneficial use obligations into a duty to put any water that is taken from a system to be used but not require that water be used. Unused water can be saved for use in subsequent years. The resultant water sharing system allows users to buy, lease, sell or save water shares as needed or desired without a lengthy paper process or approval from a government agency. The shares are recorded in a central register and allocations recorded in water accounts in a manner that makes these allocations available for trade like a commodity. These allocations are not tied to a set piece of land or well. A series of key components and questions to those components was discussed in detail and this was the outcome.

A. Allocation Plan

- 1. Must establish accurate perennial yield of basin**
 - a. Define stability of area-difference in static depending on area of valley**
- 2. Will establish an irrigation season**
- 3. Will stabilize the basin and in the future increase the available water**
 - a. Use State Water Engineers 35-year numbers for reduction in pumping**
- 4. Reduce water use to what is available in the basin without major economic impact**
 - a. All users must be metered and water usage recorded using smart meters that are linked to water accounts**
- 5. Create a plan to establish a sharing percentage**

- a. **Must establish individual starting points**
- 6. **Determine how much water can be used through time at the Basin level**
 - a. **Review plan progress after 5 years to make adjustments with a view to speeding attainment of a sustainable basin yield**
- 7. **With new "water shares" and a plan in place users may save water from month to month or year to year without restriction of effect on the security of their shares or the receipt of future allocations**
- B. Water Right System**
 - 1. **Do we maintain the priority rights system or go to a shares system?**
 - a. **Do we go with shares system and honor priority? It was suggested that conversion should follow the allocation regime suggested by the State Engineer. All people should receive some shares. More shares per acre feet of entitlement should be issued to those with a higher priority.**
 - b. **Establish tradable shares and tradable allocations underpinned by state/court guaranteed register & water accounting system (i.e. water bank)**
 - 2. **Abolish or re-write "use or lose" rule as separate requirement to use water in a manner that is consistent with plan and administrative requirements.**
 - a. **Redefine conservation as a beneficial use**
 - 3. **Conversion of permits to shares would avoid call for immediate curtailment water and allow people to manage their own destiny.**
- C. Governance Plan**
 - 1. **Who decides on allocation plan?**
 - a. **Ultimately the basin recharge and levels will determine how much water is allocated**
 - 2. **A board of 5 or fewer people**
 - a. **Will operate like a private company**
 - b. **Will determine allocation amounts based on availability & plan parameters**
 - c. **May need to include a person employed by the State Engineer.**
 - 3. **Paid skilled/expert members (elected/appointed/hired?)**
 - a. **Chair must be good communicator**
 - b. **Need a skilled hydrologist**
 - c. **Need a member with good knowledge of region & farming/mining/users**
 - d. **CEO with good knowledge of government**
 - e. **Community advisory board**
 - f. **Funding to be determined (possible state/federal funding sources)**
 - 4. **Volunteer advisory or reference board of local users (elected/appointed?)**
- D. Management of use, trades, monitoring & reporting**
 - 1. **Establish a fair market value for the water**
 - 2. **Users will be able to buy & sell water shares and water allocations. Unused allocations may be banked forever without penalty.**
 - 3. **Penalty for overuse (rate TBD) with possible grace period to make good**
 - 4. **Actual usage and recharge must be determined, meters must be installed & read/reported**
 - a. **Desire for Smart Meters so system is automated and standardized**

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka.nv.org>
Sent: Wednesday, July 15, 2015 9:50 AM
To: 'Lynn Conley'; 'Andy Marshall'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Benson'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'cdubray@frontier.net'; 'miannacchione@generalmoly.com'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'
Cc: Steve Walker; Michael Young; 'Jason King King'; 'Kelvin Hickenbottom'; 'Rick Felling'; 'JJ Goicoechea'; 'Steve Lewis'; 'mjwilson@water.nv.gov'
Subject: RE: Diamond Valley Groundwater Management Plan Workshop - Thursday, July 16
Attachments: 6 11 15 Diamond Valley Groundwater Management Plan Outline.docx; Robust_Separation.pdf; NV Div Water Res-Notice of Hearing on DV Hydrographic Basin (scheduled f....pdf

One more reminder about tomorrow's meeting. 9 am at the Opera House.

The following were sent out earlier, but I'm attaching again to bring them to the top of your piles:

- GMP outline based on Mike Young's information presented at 6/11 workshop. Thanks to Denise for putting this together;
- Robust Separation paper from Mike Young that his proposal is framed upon.
- Proposed order and associated hearing designating DV as a Critical Management Area

The draft agenda is below. It is flexible and we can add or remove items if needed.

1. Introductions
2. Discussion on designation of Diamond Valley as a Critical Management Area
3. Review last meeting's accomplishments
4. Workshop discussion with Prof. Mike Young on water management through water sharing & permit unbundling
5. Review and refine vision
6. Identify and refine goals and objectives (including timeframes to achieve benchmarks)
7. Strategies to involve/inform all users
8. Assignments before next meeting
9. Next meeting date and agenda

Hope to see you all tomorrow.

Jake

From: Jake Tibbitts [mailto:natresmgr@eureka.nv.org]
Sent: Tuesday, July 07, 2015 8:17 PM

To: 'Lynn Conley'; 'Andy Marshall'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Benson'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'cdubray@frontier.net'; 'miannacchione@generalmolymoly.com'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'
Cc: Steve Walker; Michael Young; Jason King King; Kelvin Hickenbottom; Rick Felling; JJ Goicoechea; Steve Lewis
Subject: Diamond Valley Groundwater Management Plan Workshop - Thursday, July 16

All:

This is a reminder that the next Diamond Valley Groundwater Management Plan workshop will be held next Thursday, July 16. It will start at 9:00 am at the Eureka Opera House. I've included everybody that attended the first meetings and a few others I have in my contact list. Please help spread the word to everybody that you know that uses water from Diamond Valley. As the attendees determined at the first meeting, it is crucial that this process is inclusive and involves all water users.

Mike Young will be in attendance again to provide further input on potential solutions for a GMP. Steve Lewis will not be able to make it but Steve Walker is going to step in to facilitate the meeting and participate.

Hope to see you all there.

Jake Tibbitts

JULY 16 - GMP

2015

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Bill Norton ✓	775-318-0187	

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka.nv.org>
Sent: Friday, August 14, 2015 3:14 PM
To: 'Lynn Conley'; 'Andy Marshall'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Benson'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'cdubray@frontier.net'; 'miannacchione@generalmolymoly.com'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'
Cc: Steve Walker; Michael Young; Jason King King; Kelvin Hickenbottom; Rick Felling; JJ Goicoechea; Steve Lewis; 'mjwilson@water.nv.gov'; 'SRoutson@winnemuccafarms.com'; 'Jessica Santoyo, Natural Resources (natres@eureka.nv.org)'
Subject: Diamond Valley Groundwater Management Plan Workshop - Tuesday, August 18

All:

This is a reminder that the next Diamond Valley Groundwater Management Plan workshop will be held next Tuesday, August 18. It will start at 9:00 am at the Eureka Opera House. Lunch will be provided by the Eureka Conservation District. As always, please help spread the word and bring somebody that has not attended yet.

At the previous meeting, the group determined that the priority items for discussion will be:

- Assumptions that all can agree the GMP will operate under
- Determining share entitlements
- Right verification process

See you all there.

Jake Tibbitts

8-18-15 GMP WORKSHOP

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• Fred Etchegaray ✓	237-5711	
• Mary PLASKETT ✓	721-0087	
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• LEVI STORA ✓	450-6470	schay@live.com
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• Janelle Maki ✓	318-0082	
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Over

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Friday, September 11, 2015 1:28 PM
To: 'Lynn Conley'; 'Andy Marshall'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Benson'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadleranch.org'; 'dofr@comcast.net'; 'miannacchione@general-moly.com'; 'Patrick Rogers (progers@general-moly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'mjwilson@water.nv.gov'
Subject: Next Diamond Valley Groundwater Management Plan Workshop - October 12

I have not heard from anybody about conflict with the date change. Please mark your calendars and plan to attend the next GMP workshop on October 12 at 9 am.

Jake Tibbitts
Natural Resources Manager
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From: Jake Tibbitts [mailto:natresmgr@eureka-nv.org]
Sent: Wednesday, September 02, 2015 2:02 PM
To: 'Lynn Conley' <dnrpca@gmail.com>; 'Andy Marshall' <adlilifarms@gmail.com>; 'Anthony Miller' <lionsunlimited@gmail.com>; 'Billy Norton' <nortoncritters@yahoo.com>; 'Bob Burnham' <burnhamhayfarm@msn.com>; 'Carrie Dubray' <lazygbaraqhas@gmail.com>; 'Craig Benson' <haystax@icloud.com>; 'D'Mark Mick' <dmarkmick@firstcommercellc.com>; 'Dale Bugenig' <eurekah2o.bugenig@gmail.com>; 'Dave & Leora Betschart' <leorabetschart@gmail.com>; 'Denise Moyle' <denisemoyle@gmail.com>; 'Dusty Moyle' <dustymoyle1@gmail.com>; 'Fred Etchegaray' <fred.etchegaray@yahoo.com>; 'Jayme Halpin' <halpin40@hotmail.com>; 'Jeff Lommori' <dirtyandpots@gmail.com>; 'Jerry & Trina Machachek' <jerrytrina@sbcglobal.net>; 'Jerry Sestanovich' <sestanovich@gmail.com>; 'Jim Baumann' <simpsoncreekbranch@gmail.com>; 'Jim Gallagher' <JGEU45@gmail.com>; 'Jim Ithurralde' <basqboy@gmail.com>; 'JJ Goicoechea' <jjgoicoechea@eureka-nv.org>; 'Ken Benson' <haystax@gmail.com>; 'Ken Conley' <bkonley@gmail.com>; 'Ladd Dubray' <directforce_ladd@frontier.com>; 'Lloyd Morrison' <lloyd89316@yahoo.com>; 'Lynford Miller' <lynford.miller@gmail.com>; 'Mark Moyle' <nhc.moyle@gmail.com>; 'Martin Etcheverry' <midgeamachi@aol.com>; 'Martin Etcheverry' <martin@eresheepcompany.com>; 'Marty Plaskett' <diamondvalleyhay@yahoo.com>; 'Matthew Morrison' <matt@mchaynevada.com>; 'Nick Etcheverry' <nicketcheverry@yahoo.com>; 'Paul Etzler' <p_etzler@msn.com>; 'Pete Goicoechea' <Pete.Goicoechea@sen.state.nv.us>; 'Robert Beck' <rbecknet@gmail.com>; 'Tim & Sandie Halpin' <tshalpin@gmail.com>; 'Tim Bailey' <t_cbailey@yahoo.com>; 'Travis Gallagher' <eu93tg@aol.com>; 'Vickie Buchanan' <vckbuchanan@gmail.com>; 'Wayne Conway' <waynenco@gmail.com>;

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<progers@generalmoly.com>; chadbliss@mwpower.org; 'imrenner@yahoo.com' <imrenner@yahoo.com>
Cc: Steve Walker <stevewalker@gbis.com>; 'Rick Felling' <rfelling@water.nv.gov>; 'Jason King' <jking@water.nv.gov>; 'JJ
Goicoechea' <jjgoicoechea@eureka.nv.org>; 'Steve Lewis' <lewisst@UNCE.unr.edu>; 'mjwilson@water.nv.gov'
<mjwilson@water.nv.gov>

Subject: Next Diamond Valley Groundwater Management Plan Workshop - Request to change to October 12

All:

At the last meeting, the next GMP workshop was scheduled for October 5. I have had a couple requests to move this by one week to October 12. Please respond if you are ok with the meeting being on October 12.

Thanks.

Jake Tibbitts

George Parman ✓ Box 58 Eureka NU 89316
 Matt Morrison ✓

10-12-15 GMP Mtg.

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Howard Hill, SR ✓	775-237-5072	DR And 853 Trucka.

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Friday, December 04, 2015 5:14 PM
To: 'cdubray@frontier.net'; 'Lynn Conley'; 'Andy Marshall'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'miannacchione@generalmoly.com'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'mjwilson@water.nv.gov'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka-nv.org)
Subject: Shifting to January - Next Diamond Valley Groundwater Management Plan Workshop January 12?

It became apparent that December is just a tough month to get everybody together due to holiday and travel. We are going to shift the meeting into January and get past the holidays.

It is essential that we keep forward momentum on the Groundwater Management Plan (GMP). Please remember that the State Engineer has ordered Diamond Valley a Critical Management Area. We are now under a statutory timeframe to get the GMP developed and implemented.

It has been proposed to have the next meeting on Tuesday, January 12. The alternative dates would be January 5 or January 11. *Please respond with your availability for January 12 and, if not available, your availability for January 5th or 11th.*

Merry Christmas and Happy New Year!

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
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From: Jake Tibbitts [mailto:natresmgr@eureka-nv.org]
Sent: Monday, November 30, 2015 9:00 AM
To: 'cdubray@frontier.net' <cdubray@frontier.net>; 'Lynn Conley' <dnrpca@gmail.com>; 'Andy Marshall' <adlilifarms@gmail.com>; 'Anthony Miller' <lionsunlimited@gmail.com>; 'Billy Norton' <nortoncritters@yahoo.com>;

'Bob Burnham' <burnhamhayfarm@msn.com>; 'Carrie Dubray' <lazygbaraqhas@gmail.com>; 'Craig Benson' <haystax@icloud.com>; 'D'Mark Mick' <dmarkmick@firstcommercellc.com>; 'Dale Bugenig' <eurekah2o.bugenig@gmail.com>; 'Dave & Leora Betschart' <leorabetschart@gmail.com>; 'Denise Moyle' <denisemoyle@gmail.com>; 'Dusty Moyle' <dustymoyle1@gmail.com>; 'Fred Etchegaray' <fred.etchegaray@yahoo.com>; 'Jayme Halpin' <halpin40@hotmail.com>; 'Jeff Lommori' <dirtandpots@gmail.com>; 'Jerry & Trina Machachek' <jerrytrina@sbcglobal.net>; 'Jerry Sestanovich' <csestanovich@gmail.com>; 'Jim Baumann' <simpsoncreekranche@gmail.com>; 'Jim Gallagher' <JGEU45@gmail.com>; 'Jim Ithurralde' <basqboy@gmail.com>; 'JJ Goicoechea' <jjgoicoechea@eurekanv.org>; 'Ken Conley' <bkonley@gmail.com>; 'Ladd Dubray' <directforce_ladd@frontier.com>; 'Lloyd Morrison' <lloyd89316@yahoo.com>; 'Lynford Miller' <lynford.miller@gmail.com>; 'Mark Moyle' <nhc.moyle@gmail.com>; 'Martin Etcheverry' <midgeamachi@aol.com>; 'Martin Etcheverry' <martin@eresheepcompany.com>; 'Marty Plaskett' <diamondvalleyhay@yahoo.com>; 'Matthew Morrison' <matt@mchaynevada.com>; 'Nick Etcheverry' <nicketcheverry@yahoo.com>; 'Paul Etzler' <p_etzler@msn.com>; 'Pete Goicoechea' <Pete.Goicoechea@sen.state.nv.us>; 'Robert Beck' <rbecknet@gmail.com>; 'Tim & Sandie Halpin' <tshalpin@gmail.com>; 'Tim Bailey' <t_cbailey@yahoo.com>; 'Travis Gallagher' <eu93tg@aol.com>; 'schay@live.com' <schay@live.com>; 'Vickie Buchanan' <vckbuchanan@gmail.com>; 'Wayne Conway' <waynenco@gmail.com>; 'doug@sadlerranch.org' <doug@sadlerranch.org>; 'dofr@comcast.net' <dofr@comcast.net>; 'miannacchione@generalmolymoly.com' <miannacchione@generalmolymoly.com>; 'Patrick Rogers (progers@generalmolymoly.com)' <progers@generalmolymoly.com>; 'chadbliss@mwpower.org' <chadbliss@mwpower.org>; 'Imrenner@yahoo.com' <imrenner@yahoo.com>; 'buckaroodan@gmail.com' <buckaroodan@gmail.com>; 'rhunt29085@AOL.com' <rhunt29085@AOL.com>; 'rbjballen2@gmail.com' <rbjballen2@gmail.com>; 'haystaxwest@gmail.com' <haystaxwest@gmail.com>; 'matt6560@hotmail.com' <matt6560@hotmail.com>; 'bellfarmingco@aol.com' <bellfarmingco@aol.com>; 'basqboy@gmail.com' <basqboy@gmail.com>; 'conleyag@gmail.com' <conleyag@gmail.com>; 'huntnboy@gmail.com' <huntnboy@gmail.com>; 'lamarmoyale@gmail.com' <lamarmoyale@gmail.com>; 'jsestanovich@gmail.com' <jsestanovich@gmail.com>
Cc: Steve Walker <stevewalker@gbis.com>; 'Rick Felling' <rfelling@water.nv.gov>; 'Jason King' <jking@water.nv.gov>; 'JJ Goicoechea' <jjgoicoechea@eurekanv.org>; 'Steve Lewis' <lewisst@UNCE.unr.edu>; 'mjwilson@water.nv.gov' <mjwilson@water.nv.gov>; 'Kelvin Hickenbottom' <kwhicken@water.nv.gov>; Jackie Berg (jberg@eurekanv.org) <jberg@eurekanv.org>

Subject: December 14? Next Diamond Valley Groundwater Management Plan Workshop

All:

December 8 does not work for many folks for the next workshop. It is very important that we set the meeting for a date that works for everybody as we don't want anybody excluded. I'm polling to see if Monday, December 14 works for everybody.

Thanks,

Jake Tibbitts
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From: Jake Tibbitts [<mailto:natresmgr@eurekanv.org>]

Sent: Sunday, November 15, 2015 5:09 PM

To: 'cdubray@frontier.net' <cdubray@frontier.net>; 'Lynn Conley' <dnrpca@gmail.com>; 'Andy Marshall' <adlillifarms@gmail.com>; 'Anthony Miller' <lionsunlimited@gmail.com>; 'Billy Norton' <nortoncritters@yahoo.com>; 'Bob Burnham' <burnhamhayfarm@msn.com>; 'Carrie Dubray' <lazygbaraqhas@gmail.com>; 'Craig Benson'

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Subject: December 8? Next Diamond Valley Groundwater Management Plan Workshop

Sorry about another email; it has been tough finding a date that works for folks. The alfalfa symposium is in Reno the first week of December and many folks are going. How does Tuesday, December 8 look for everybody?

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From: Jake Tibbitts [mailto:natresmgr@eurekanv.org]
Sent: Thursday, November 12, 2015 8:27 AM
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Subject: NEW DATE PROPOSED - RE: Reschedule Next Diamond Valley Groundwater Management Plan Workshop - November 30?

All:

Thanks to those that have responded so far. I've had a few respond that November 30 will not work for them. It has been suggested that the next meeting be Wednesday, December 2. Please respond about your availability on December 2.

Thanks,

Jake Tibbitts
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Subject: Reschedule Next Diamond Valley Groundwater Management Plan Workshop - November 30?

Hello everybody. At the last Diamond Valley Groundwater Management Plan (GMP) workshop, the date of November 16th (next Monday) was discussed as the date for the next workshop. Unfortunately, this date will not work for many folks as they will be attending a federal district court hearing in Reno. It has been proposed to move the meeting to Monday, November 30 (the week of the 23rd is Thanksgiving week and some folks will be out of town). Please respond whether November 30 will work for you. And, as always, please spread the word to those that don't have email or that have not been attending the workshops.

Thanks,

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Diamond Valley Groundwater Management Planning- Agenda

Date: January 11, 2016

- 1) Introductions**
- 2) NRCS- Programs for meter funding and other programs**
- 3) Assumptions Review**
- 4) Groundwater Management Plan Outline**
 - a) Steve Walker**
- 5) Water Right Verification Process**
 - a) Mitigation Rights**
 - i. Move to top (most senior) for share allocation and adjust based on court actions?**
 - b) Help from DWR?**
 - c) Bring in outside help?**
 - d) Personal commitments.**
- 6) Determining Share Entitlements**
 - a) Jake step through with spreadsheet provided by DWR**
 - b) Priority spread decision**
- 7) Meters**
 - a) Establish Meter Specifications**
 - b) Costs/Bids**
 - c) Federal Programs**
- 8) Advisory Board**
 - a) Nominate Advisory Board list of willing nominees – to be voted on by water users**
- 9) Rules Based**
 - a) Who's In – Who's Out**
 - i. Exemptions – stockwater, domestic, municipal, other de minimis uses?**
- 10) Next meeting and items to tackle**

JAN. 11, 2016 GMP WORKSHOP

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Diamond Valley Groundwater Management Plan - Assumptions

- Some type of “Unbundling” share system will be followed. Hybridize Prof. Young’s “Blueprint” to best fit Diamond Valley and local desires
- Perennial yield of 30,000 acre-feet per year is a good number and is number recognized by State Engineer but GMP should focus on sustainability, not numbers, and based on groundwater measurements (data).
 - May change based on soon to be released USGS report
- GMP apply to Diamond Valley hydrographic basin only (Basin 153) and apply to entire basin, not just a portion.
- At least through “test case,” exempt stockwater, domestic, and municipal rights and only include irrigation, mining, and other substantial water uses. All new domestic parcels after this point will bring shares and require totalizing meter (County already requires 2 af be brought forward for new parceling). Other changes from irrigation or mining to one of these grandfathered categories would require staying in the share system (i.e., once a share, always a share, even if the use changes).
- Application for irrigation in DV is ~3 af/ac
- No irrigation season – addressed through annual allocations. Use as you want until allocation for year is depleted, conserve and save for future years, or sell/trade to others for use.
- Duty and priority recognized and addressed in conversion to shares.
- Smart meters on every ag well by March 1, 2016 – even if before full Groundwater Management Plan is implemented – with all meters certified by some common standard or spec.
- No Order by the State Engineer for metering. Will be addressed and required under GMP.
- All existing groundwater permits/certificates/vested rights in good standing with Division of Water Resources will be converted to water shares, regardless of varying levels of extensions of times to put the water to use. If they are in good standing with DWR, they are legal water rights that must be converted to shares.
- Will recognize certain aspects of current Nevada water law, specifically the part of NRS 533.370(2) that ensures water transfers do not conflict with existing rights (in this case uses or shares) or the protectable interest in existing domestic wells.
- No new shares added after initial share conversion UNLESS physical, “new” water is brought into basin or legal requirements mandate changes (i.e., DWR or court ordered mitigation of vested surface water declines by replacement with groundwater).
- Annual Allocations
 - Start out with benchmark reductions from status quo for first few of years, such as 3% reduction in groundwater pumping basin wide each year for 5 years to reach 15% reduction basin wide by the fifth year, then based on groundwater monitoring and basin aquifer response.
- Board – Governance
 - Advisory Board/Community Reference Panel - 5 members nominated by and elected from Diamond Valley groundwater rights holders.
 - Executive Governing Board- 5 to 7 members with relevant technical expertise *inclusive* of a full-time manager who is paid. CEO-type is one of the members. Must be folks with no financial interest in Diamond Valley; they can’t own shares. Board members must be approved by the State Engineer.

Workshop held for Groundwater Management Plan

July 2, 2015 By Eureka Sentinel

Water users in Diamond Valley kicked off efforts to develop a Groundwater Management Plan for the groundwater basin at two workshops sponsored by the Eureka County Conservation District on April 23 and June 11, 2015. The workshops, held at the Eureka Board of County Commission Chambers and Eureka Opera House, respectively, were facilitated by Steve Lewis of the University of Nevada Cooperative Extension Services. Steve is well-known for his ability to help groups reach consensus with challenging issues. He is intimately familiar with water issues in Eureka County, having previously served as the Extension Service's Agent in Charge in Eureka County from 1984 to 1990.

The June 11 session included an appearance by Professor Mike Young of the University of Adelaide, Australia where he holds a Research Chair in Water and Environmental Policy. He was a founding Executive Director of its Environmental Institute, is a fellow of the Academy of Social Sciences in Australia, and is a Distinguished Fellow of the Australian Agricultural and Resources Economics Study. As the Whitiam and Malcolm Fraser Chair in Australian Studies at Harvard University, Professor Young was instrumental in fashioning a "blueprint for a western water initiative." He was influential in the development and implementation of changes in water policy to combat the worst drought in Australia's history between the years 2003 to 2012. As luck would have it, Professor Young was in Nevada to meet with representatives of Governor Sandoval to discuss a range of water issues. He had heard about Diamond Valley's water problems and was interested in gaining a better appreciation of them, so Jack Tibbitts, Eureka County's Natural Resource Manager, and Eureka County Commission Chairman J.J. Goicoechea invited him to the workshop. Upon completion presentation highlighting the Australian experience, the attendees of the June 11 session drew him into the conversation to help categorize the basic elements of a plan to manage water resources in Diamond Valley.

The need for a Groundwater Management Plan is a result of massive over-appropriation of Diamond Valley's groundwater resources under the oversight of the office of the Nevada State Engineer. More than 50 years ago predecessors to the current State Engineer approved applications for permits to appropriate groundwater totaling more than 180,000 acre-feet per year (an acre-foot is equal to approximately 326,000 gallons of water) in a basin that is estimated to safely yield only about 30,000 acre-feet per year (also referred to as the Perennial Yield). There are currently more than 130,000 acre-feet of groundwater rights on the books in Diamond Valley, more than four times the Perennial Yield. For decades, groundwater consumption in the Valley has been more than double the amount the resource can sustain indefinitely and groundwater has essentially been mined.

Since groundwater exploitation in the basin began in the 1960s and accelerated into the 1970s, water levels in the basin's aquifer have declined by more than 100 feet in the center of southern Diamond Valley where agricultural pumping is concentrated. This drawdown has resulted in

wide-spread declines that now extend well beyond the area of concentrated agricultural pumping and have affected or eliminated the flow of springs in northern Diamond Valley. Well owners and water rights holders are engaged in a “race to the bottom of the aquifer” as pumps are lowered and wells deepened to respond to the declining water levels.

The current State Engineer Jason King inherited the problem from his predecessors. He has made two formal presentations to the water users in Diamond Valley – the most recent in February 2014 – where he strongly urged stakeholders to take the initiative to come up with community-based solutions to the overdraft problem. He has also held numerous meetings with County officials and staff, individuals and groups all of whom welcome the opportunity to work toward an equitable resolution. If the community cannot help the State Engineer resolve the matter, the State Engineer has no option but to curtail pumping solely on the basis of priority, which could result in a 60 percent reduction in current irrigation use. In Diamond Valley, any groundwater right with a priority junior to May 18, 1960 is in jeopardy of being curtailed. The State Engineer also has the authority to regulate pumping from domestic wells. His records show only two domestic wells in Diamond Valley have a priority date that is senior to May 18, 1960.

This community-based approach to addressing water resource management was made possible through legislation sponsored by State Senator Pete Goicoechea when he was a member of the State Assembly. His legislation was conceived specifically to address areas like Diamond Valley where groundwater is being mined and water levels are steadily declining. Such areas would be designated Critical Management Areas (CMAs) either through petition from water right holders or unilaterally by the State Engineer. The process allows flexibility on behalf of the State Engineer over a 10-year period to implement a Groundwater Management Plan developed by the water users. However, if a plan cannot be successfully implemented within the statutory period, the State Engineer would be forced to curtail pumping on the basis of priority. Presently, only Diamond Valley and the Pahrump area are actively moving toward declaration as CMAs, but there are two dozen additional basins waiting in the wings to be designated as such. The important points to remember are: the Groundwater Management Plan is developed by the water users; once the State Engineer approves the Plan, it guides how water is used in the basin.

The two workshops sponsored by the Conservation District are the latest in a series of steps taken by Diamond Valley water users to come to grips with the problem. To date, the Diamond Natural Resources Protection and Conservation Association (DNRPCA) sponsored two economic analyses by Hansford Economic Consulting that were funded by grants from the Eureka Board of County Commissioners to examine the economics of groundwater management strategies. The Eureka County Conservation District engaged Steve Walker of Walker and Associates to conduct two workshops in Eureka to poll residents as to their concerns, the issues and possible solutions. Steve also privately interviewed a number of water users in Diamond Valley for their input. More recently, the Eureka County Conservation District circulated a questionnaire to all residents in Diamond Valley with valid post office boxes to poll the valley residents – irrigators, ranchers, domestic well users, Devils Gate GID water users, Eureka Town water users, and mining interests – regarding whether or not they backed designation of the basin as a Critical Management Area. Approximately 75 percent of the poll respondents favored such a designation. It is expected that the State Engineer will designate Diamond Valley as a CMA in the near future.

Since there are no CMAs currently on the books in Nevada there are a lot of questions how the whole process is expected to work, who will be in charge, how will the process be financed, how will it be enforced, etc. -- in summary, the governance. To quote Jason King, "We are building the airplane and flying it at the same time." Many stakeholders have voiced an opinion that we need to know how the whole process might work before we can work out the specific actions that might be taken to address the overdraft problem.

The April 23 workshop focused on the governance of a CMA. Steve Lewis led discussions that included:

- Crafting a vision of Diamond Valley agriculture and other water users,
- A review of the events and actions leading up to today,
- Identifying the parameters under which a Plan must operate,
- Describing the duties and characteristics of an ideal governance body,
- How to get more water users involved in the process, and
- Developing a timeline for completing a Groundwater Management Plan.

A committee was formed to consolidate the ideas put forth in the workshop into a format that can be distributed to all water users in Diamond Valley. The summary, prepared by Denise Moyle, Craig

Benson and Jake Tibbitts, was circulated at the June 11th meeting at which time a vision statement for Diamond Valley's water plan was drafted. It states:

"Diamond Valley and southern Eureka County are prosperous and economically stable by all means including education and diversification. We are a community that is united, fair and forward thinking about our water usage in order to ensure stability for ourselves now and our future generations."

Discussion then migrated to the goals of a Groundwater Management Plan. The primary goals were identified as

- Balance discharge with recharge to stop the overdraft and help stabilize groundwater levels,
- Maintain the economy of the basin, and
- Avoid unmitigated curtailment of water rights

From there, the conversation flowed to how these goals might be achieved. Topics included:

- What might a governing board look like?

- What powers would a governing board have?
- How will the amount of water available for use each year be determined and how might it be distributed for maximum benefit?
- The importance of accurately measuring how much water is being pumped and monitoring water levels.
- Will a management plan allow water not used in one year to carry over to later years?

Professor Young was enlisted to describe how the Australian experience might be used to formulate management schemes appropriate to Diamond Valley and a number of ideas were bantered about. He stressed that at this early stage, the plan does not need to be perfect and that it should be expected to evolve. The immediate objective should be to develop a “high-level strategic plan” and to identify individuals who can serve as “champions” to guide the plan through to its end. In the end, Professor Young stated he was impressed with the group’s accomplishments to date and the level of involvement by the community.

A workshop to further flesh out the high-level strategic plan was scheduled for Thursday July 16, 2015. It will be moderated by Steve Walker who facilitated the initial sessions sponsored by the Eureka County Conservation District. Professor Young volunteered to attend the workshop and the attendees expressed a desire for State Engineer Jason King to attend. Attendees were invited to each bring at least two new people with them; in particular, residents who own domestic wells and residents who get their water supply from the Eureka Town Water System and the Devils Gate GID Water System because these groups have not been well represented at the previous two workshops.

Jake Tibbitts

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Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'mjwilson@water.nv.gov'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka-nv.org); Michael Young
Subject: Draft Chapter 1 of GMP
Attachments: Draft Chapter 1 DVGMP v1.docx

All:

Attached is proposed draft Chapter 1 of the GMP, which describe the current conditions with the Diamond Valley Hydrographic Basin and addresses the requirements of NRS 534.037 (2) subsections (a) through (e):

- (a) The hydrology of the basin;
- (b) The physical characteristics of the basin;
- (c) The geographic spacing and location of the withdrawals of groundwater in the basin;
- (d) The quality of the water in the basin;
- (e) The wells located in the basin, including, without limitation, domestic wells;

This will be discussed at the meeting on Monday. Thanks to Steve Walker and Dale Bugenig for taking the initiative in putting this together.

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DIAMOND VALLEY GROUNDWATER MANAGEMENT PLAN

INTRODUCTION

On August 25, 2015 the Nevada State Engineer, issued Order # 1764 (see appendix 7) designating the Diamond Valley Hydrographic Basin (153) as a Critical Management Area per NRS 534.110 (7) (a) and (b) that states:

7. The State Engineer:
 - (a) May designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin.
 - (b) Shall designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such a designation which is signed by a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer.
- The designation of a basin as a critical management area pursuant to this subsection may be appealed pursuant to NRS 534.150. If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights, unless a groundwater management plan has been approved for the basin pursuant to NRS 534.037.

Mining groundwater in Diamond Valley for more than 50 years and the resultant continual decline in water level within the alluvial aquifer prompted the Nevada State Engineer (NSE) to issue this order. Once designated, the water rights holders have 10 years to develop and implement a Groundwater Management Plan (GMP) that would bring groundwater consumption into balance with recharge to, in effect, balance the basin water budget. The alternative to implementing a GMP is for the NSE to balance the basin budget by curtailing water rights on the basis of priority. In the case of Diamond Valley, the NSE would need to reduce groundwater pumping by 50 to 60 percent to effectively balance the basin water budget.

The agricultural water users of Diamond Valley hereby submit the following document as the Groundwater Management Plan (GMP) for the Diamond Valley Hydrographic Basin to adhere to the requirements of state law and to propose a system of water management that will reduce the current pumping of groundwater to a sustainable level.

Chapter 1 of the GMP will describe the current conditions with the Diamond Valley Hydrographic Basin and address the requirements of NRS 534.037(2) subsections (a) through (e). (See Appendix 7).

Chapter 2 will describe the water management plan, detailing a new strategy of water right management that will convert existing water right to water shares that can be managed to reduce water allocation over a period of time to address the current imbalance.

CHAPTER 1

Physical Characteristics and General Hydrology of the Area

The Diamond Valley Hydrographic Area (HA 061) is located in southeastern Eureka County (Figure 1). Diamond Valley encompasses 752 square miles, of which 700 miles (93 percent) are within Eureka County. The remaining 52 square miles, an area known as Garfield Flat, are within the southwestern-most portion of Elko County.

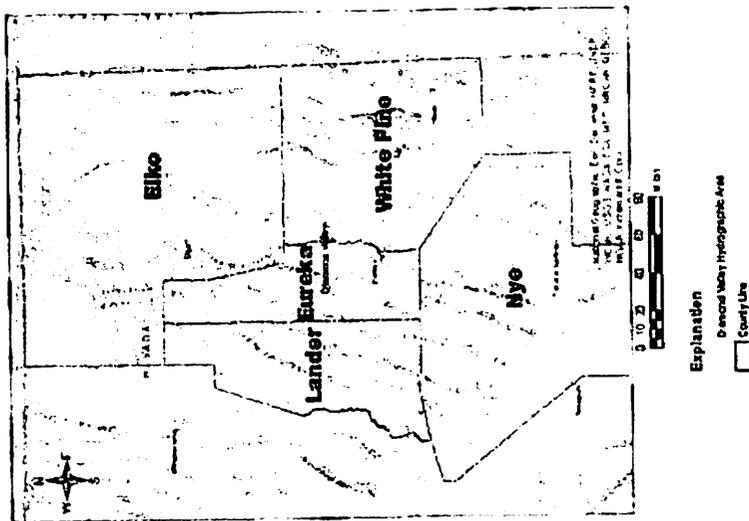


Figure 1. Diamond Valley Hydrographic Area Location Map

Diamond Valley is a closed basin. That is, none of the groundwater recharge originating as infiltration of precipitation falling within the basin, surface water originating in the basin and inter-basin groundwater flow into the basin from adjacent basins flows out of the basin. As stated in previous sections, Diamond Valley is the terminus of the Diamond Valley Flow System, which includes Monitor Valley (North and South Parts), Kobeh Valley, Antelope Valley and Stevens Basin. Available data suggest inter-basin groundwater flow into Diamond Valley through bedrock from Kobeh Valley and Garden Valley (a portion of the Pine Valley HA) as well as a small amount of groundwater flow from Kobeh Valley through alluvial deposits at Devils Gate in the southwest corner of the basin. In wet years Slough Creek conveys water from Kobeh Valley into the basin providing additional groundwater recharge. But, as is the case with groundwater, none of this surface water flows out of the basin. Prior to development, virtually all the groundwater entering the basin was discharged in the northern half of the basin by phreatophytes that surrounded the extensive plays located there, the springs located on the margins of the plays, and bare soil evaporation within the plays itself. Since the onset of large-scale groundwater resource utilization in the basin that began in the 1960s, the natural flow of groundwater to the plays has been altered and the majority of groundwater discharge is by irrigation wells. The discharge of groundwater by springs around the margin of the plays has been significantly reduced and there is evidence that the discharge from phreatophytes has also declined.

Perennial streams are present in the mountains, but there is no perennial stream flow below the range front. The principal perennial streams include Eureka Creek, Simpson (Italian) Creek, Torre Creek, Hildebrand Creek, Cottonwood Creek, Moletti Creek, Pedrioli Creek, and Green Canyon, all of which are situated in the Diamond Range which borders the valley on the east.

Wells

The State well log database provides records for approximately 740 wells in the basin (see Figure 2). Of these, 53 have reportedly been plugged and abandoned, 94 records represent replacement wells, 19 represent wells that have been deepened, and 74 were drilled as monitoring wells such that there may be approximately 500 water-supply wells in the basin. The well log database shows 437 wells drilled for irrigation purposes, 117 for domestic supply, 70 for monitoring, 21 for stock water. It also shows 24 for test or exploration purposes, 14 for other purposes, and five were unused. Records show 12 wells drilled as sources of public water supply, but this number includes exploration wells, wells that have been plugged and wells currently used for non-potable supply.

Well depths vary from 50 feet or less to more than 1,700 feet (Figure 3). The shallowest wells were mostly used to monitor groundwater near leaking underground storage tank (LUST) sites in the Town of Eureka. The deeper wells primarily were drilled in the mountain blocks as sources of mining water supply, mine dewatering, or monitoring, primarily for the Ruby Hill mine northwest of the Town of Eureka or for monitoring wells at the Mount Hope Project northwest of the Town. Many wells drilled for the mining industry are over 1,000 feet deep with the deepest wells more than 3,000 feet deep.

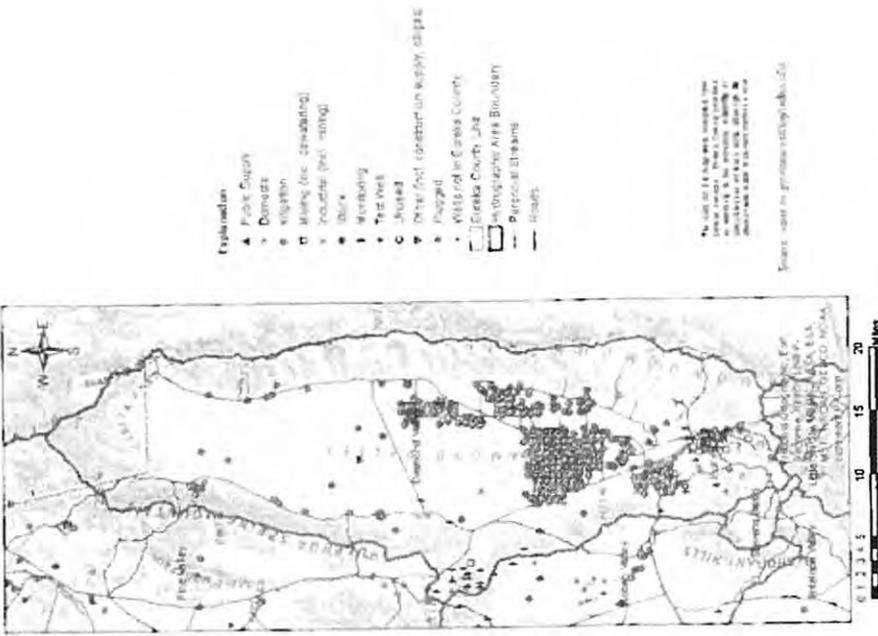


Figure 2. Wells in the Diamond Valley Hydrographic Area

In the early stages of groundwater resource utilization, irrigation supplies could be developed from wells with depths of about 150 to 250 feet. As time passed and as water levels in the aquifer have declined, well depths have generally increased and it is not uncommon for newer irrigation wells to be drilled and completed to depths greater than 400 feet. Information from the deeper wells suggests that the sediments become more cemented with depth and that below this depth the sediments do not yield large quantities of water, such that the bottom of the productive part of the aquifer may be situated at about 400 feet.

Perennial Yield and Groundwater Rights

Recharge to Diamond Valley arising from infiltration of precipitation within the basin was originally estimated at 22,000 acre-feet per year (Eakin, 1962). A small amount of underflow from Koberh Valley through the alluvium was also acknowledged. The recharge estimate was later increased to 30,000 af/yr by incorporating an estimate of inter-basin flow from the Garden Valley area of Pine Valley (Harrill, 1968) to achieve a better balance between recharge and discharge.

Recent analysis of the Diamond Valley aquifer undertaken in support of the Mount Hope Project suggests perhaps as much as 1,000 af/yr inter-basin flow from Koberh Valley through the bedrock in the mountains north of Whistler Peak. The Nevada State Engineer (NSE) currently assumes groundwater recharge to the basin from all sources is 30,000 af/yr. The United States Geological Survey is nearing completion of a study of the Diamond Valley Flow System. The results of this study may have an effect on the perennial yield estimate used by the NSE.

Estimates of natural discharge from the basin prior to development included approximately 5,000 af/yr of evaporation from bare soil at the playa and 25,000 af/yr evapotranspiration (ET) from phreatophytes, mostly from the northern portion of the valley. The phreatophyte ET was supported in part by spring discharge and partly by a shallow water table such that these components of groundwater discharge are implicit in the phreatophyte discharge estimate.

Committed groundwater rights in the basin presently total 130,748.33 af/yr. These are summarized in Table 1a and the PODs in the basin are shown in Figure 4. Due to the density of PODs in southern Diamond Valley near the Town of Eureka, that area is expanded in Figure 5. Comparison of the total committed rights to the estimated perennial yield shows the basin to be over appropriated by a factor about 3.5 (approximately 4.5 times the estimated perennial yield). A significant amount of these water rights are currently not being exercised, such that approximately 75,000 acre-feet per year are probably being consumed at present. The vast majority (96%) of the water rights are for irrigation purposes. Because water rights are not required for individual domestic wells, Table 1a does not incorporate groundwater pumped from approximately 120 domestic wells reportedly constructed in the basin.

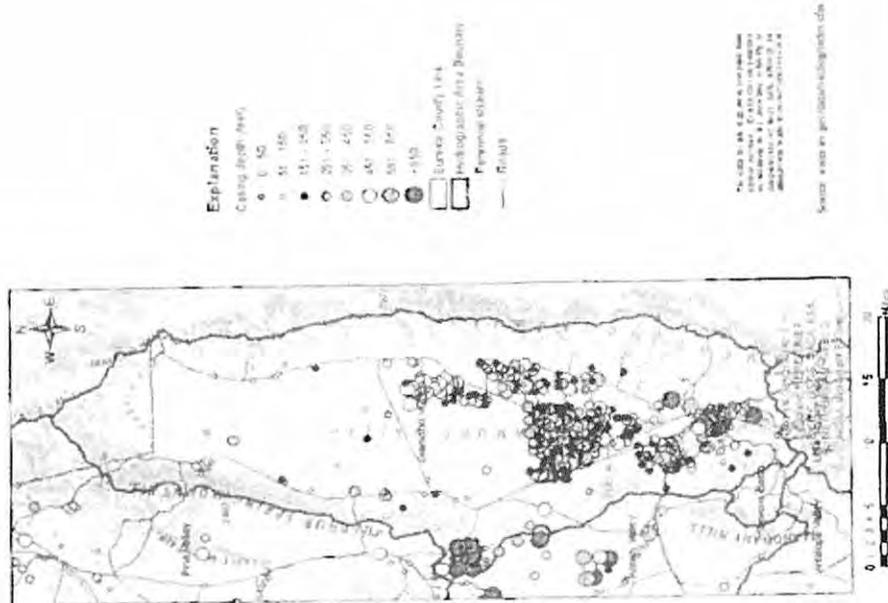


Figure 3. Depths of Wells in the Diamond Valley Hydrographic Area.

Table 4a
Committed Groundwater Rights in the Diamond Valley Hydrographic Area (HA 153)

Manner of Use	Committed Groundwater Rights (af/yr)
Commercial	109.74
Domestic	33.60
Irrigation (including DLE)	124,676.40
Mining and Milling	2,909.24
Municipal	1,678.91
Quasi-municipal	483.34
Stockwater	857.60
Total	130,748.33

Source: <http://water.usgs.gov>, November 17, 2013

Groundwater Use

Groundwater in the basin is used to provide public water supply, domestic supply to residences not supplied by public water systems, irrigation, mining and milling supplies, mine dewatering, stock watering, and commercial use. The overwhelming majority of groundwater pumped in Diamond Valley is used for irrigation.

Public Water System Use

There are currently three public water systems in Diamond Valley. These include the two community water systems operated by the Eureka County Public Works Department and the water system at the Ruby Hill Mine operated by Barrick. The Department operates the Eureka Town Water System and Devils Gate General Improvement District (GID) in Diamond Valley. Both of these entities utilize wells in southern Diamond Valley. The Town of Eureka also derives water from developed springs, after a nearly 25-year hiatus that started in the late 1980s. These spring sources were re-activated after significant improvements in 2012 and 2013 and re-integrated into the Town's supply in 2014.

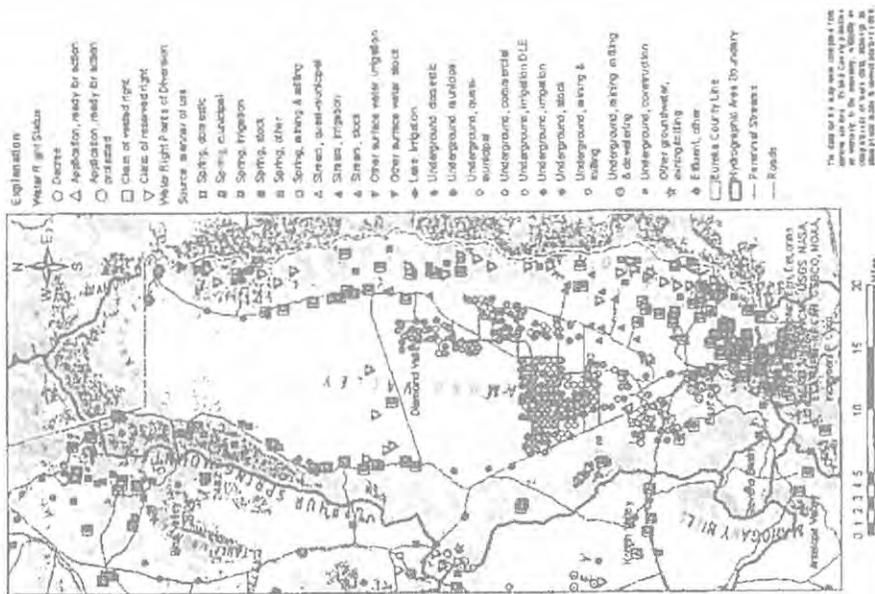


Figure 4. Points of Diversion for Water Rights in the Diamond Valley Hydrographic Area.

Declining water levels in the alluvial aquifer of Diamond Valley represent a threat to the GID's water supply. From 2008 to 2013, water levels declined 21 feet in the Frontier Well or at a rate of approximately 4.2 feet/year. In the Gourdier Well, water levels have declined 1.6 ft/year over the same time period. Water level trends are discussed in more detail in a subsequent section.

Other Groundwater Usage by Eureka County

The County also operates a well at the Eureka County Airport and several small-yield wells within the Town that are used to irrigate turf at parks. The recreational uses of the water fall under the general heading of municipal use, but these are independent of the Town and Dewey's Gate GID public supplies. The water supply at the airport is not regulated as a public supply because it serves too few individuals for the threshold of regulation to apply.

Barrick Ruby Hill Mine Potable Water Supply

The Ruby Hill Mine water operates a non-transient, non-community supply to serve the needs of its approximately 125 employees. The supply is provided by a dedicated potable-water-supply well at the mine site. Annual use varies with the level of mining activity, but during 2013, approximately four acre-feet were consumed. Mining operations have ceased for the foreseeable future.

Domestic Water Use

The State well log database lists driller's reports for 117 domestic wells serving single-family residences in Diamond Valley. There are also an undetermined number of irrigation wells that may provide domestic water supply. In Nevada, each domestic well owner is allowed to pump two (2.0) a/yr, but, domestic well consumption is at best loosely regulated and the wells are unmetered. For purposes of the Water Resources Master Plan, it is assumed that each domestic well user pumps all the groundwater allowed, and that total use by individual domestic well users is less than 250 a/yr or less than 0.1 per cent of the groundwater currently pumped.

Irrigation Water Use

Very little agricultural land in Diamond Valley was irrigated using groundwater prior to 1960 (Figure 6). After 1960, irrigated acreage and estimated irrigation water pumpage increased in a nearly linear fashion until 1984, followed by a decrease of about 24 percent through 1992. Irrigated acreage then remained relatively constant for about eight years. Since 2002/2004, irrigated acreage has resumed a roughly linear trend along with estimated irrigation groundwater pumping, albeit at a much slower pace prior to 1984.

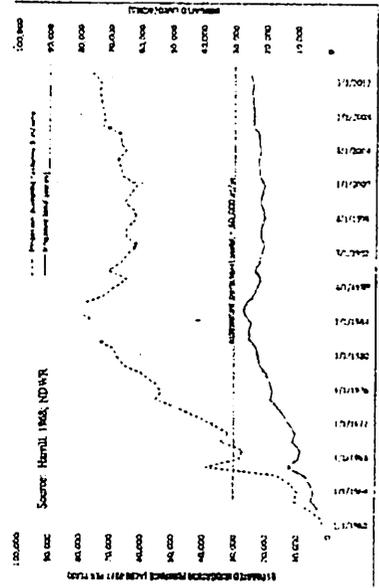


Figure 6. Irrigated Acreage and Estimated Irrigation Pumpage for Diamond Valley.

With few exceptions, most irrigation occurs in the southern half of the basin, with limited irrigation west of the playa in the northern half of the basin. Nearly all irrigation in the basin is accomplished through the use of center-pivot sprinklers. At present, there are approximately 180 pivots in use, plus a handful of wheel lines (Figure 7). Flood irrigation is still practiced, but on a very limited basis. For the most part, the corners of the fields utilizing center pivots are not irrigated. However, a few farmers do irrigate their corners either with wheel lines or by using end guns on their pivots.

The NSE (Nevada State Engineer) ordered irrigation wells in Diamond Valley to be equipped with totalizing meters in 1982, but meters are not widely accepted by the farmers and only limited meter data are available. The amount of groundwater pumped each year for irrigation in Diamond Valley, or many other basins in Nevada for that matter, is typically not measured. Instead, it is estimated on the basis of the observed acreage of land on which water is applied. These estimates are tabulated in annual Crop Inventories prepared by the NSE's staff of a small number of the more than 200 hydrographic areas of the state. The average annual duty (the amount which the NSE permits applicants to pump) for irrigation water rights in Diamond Valley is approximately four feet of water per acre, which implies irrigators were permitted to pump as much as approximately 101,000 acre-feet in 2012. However, because the net irrigation requirement for alfalfa, the principal crop grown in Diamond Valley, is 2.5 feet of water per year per acre, irrigators are likely applying 3.0 feet of water per year per acre or less. Limited meter data confirm

the amount of water pumped is closer to 3.0 feet than 4.0 feet. Therefore, for purposes of discussion in the GMP irrigation pumpage in Diamond Valley is assumed to be 3.0 af/acre/year, or a total of approximately 76,000 acre-feet per year in 2012. Of this amount, an undetermined small portion almost certainly infiltrates the soil to become secondary recharge that can serve to inhibit salt build-up in the soil.

Regardless of the specific amount of water pumped, the available data suggest that irrigation water usage by itself is more than double the estimated perennial yield of the basin and is unsustainable. This over-pumping of the basin is causing a decline in water levels in the range of about one to three feet per year. A discussion of this trend is provided in a subsequent section.

Mine Water Use

At present, water use by the mining industry in Diamond Valley is limited to Barrick's Ruby Hill Mine located on the outskirts of the Town of Eureka. The principal source of supply is derived from wells deriving groundwater from wells completed in bedrock and which serve to dewater the pit. The mine's water rights allow for pumping up to 1,000 acre-feet per year. The pumping rate varies, but has averaged between about 600 to 800 af/yr. Of this amount, approximately half is currently infiltrated into the alluvial aquifer via rapid infiltration basins (RIBs) located west of the mine after the water has been treated to reduce the concentration of arsenic. The remainder is consumed in the milling process and incidental uses such as dust suppression. Mine usage is currently less than one percent of the total amount of water rights permitted in the basin. Operations at Ruby Hill have been suspended for the foreseeable future, but mine dewatering and some limited water use will continue for the foreseeable future.

Other potential mining use includes the Mount Hope Project located approximately 28 miles northwest of Eureka. A portion of the proposed pit is situated in Eureka County and some of the groundwater proposed to be pumped to dewater the pit is expected to originate from the Diamond Valley HA. This water, potentially amounting to only a few hundred acre-feet per year, would be consumed by ancillary uses at the mine, assuming, of course the project ever becomes operational. Water not consumed within the Diamond Valley portion of the mine area would need to be infiltrated or otherwise returned to the Diamond Valley aquifer(s).

Stockwater Use

Ranchers in Diamond Valley hold rights to pump approximately 850 af/year to provide a source of water supply to livestock. The NSE does not closely monitor the use of water for this purpose, so the amount of water currently consumed for this purpose is unknown. However, stockwater rights amount to less than one percent of the total water rights in the basin, such that this use is miniscule compared to other uses. For purposes of the GMP it is assumed that all 850 af/yr are consumed.

Commercial Use

Water rights for the commercial use of groundwater total approximately 109 af/yr, or less than one-tenth of a percent of the total water rights in the basin. Of this, three af/yr have been appropriated by the Church of Latter Day Saints for use at church facilities. The remainder is held by Eureka Mobly to be used

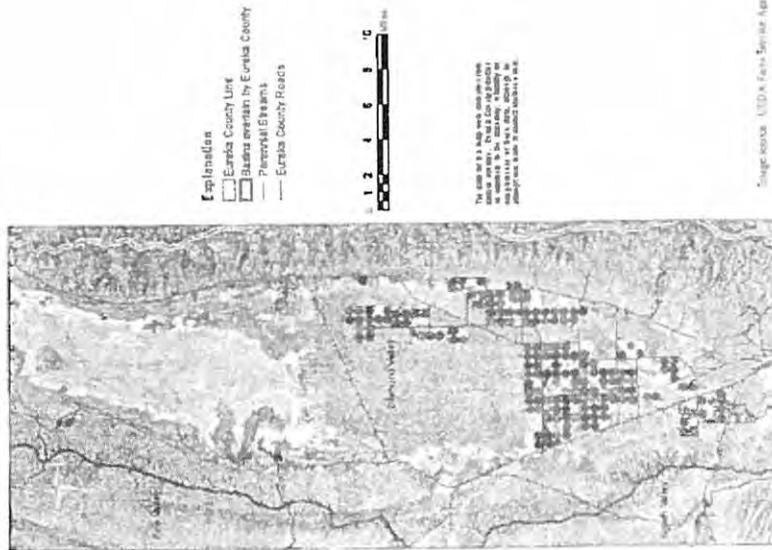


Figure 7. Aerial Image of Irrigated Land in Diamond Valley

at a gravel pit in northwest Diamond Valley, should their Mount Hope Project go forward. At present, their temporary permit has expired and they have not filed for the permanent permit. If the temporary permit is not renewed or they do not complete the water right process, the water will revert back to the original permit which was for irrigation use in southern Diamond Valley.

Water Level Trends

Water level data for the alluvial aquifer in Diamond Valley date back to the start of large scale groundwater exploitation in the 1950s. The data are available from the Nevada Division of Water Resources and the United States Geological Survey and, for the most part, represent water levels taken in the spring of the year prior to the onset of irrigation. The data document how water levels have declined since the 1960s and that a cone of depression has developed over most of southern Diamond Valley, with more than 100 feet of cumulative drawdown near the centroid of the area of irrigation wells (Figure 8). Currently, water levels are declining at a rate of about one to three feet per year.

Figure 9 illustrates several hydrographs representative of water levels in southern-most, central and northern-most parts of the basin-fill aquifer in the south half of Diamond Valley. Some prominent points regarding the hydrographs include:

- Depth to water in the aquifer was initially greater at the southern end of the valley, indicative of the slope of the land surface and the general direction of groundwater flow from south to north in the southern half of the basin.
- The pattern of water level decline is similar over a large area in the center of the south half of the valley (wells N20 E53 04DD92, N21 E53 11CDD0, and N22 E54 33BDD0).
- Water levels at the north end of the irrigated land (represented by well N23 E54 30DD02) have declined less compared to the central part of the basin in large part because of distance from the center of ag pumping. A similarly lesser rate of decline is observed at the south end of the basin beginning in 1997 (well N20 E53 32BDDC1). The lesser rate of decline is also due in large part to the distance from the center of agricultural pumping.
- The rate of water-level decline from the mid-1970s to early 1980s was followed by a lesser rate of decline through the mid-1990s as a result of a decrease in irrigated acreage from 1984 to 1992 (see Figure 9).

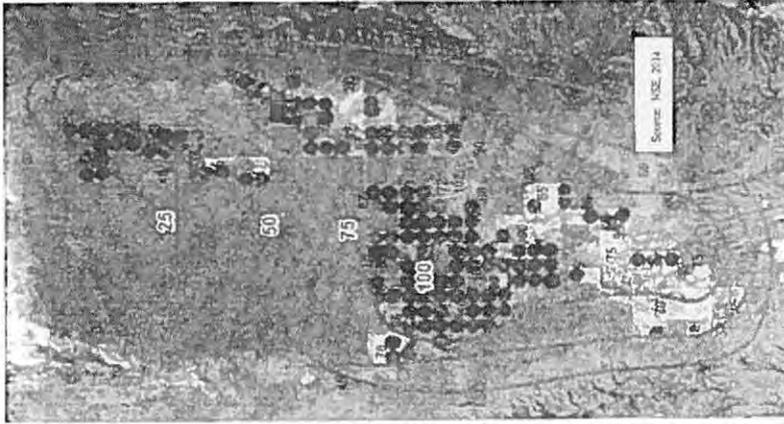


Figure 8. Map of Water Level Decline in Diamond Valley.

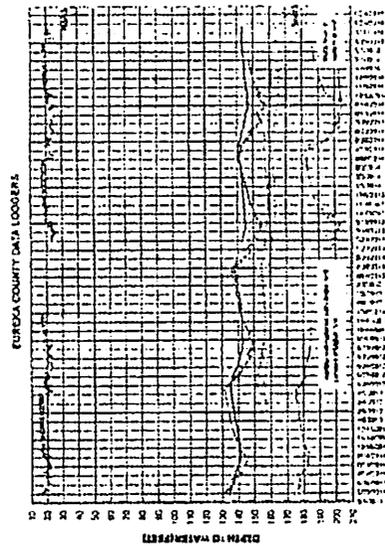


Figure 10. Eureka County Monitoring Network Hydrographs.

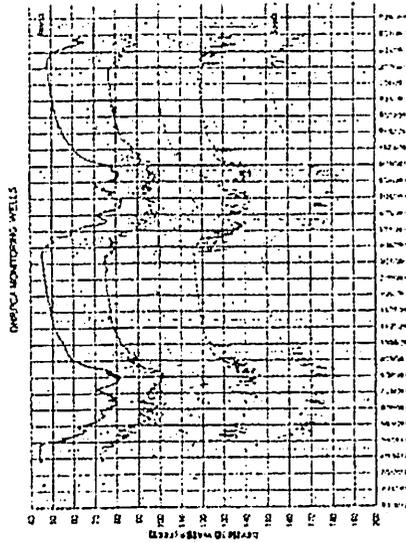


Figure 11. Eureka County / DNRPCA Monitoring Network Hydrographs.

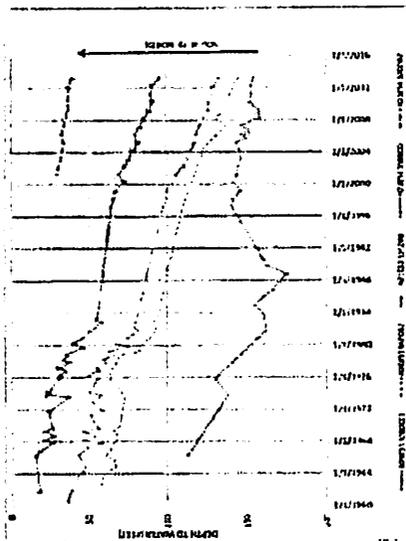


Figure 9. Hydrographs of Representative Wells in Diamond Valley.

In addition to the annual water level measurements obtained by the NSE and the USGS, Eureka County funds a network of 12 monitoring wells equipped with water-level data recorders (data loggers). Of these, six are operated by the County Natural Resources Department and six are operated by the non-profit Diamond Valley Natural Resources Protection and Conservation Association (DNRPCA) and funded by Eureka County. Water levels from the County's monitoring wells have been logged since the spring of 2011 (Figure 10) and data have been collected from the DNRPCA monitoring wells since spring 2013 (Figure 11). Water level measurements are logged daily in each of the wells with the exception of the well located in Section 36, Township 24 North, Range 53 East (Figure 10). This well provides a source of stock water supply and measurements have been collected hourly to help show the effect of the pump cycling on and off. From Figure 10, it is evident that the operation of the well has not obscured the water level trend.

The data from the County's and DNRPCA's monitoring wells help to define the annual variation in water levels in the aquifer resulting from irrigation pumping. From the data, it can be seen that water levels vary seasonally from between about five and 40 feet, depending on how close the monitoring well is to a pumped well or whether or not the monitoring well is completed to the same depth as a pumped well. As discussed previously, the public water supply wells that supply the Town of Eureka and the Devil's Gate GID draw groundwater from the alluvial deposits in Diamond Valley.

Surface Water Rights and Use

Water rights have been appropriated from several streams and numerous springs in Diamond Valley. All the perennial streams are located in the Diamond Range east of the valley and the streams are perennial only in the mountain block above the range front. The streams become intermittent or ephemeral on the alluvial fans below the range front. The principal streams include Eureka Creek, Simpson (Italian) Creek, Torre Creek, Hildebrand Creek, Cottonwood Creek, Minolatti Creek, Pedrioli Creek, and Green Canyon. Additionally, during wet years or after periods of intense rainfall, Slough Creek flows into Diamond Valley from Kobe Valley through Devil's Gate. Average annual runoff from the Diamond Range has been estimated at 5,000 af/yr (Hamill, 1968). The estimated annual runoff from the rest of the valley margins is estimated at 800 af/yr (Idr).

Water rights associated with these surface water sources are provided in Table 1b and PODs are shown in Figure 4 and 5. Not included in Table 4-20b are:

- More than 60 claims to reserved water rights to springs by the BLM totaling approximately 0.34 cfs.
- More than 100 claims of vested water rights from springs that have been filed to date.

Table 1b
Committed Surface Water Rights in the Diamond Valley Watershed (Area 4b, 153)

Manner of Use	Committed Surface Water Rights (af/yr or af/season)
Springs	
Municipal	80
Mining & Milling	24
Irrigation	1,401
Stock	1,146
Streams	
Irrigation	4,947
Stock	31

Notes: 1. Rounded to the nearest acre-foot
2. Source: HASS, Basin Abstract

Many of the springs on which claims have been filed are located in the mountains, but a number are located on the valley floor or issue from the alluvium near the range front. Big Shipley Hot Springs west of the playa and Diamond Springs (e.k.a. Thompson Springs) east of the playa both of which are located below the range front, historically flowed at significant rates, perhaps as much as 6,000 to 7,000 af/yr. Groundwater exploitation in the basin has caused the discharge from many springs to decline or cease to flow altogether. The discharge from Big Shipley Hot Springs declined to about 1,500 af/yr and Thompson Spring has ceased to flow.

Springs are treated by the MSE as surface water sources despite the fact they represent groundwater discharge and the spring discharge has historically not figured into the amount of groundwater considered

to be available for appropriation in the basin. To offset the loss of spring water sources, the MSE has recently granted "mitigation water rights" to offset the loss of spring flow resulting from groundwater exploitation in the basin (MSE Ruling #6290). The effect of the ruling is to increase the amount of groundwater presently pumped from the basin. The ruling was appealed to District Court (Case No. CV-1409-204). The Court rejected the methodology used by the MSE to establish the mitigation right granted to the current owner of Big Shipley Hot Springs and remanded the case to the State Engineer to establish Sadler Ranch's mitigation right. . . .

On October 8, 1982 the MSE initiated adjudication of all claims of rights to surface water and groundwater in Diamond Valley (MSE Order #800), but this effort failed to progress and the adjudication process languished. After a 30-year hiatus the MSE resuscitated the process on August 21, 2015 (MSE Order #1263). Subsequently, on October 16, 2015, the MSE issued Order # 1266 requiring all claimants to file Proofs of Appropriation on or before May 31, 2106.

The adjudication of pre-statutory rights is a necessary precursor to any GMP prepared for the basin in response to its designation as a GMP. Unless as all water rights in the basin have been determined, it will be difficult to assess the degree to which groundwater usage must be reduced to balance the basin water budget

Groundwater Quality

Concentrations of major ions (calcium, magnesium, sodium, potassium, bicarbonate, sulfate, and chloride) and total dissolved solids (TDS) in groundwater are primarily derived from dissolution of minerals in rocks and soil in contact with the water. In general, concentrations of solutes (substances dissolved in water) increase with the amount of lime water has been in contact with rock and soil and, therefore, increases along the path the water flows from recharge areas to discharge areas. Therefore, concentration is typically less in recharge areas and increases along the flow path toward discharge areas. Evapotranspiration will increase concentrations of most major ions, but chemical reactions can remove selected solutes by mineral precipitation and ion exchange. Groundwater quality is frequently degraded near ore deposits where reducing conditions are often created by the presence of sulfides in the ore resulting in increased concentrations of arsenic, iron, manganese, sulfate and TDS

Water Quality in Diamond Valley Hydrographic Basin

Water quality data for Eureka County are available from numerous sources. These include but are not limited to: the records of the Eureka County Public Works Department; semi-annual monitoring reports, Reconnaissance Series Reports prepared for the Nevada Department of Conservation and Natural Resources, the National Water Information System (NWIS) of the United States Geological Survey; NEPA documents prepared for mining projects such as the Mount Hope Project and the records of the Nevada State Laboratory. To provide a sense of the variability of water quality throughout Diamond Valley the concentration of total dissolved solids and arsenic are depicted in Figures 5.2 and 5.3. As one can see the current groundwater quality where the majority of the agricultural pumping occurs meets current drinking water standards.

Total Dissolved Solids in Diamond Valley

From Figure 12 it is apparent TDS is highly variable in the aquifers throughout the hydrographic basin, ranging from less than 250 mg/L, which generally indicates very good water quality, to more than 1,000 mg/L. For the most part TDS is less than the recommended SMCL of 500 mg/L and well below the maximum SMCL of 1,000 mg/L. There are some notable exceptions, however.

Elevated TDS is found south and northeast of the plays in northern Diamond Valley. This high TDS groundwater is primarily derived from shallow monitoring wells along the margin of the plays near the groundwater discharge area and reflects the effect of evaporation and transpiration which concentrates dissolved solids. As discussed in previous sections, the presence of high TDS water at the plays is notable because large-scale pumping in Diamond Valley has created an extensive cone of depression in southern Diamond Valley. The result is a reversal of the natural hydraulic gradient such that the high TDS water, normally found beneath the plays can now flow in an opposite direction. The long-term consequence is migration of high TDS water toward the nearest irrigation wells, albeit at a very slow rate. Somewhat elevated TDS is also found in southern Diamond Valley along a north-south trend that roughly follows one of the roadways from Devil's Gate to the plays, but the reason for this is not evident.

Elevated TDS also occurs in groundwater derived from the mountain block west of Diamond Valley from the vicinity of Mount Hope (where Pine Valley, Diamond Valley and Kobeh Valley come together) south toward Whistler Mountain.

Concentration of Dissolved Arsenic

Figure 13 shows variability of the concentration of arsenic in aquifer in Diamond Valley. Comparison of Figure 12 and 13 shows that data for arsenic in groundwater are less widely distributed than for TDS such that there are limited data or no readily available data in some basins. Note that a lack of data does not preclude water from exceeding the MCL for arsenic, merely that no data are available.

Elevated arsenic concentrations are reported for a few wells in southern Diamond Valley. These include wells at Barrick's Ruby Hill Mine which derive groundwater from bedrock and a County-owned well located north of Highway 50 and west of State Route 278 that derives water from alluvial deposits. For the remainder of Diamond Valley, data suggest relatively low concentrations of arsenic may be the norm.

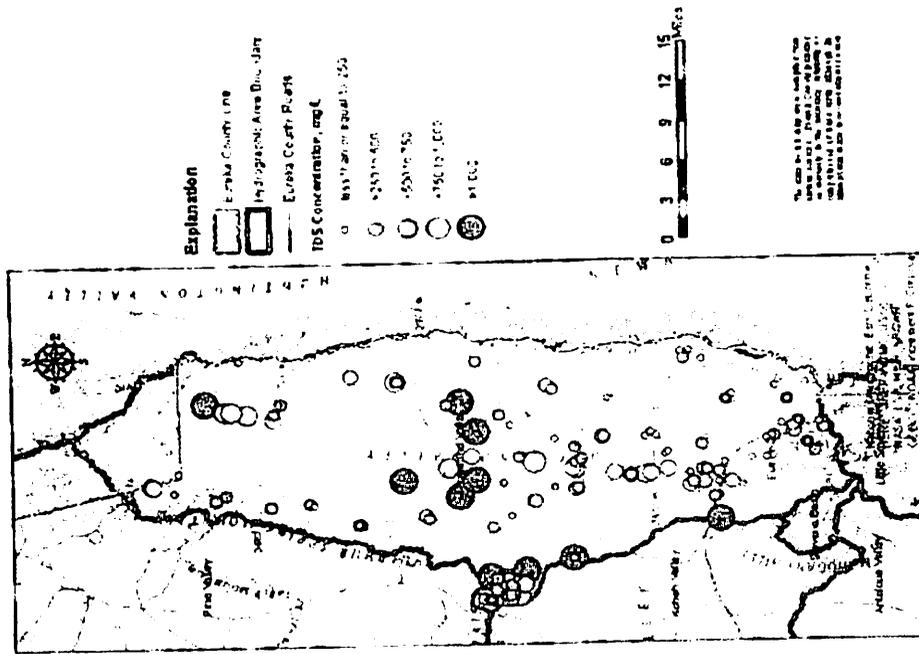


Figure 12. Concentration of Total Dissolved Solids, TDS, in Diamond Valley.



On Fri, Feb 26, 2016 at 4:08 PM, Jake Tibbitts <natresmgr@eureka-nv.org> wrote:

All:

Attached is proposed draft Chapter 1 of the GMP, which describe the current conditions with the Diamond Valley Hydrographic Basin and addresses the requirements of NRS 534.037 (2) subsections (a) through (e):

- (a) The hydrology of the basin;
- (b) The physical characteristics of the basin;
- (c) The geographic spacing and location of the withdrawals of groundwater in the basin;
- (d) The quality of the water in the basin;
- (e) The wells located in the basin, including, without limitation, domestic wells;

This will be discussed at the meeting on Monday. Thanks to Steve Walker and Dale Bugenig for taking the initiative in putting this together.

Jake Tibbitts

Natural Resources Manager

Eureka County, NV

PO Box 682

Eureka, NV 89316



EUREKA CONSERVATION DISTRICT

PO Box 323, Eureka, NV 89316

Phone: 775-237-5251

Conserving Natural Resources for Our Future

VERY IMPORTANT – PLEASE TAKE THE TIME TO READ

February 24, 2016

Dear Neighbor,

On August 25, 2015, the NV State Engineer designated Diamond Valley (Basin 153) a “Critical Management Area” (CMA) per Nevada Revised Statute 534.110. This statute essentially states that in areas where groundwater pumping consistently exceeds the perennial yield of the basin and groundwater levels are declining, the groundwater right holders in that area have 10 years to develop and implement a groundwater management plan to reduce over-pumping and stabilize groundwater levels. If this is not done the State Engineer will then be forced, by law, to move forward and curtail all water rights that were granted after total duties exceeded the estimated perennial yield of the valley of 30,000 acre feet per year. At the status quo, this basically would eliminate all groundwater rights granted after May 1960. It is essential that holders of groundwater rights in Diamond Valley come together to develop and implement a Groundwater Management Plan (GMP).

Over the past couple years a number of public meetings have been held to lay the groundwork for this plan. The Eureka Conservation District is assisting with the meeting arrangements and administration. Over the past year, irrigators representing about 60% of the irrigated acres, and some mining companies with groundwater rights, have been meeting consistently to develop this required plan and a great deal of progress is being made. Many of you, your neighbors and fellow irrigators have been in attendance. Meeting notices for each meeting have been emailed out to the list of email addresses we have, letters to all box holders in Diamond Valley have been sent out a couple times, and articles about the meetings and GMP have been published in the Eureka Sentinel. With the irrigation season approaching, and the efforts of the past meetings in mind, it was suggested that a letter of progress and an appeal for participation should be again made to all groundwater right holders in Diamond Valley. **The next Groundwater Management Plan Workshop will be held on Monday, February 29, 9:00 am, at the Opera House.**

Below is a synopsis on the progress that has been made and the items we will be discussing on February 29, 2016 including some action items for every groundwater rights holder:

- I. All of Diamond Valley, Basin 153, is over-allocated, over-pumped and as such has been designated a Critical Management Area.
 - A. It is the responsibility of the groundwater rights holders to design and implement a Groundwater Management Plan that reduces pumping over time in order to avoid curtailment of over 60% of all groundwater rights in Diamond Valley.
- II. It has been proposed that Diamond Valley test a new system of water use which is being referred to as the Shares System or “Unbundling” of water rights.
 - a. This system “unbundles” existing water rights from its current land base by converting current duties (acre-feet of water per acre) into shares. These shares could be traded, leased, sold, or saved for following years all within the basin at no risk of losing these shares due to non-use of water. This would provide flexibility to use the water where needed and as needed without approvals to move the water. Once converted, the share allotment is permanent (as long as the Shares System is still in use). If, at some point, the shares received by any one individual are not sufficient to maintain their



EUREKA CONSERVATION DISTRICT

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Phone: 775-237-5251

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- operation said grower (or mine) could choose to fallow his fields and bank his water, trade his water to someone else or “rent” water from another for the season or sell his shares outright. This is perceived as being more favorable than strict curtailment which would preclude these options.
- b. Share allotments would be made to reflect actual water use while recognizing existing priority (i.e., more shares allotted to senior water rights holders). To date the planning group has developed a draft analysis of how shares would be assigned to each water right based on priority and how water allocations to that share (volume of water per share) would address the process of reduced pumping.
 - c. Each share would then be allocated a volume of water each year. Annual allocations of water to the shares would reduce over time to address the over pumping of the aquifer determined by a Water Management Board on a yearly basis. This Board would be appointed and include the State Engineer, experts in groundwater hydrology, agricultural operations, business management and other needed levels of expertise. This Board would be advised by a local Community Reference Panel/Advisory Board of 5 to 7 groundwater right holders that will be elected.
 - d. Reductions in water use over time would be implemented based on groundwater monitoring and the response of the water table in stabilizing.
 - e. The system would require that groundwater pumping be metered using high-accuracy and equivalent meters and the data from the meters would be transmitted to a database that would keep track of water use on a nearly “real-time” basis. These data would be used to quantify compliance with the share allotment and water allocation to each water user. Costs of the meters and data transfer systems have been developed and funding is being pursued to offset these costs to water pumpers.
 - f. Even without the share system, it has become apparent that a more accurate determination of actual pumping be established. Therefore, voluntary (rather than State Engineer mandated) metering has been proposed. Meeting participants believe that every active irrigation pump in Diamond Valley must have a flow meter installed and working prior to turning on for 2016 and that each meter be read, recorded and the information collected in order to determine an actual, rather than estimated, amount of acre feet pumped. It has been discussed that any meter installed now should be compatible with the share system (i.e., highly accurate smart meter).
- III. A key element of the plan is to develop a valid list of groundwater right holders in Diamond Valley. The list provided by the State Engineer has noted discrepancies particularly on water right ownership (e.g., wrong names, entities that no longer exist). **It is imperative, and we are asking you to please review your water right holdings and make sure the right has been conveyed to the current owner with the correct legal name and mailing address.** If you need help with making this determination or need assistance on the process to make the application to convey the water right to the current owner please contact Jake Tibbitts for more information (contact information listed below). You may check the State Engineer’s website and search for your current listing at <http://water.nv.gov/data/permit/>.
- IV. **On February 29, 2016 at 9:00 am, in the Opera House** another meeting will be held to work on the Groundwater Management Plan.
- The meeting will include:



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- A. Professor Mike Young of Australia, author of "Unbundling Blueprint" and Australian Model will be in attendance and able to speak to and answer questions;
 - B. Review Plan draft;
 - C. Discuss metering progress and funding options and necessity of high accuracy smart meters (e.g., magnetic flow meter);
 - D. Discuss plan to verify water rights including letter to groundwater right holders;
 - E. Finalization of formula for converting to shares - the percentage of difference of allotted share from oldest permit to youngest permit;
 - F. Beginning steps for share registry establishment;
 - G. Proposed start date for new share system;
 - H. Nominations for and structure of Community Reference Panel/Advisory Board to advise the Water Management Board. If you know of any person, including yourself, that would be a good candidate to serve on this board, please plan on providing this nomination at the meeting;
 - I. Critics view of unbundling approach and pitfalls to avoid;
 - J. Professor Mike Young and Katie Locklier information for a cost-benefit study that will aim to demonstrate the value of what is being proposed; and
 - K. Nature of legislative changes that would make conversion easier

It is imperative that you or your representative attend these meetings, especially if you have concerns or objections. In order to avoid curtailment by priority the groundwater rights holders must design and implement a plan to stabilize the water table of the basin. Per the NRS Statute, a majority of the groundwater rights holders and the State Engineer must approve the Groundwater Management Plan. Please do not miss this opportunity to have your opinions and ideas heard and used.

The following neighbors and associates have volunteered to field calls and answer questions if you have any.

Jim Moyle	Vickie Buchanan	Jake Tibbitts	Steve Walker
Irrigator	Irrigator	Eureka Co. Natural Resources	Consultant
775-318-0057	775-318-0322	Manager	775-771-6323
	vckbuchanan@gmail.com	775-237-6010	stevewalker@gbis.com
		natresmgr@eureka.nv.org	

We look forward to seeing you on **Monday, February 29, 2016 at 9:00 am** in the Opera House.

Sincerely,

Eureka Conservation District Board of Supervisors

Lynn Conley, Jim Ithurrealde, Denise Moyle, Jim Gallagher, Juniece Salas, and Jake Tibbitts

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Saturday, January 30, 2016 12:04 PM
To: 'cdubray@frontier.net'; 'Lynn Conley'; 'Andy Marshall'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'miannacchione@general-moly.com'; 'Patrick Rogers (progers@general-moly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'Ari Erickson'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'mjwilson@water.nv.gov'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka-nv.org)
Subject: Flow meter info and water rights spreadsheet - Diamond Valley Groundwater Management Plan
Attachments: IDWR Approved_flow_meter_list.pdf; Diamond Valley Water Rights by Priority 8-19-2015 TCD Analysis for DV GW....xlsx

All:

At the last GMP workshop, I committed to send out the list of approved flow meters from Idaho DWR. The list was prepared independently by Utah State University after thorough testing at their water lab in Logan, UT. I also committed sending out the spreadsheet from the Division of Water Resources outlining the current groundwater rights in Diamond Valley. They are attached.

It was committed by everybody at the meeting to look at your rights and others to help assist in any discrepancies, errors, etc. that need to be flagged for clearing up.

Don't forget to mark your calendars for the next GMP workshop on leap year, February 29, at 9 am at the Opera House.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka.nv.org>
Sent: Wednesday, February 24, 2016 4:22 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommoni'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadleranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'An Erickson'; 'ropin4fun2@yahoo.com'; Jasmine, Jaime - Eiko, NV (Jaime.Jasmine@nv.usda.gov); 'kkinsella@generalmoly.com'; 'grothhay@gmail.com'; 'Carrie Dubray'; 'Sandy Green'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'mjwilson@water.nv.gov'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka.nv.org); Michael Young
Subject: Letter to groundwater rights holders and next GMP meeting
Attachments: 2 24 16 Letter to DV gw rights holders on GMP and validation request.docx

All:

Attached is a letter that was placed in the mail today to all groundwater rights holders in Diamond Valley. The letter was sent certified through the Eureka Conservation District. The mailing list was provided by the State Engineer's office of all groundwater rights addresses they have for Diamond Valley. If anybody that believes they have a groundwater right in Diamond Valley does not get a letter or the letter comes with the wrong legal name, etc., on the envelope, this should raise a red flag that there is work to be done to validate the right and bring it up to date in the State Engineer's office.

Please remember that the next GMP Workshop is this coming Monday, February 29, at 9 am at the Opera House. It is crucial that we get everybody at this meeting as there will be decision points and consensus needed moving forward. If you know of anybody not receiving notice of these meetings that should be, please reach out to them and make sure they are invited. Agenda items to be covered at the meeting:

- A. Professor Mike Young of Australia, author of "Unbundling Blueprint" (aka Australian Model), will be in attendance and able to speak to and answer questions;
- B. Review Plan draft;
- C. Discuss metering progress and funding options and necessity of high accuracy smart meters (e.g., magnetic flow meter);
- D. Discuss plan to verify water rights including letter to groundwater right holders;
- E. Finalization of formula for converting to shares including the percentage of difference of allotted share from oldest permit to youngest permit;
- F. Beginning steps for share registry establishment;
- G. Proposed start date for new share system;

- H. Nominations for and structure of Community Reference Panel/Advisory Board to advise the Water Management Board. If you know of any person, including yourself that would be a good candidate to serve on this board, please plan on providing this nomination at the meeting;
- I. Critics view of unbundling approach and pitfalls to avoid;
- J. Professor Mike Young and Katie Locklier information for a cost-benefit study that will aim to demonstrate the value of what is being proposed; and
- K. Nature of legislative changes that would make conversion easier.

See you all on Monday.

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GMP Mtg. 2/29/2016
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(62)

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* Katie Locklier

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Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Friday, March 25, 2016 1:11 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurrealde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etchevery'; 'Martin Etchevery'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etchevery'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoyle.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'Ari Erickson'; 'ropin4fun2@yahoo.com'; Jasmine, Jaime - Eiko, NV (Jaime.Jasmine@nv.usda.gov); 'kkinsella@generalmoyle.com'; 'grothhay@gmail.com'; 'Carrie Dubray'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'randye@mwpower.net'; 'mwpkevin@mwpower.net'; 'terilynncbrown9@gmail.com'; Carol Bailey (rangeriders@yahoo.com); 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka-nv.org)
Subject: GMP meeting - Monday, March 28 at 9 am
Attachments: Diamond Valley Water Rights by Priority 8-19-2015 TCD Analysis for DV GW...xlsx

This is a reminder of the next GMP Workshop is this upcoming Monday, March 28, at 9 am at the Opera House. As before, it is crucial that everybody continue to attend these workshops to make progress on decisions points and consensus moving forward. As always, if you know of anybody not receiving notice of these meetings that should be, please reach out to them and make sure they are invited.

Items to be covered at the meeting will be recommendations from the Advisory Board that was elected at last meeting.

1. Diamond Valley Groundwater Resource Authority - member composition, member appointment process, functional duties, etc.,
2. Flow meter type and installation deadline,
3. Share allotment scenario including benchmark pumping reductions, and
4. General discussion on progress and any other issues of concern.

Some have asked again for the spreadsheet of groundwater rights in DV from the State Engineer. It is attached.

See you all on Monday.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

March 28, 2016
GMP Workshop

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Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Friday, April 22, 2016 6:08 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'Ari Erickson'; 'ropin4fun2@yahoo.com'; Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov); 'kkinsella@generalmoly.com'; 'grothhay@gmail.com'; 'Carrie Dubray'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'randye@mwpower.net'; 'mwpkevin@mwpower.net'; 'terrylynbrown9@gmail.com'; Carol Bailey (rangeriders@yahoo.com); 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka-nv.org)
Subject: Groundwater Management Plan (GMP) meeting - Monday, April 25 at 9 am

This is a reminder of the next GMP Workshop this upcoming Monday, April 25, at 9 am at the Opera House.

The Advisory Board recommends that from here moving forward, **items for the GMP will be put forward for formal vote after discussion by the water rights holders in attendance.**

It remains crucial that everybody attend these workshops to make progress moving forward. And, as always, please spread the word to those not attending or who may not be getting these notices.

Items for discussion and possible action at the April 25 GMP Workshop:

1. Diamond Valley Groundwater Authority - member composition, member appointment process, functional duties, etc.,
 - a. Water Manager
 - b. State Engineer (In person)
 - c. Ag Financial Institution Person (e.g., FSA, Farm Credit)
 - d. Water Resource Management, Federal Agency (e.g., NRCS)
 - e. Water Resource Management, State Agency other than State Engineer's office (e.g., Cooperative Extension, CABNR)
2. Flow meter installation deadline
 - a. Smart meters, cell technology with near real-time reporting, installed by March 1, 2017.
 - i. Go over pros and cons of cell vs. radio and real-time reporting.
 - b. Magnetic flow meters required with some exemptions for very limited cases, TBD?

3. Share allotment senior-junior spread priority factor
 - a. At this point, 20% recommended by Advisory Board
4. Benchmark pumping reductions outlined in Plan
 - a. To provide certainty, could be less based on monitoring, but not more.
5. Current permitted stock, municipal, commercial, and domestic water rights exempt from the plan.
 - a. Highlight total permitted volume under these uses.
 - b. Cannot be transferred to shares and/or used for a non-exempt use.
 - c. "New" uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.
 - d. Note that County holds rights for future growth and development, especially surrounding Town and GIDs. This water would remain available for connections within the areas served by the County. Needs above these "reserves" would require shares to cover use. This would also help direct growth to where infrastructure is already in place.
6. Mining rights
 - a. Shares allotted based on source permit, not current temporary right with applied consumptive use "haircut."
 - b. Consumptive uses require shares.
 - c. Non-consumptive uses do not require shares; GMP will require disposal of water in a manner that provides a net-benefit to the alluvial aquifer.
7. Penalties for use of water beyond annual allocation
 - a. 30 day grace period to replace 1:1
 - b. Double replacement of shares used after 30 days.
 - i. Must be fully made up by the next year's allocation.
 1. Allocation will be held back until penalty is paid in full.
 - ii. May opt to have this 2:1 penalty deducted from next year's allocation.
 - c. Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses.
 - i. Fine not to exceed \$10,000 per day for each violation as determined by the DVGA.
 - d. For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3).

See you all on Monday.

Jake Tibbitts
 Natural Resources Manager
 Eureka County, NV
 PO Box 682
 Eureka, NV 89316

Phone: 775-237-6010
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2014
APRIL 25 GMP WORKSHOP

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Ira Ramon	

April 25 GMP Workshop Items based on AB recommendations on April 18:

1. **Diamond Valley Groundwater Authority - member composition, member appointment process, functional duties, etc.,**
 - a. **Water Manager**
 - b. **State Engineer (in person)**
 - c. **Ag Financial Institution Person (e.g., FSA, Farm Credit)**
 - d. **Water Resource Management, Federal Agency (e.g., NRCS)**
 - e. **Water Resource Management, State Agency other than State Engineer's office (e.g., Cooperative Extension, CABNR)**
2. **Flow meter installation deadline**
 - a. **Smart meters, cell technology with near real-time reporting, installed by March 1, 2017.**
 - i. **Go over pros and cons of cell vs. radio and real-time reporting.**
 - b. **Magnetic flow meters required with some exemptions for very limited cases, TBD?**
3. **Share allotment senior-junior spread priority factor**
 - a. **At this point, 20% recommended by Advisory Board**
4. **Benchmark pumping reductions outlined in Plan**
 - a. **To provide certainty, could be less based on monitoring, but not more.**
5. **Current permitted stock, municipal, commercial, and domestic water rights exempt from the plan.**
 - a. **Highlight total permitted volume under these uses.**
 - b. **Cannot be transferred to shares and/or used for a non-exempt use.**
 - c. **"New" uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.**
 - d. **Note that County holds rights for future growth and development, especially surrounding Town and GIDs. This water would remain available for connections within the areas served by the County. Needs above these "reserves" would require shares to cover use. This would also help direct growth to where infrastructure is already in place.**
6. **Mining rights**
 - a. **Shares allotted based on source permit, not current temporary right with applied consumptive use "haircut."**
 - b. **Consumptive uses require shares.**
 - c. **Non-consumptive uses do not require shares; GMP will require disposal of water in a manner that provides a net-benefit to the alluvial aquifer.**
7. **Penalties for use of water beyond annual allocation**
 - a. **30 day grace period to replace 1:1**
 - b. **Double replacement of shares used after 30 days.**
 - i. **Must be fully made up by the next year's allocation.**
 1. **Allocation will be held back until penalty is paid in full.**
 - ii. **May opt to have this 2:1 penalty deducted from next year's allocation.**
 - c. **Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses.**
 - i. **Fine not to exceed \$10,000 per day for each violation as determined by the DVGA.**
 - d. **For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3).**

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eurekanv.org>
Sent: Friday, May 20, 2016 3:09 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'Ari Erickson'; 'ropin4fun2@yahoo.com'; Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov); 'kkinsella@generalmoly.com'; 'grothhay@gmail.com'; 'Carrie Dubray'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'randye@mwpower.net'; 'mwpkevin@mwpower.net'; 'terilynnbrown9@gmail.com'; Carol Bailey (rangeriders@yahoo.com); 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eurekanv.org)
Subject: Groundwater Management Plan (GMP) meeting - Monday, May 23 at 9 am

*****Note location change*****

This is a reminder of the next GMP Workshop this upcoming Monday, May 23, at 9 am at the Courthouse (Commissioners Chambers).

As before, the Advisory Board recommends that, **items for the GMP will be put forward for formal vote after discussion by the water rights holders in attendance.**

It remains crucial that everybody attend these workshops to make progress moving forward. And, as always, please spread the word to those not attending or who may not be getting these notices.

Advisory Board recommended items for discussion and possible action at the May 23 GMP Workshop:

- Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers)
 - Advisory Board is discussing whether to place limits on how much water could transfer to industrial or municipal uses. Needs further discussion.
- Share allotment senior-junior spread priority factor
 - 20% previously decided by AB but two members were not present for this discussion and vote. Advisory Board now has a split vote (non-unanimous) between 10% and 20% spread.
- Mining water rights

- Mining rights that do not have an irrigation source permit do not get converted to shares and become an exempt use.
- Penalties for use of water beyond annual allocation
 - Not publicized;
 - The next year's allocation will be withheld until penalties are "paid in full."
 - 30 day grace period to replace 1:1.
 - Can come out of up to 5% of the next year's allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 days;
 - After 30 day grace period, 2:1 replacement of shares but must be fully made up before the next year's allocation.
 - Can come out of up to 5% of the next year's allocation (based on benchmark reduction table) at 3:1 as long as done before next year's allocation.
 - Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 - Fine not to exceed \$10,000 per day for each violation.
 - For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
- Water Manager
 - Job description
 - Non-voting, ex-officio member of Authority
 - Independent contractor preferred with contract held by Division of Water Resources
 - Funding arrangement TBD;
 - Contract would ensure accountability and reporting to Authority and Advisory Board.
- Authority Membership
 - Based on acceptance of Water Manager item above, remove Ag Finance member so remaining board has 3 voting members;
 - State Engineer (in person)
 - Water Resource Management, Federal Agency (e.g., NRCS)
 - Water Resource Management, State Agency other than State Engineer's office (e.g., Cooperative Extension, CABNR)
 - State Engineer will appoint members based on recommendations of the Advisory Board
 - He cannot chose somebody not vetted by the AB.
- What is a majority for GMP approval/petition?
 - Weighted based on water appropriated under each permit or certificate.
- Timeline moving forward
 - Draft GMP to State Engineer for review by October 1.
- Feedback from all participants on items for Advisory Board to consider.

See you all on Monday.

Jake Tibbitts
 Natural Resources Manager
 Eureka County, NV
 PO Box 682

2016
MAY 23 GMP WORKSHOP

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Advisory Board recommended items for discussion and possible action at the May 23 GMP Workshop:

1. Update on water level monitoring in DV.
2. Mining representative on AB
 - o Carrie Dubray resigned from Ruby Hill Mine.
 - o Nominations and elections of new mining rep on AB
 - Debbie Lassiter, Ruby Hill, is interested;
 - Previous nominations
 - Pat Rogers, General Moly
 - Ari Erickson, Gullsil Prospect Project
3. Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers)
 - o Advisory Board is discussing whether to place limits on how much water could transfer to industrial or municipal uses. Needs further discussion.
4. Share allotment senior-junior spread priority factor
 - o 20% previously decided by AB but two members were not present for this discussion and vote. Advisory Board now has a split vote (non-unanimous) between 10% and 20% spread.
5. Mining water rights
 - o Mining rights that do not have an irrigation source permit do not get converted to shares and become an exempt use.
6. Penalties for use of water beyond annual allocation
 - o Not publicized;
 - o The next year's allocation will be withheld until penalties are "paid in full."
 - o 30 day grace period to replace 1:1.
 - Can come out of up to 5% of the next year's allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 days;
 - o After 30 day grace period, 2:1 replacement of shares but must be fully made up before the next year's allocation.
 - Can come out of up to 5% of the next year's allocation (based on benchmark reduction table) at 3:1 as long as done before next year's allocation.
 - o Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 - Fine not to exceed \$10,000 per day for each violation.
 - o For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
7. Water Manager
 - o Job description still being developed by AB.
 - o Non-voting, ex-officio member of Authority
 - o Independent contractor preferred with contract held by Division of Water Resources
 - Funding arrangement TBD;
 - Contract would ensure accountability and reporting to Authority and Advisory Board.

8. Authority Membership

- Based on acceptance of Water Manager item above, remove Ag Finance member so remaining board has 3 voting members;
 - State Engineer (in person)
 - Water Resource Management, Federal Agency (e.g., NRCS)
 - Water Resource Management, State Agency other than State Engineer's office (e.g., Cooperative Extension, CABNR)
- State Engineer will appoint members based on recommendations of the Advisory Board
 - He cannot chose somebody not vetted by the AB.

9. What is a majority for GMP approval/petition?

- Weighted based on water appropriated under each permit or certificate.

10. Timeline moving forward

- Draft GMP to State Engineer for review by October 1.

11. Feedback from all participants on items for Advisory Board to consider.

Jake Tibbitts

From: Jake Tibbitts <natresmgr@eureka-nv.org>
Sent: Tuesday, July 19, 2016 2:20 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithuralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@general-moly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'Ari Erickson'; 'ropin4fun2@yahoo.com'; Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov); 'kkinsella@general-moly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cablone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terrilynnbrown9@gmail.com'; Carol Bailey (rangeriders@yahoo.com); 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'
Cc: Steve Walker; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eureka-nv.org); 'Jessica Santoyo, Natural Resources'; Gary McCuin (gmccuin549@gmail.com)
Subject: Mark Your Calendars; Groundwater Management Plan (GMP) meeting - Monday, July 25

All:

We are back on schedule for the last Monday of the month. This month's GMP meeting will be next Monday, July 25 at 9 am in the Opera House.

Please plan on attending as there are some very important matters to discuss and move forward with. I'll send another email on Friday with the list of items to be discussed and considered.

Jake Tibbitts
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Jake Tibbitts

From: Jake Tibbitts <natresmgr@eurekanv.org>
Sent: Saturday, July 23, 2016 1:11 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithuralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etchevery'; 'Martin Etchevery'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etchevery'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoyle.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; Ty B. Erickson, M.D. (Ty@TyEricksonMD.com); 'Ari Erickson'; 'ropin4fun2@yahoo.com'; Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov); 'kkinsella@generalmoyle.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terriynnbrown9@gmail.com'; Carol Bailey (rangeriders@yahoo.com); 'Jerry & Trina Machachek'; 'dvfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg (jberg@eurekanv.org); 'Jessica Santoyo, Natural Resources'; Gary McCuin (gmccuin549@gmail.com)
Subject: Groundwater Management Plan (GMP) meeting - Monday, July 25
Attachments: 7 25 16 GMP meeting.docx

Another reminder of the meeting Monday at 9 am at the Opera House. Below (and attached) are the items to be considered in the GMP. Again, if you know of anybody not attending the meetings or that may be left off these emails, please forward to them or invite them to the meeting. We need everybody on board working through this important effort.

All items previously discussed and voted on are on the list below. Items highlighted were specifically noted at either the full-group meeting on May 16 or the June 20 and July 21 Advisory Board (AB) meetings as needing AB discussion, clarification, and recommendation to bring back to the full group.

1. 20% share allotment senior-junior spread priority factor
 - o Advisory Board split vote with five members at 20%, 1 wanting a higher factor (>20%), and 2 wanting a lower factor (<20%)
 - o Full group split vote with 14 at 20%, 1 wanting a higher factor (>20%), and 7 wanting a lower factor (<20%).
2. Water banking
 - o Banking is of any given portion of an annual allocation (water per share), not core shares.
 - o No timeframe for sale, lease, or use imposed under GMP.
 - o Banked water will not depreciate. When used, it will be at the same amount as when banked.

1. Rick Felling noted a possible depreciation to account for “loss” by continued ET of phreatophytes of water banked – i.e., a portion of water left in the basin continues to be used by plants.
 - GMP will include a section about working with relevant entities to manage and reduce phreatophytes to reduce their consumption of water while assisting transition to non-phreatophytic vegetation.
 - Will include language about reconsidering banking scheme under the GMP once water user pumping equals most current perennial yield estimate.

3. Funding of GMP and Water Manager
 - Fee schedule
 - Where will fees and other penalties go?
 - NSE DV Assessment
 - Are uses not converted to shares still under funding scheme?

4. Benchmark pumping reductions outlined in Plan
 - To provide certainty, and since groundwater level trends may take years to “tease out,” benchmark reductions will be locked in place for the first 10 years. Reductions after 10 years could be less than benchmark reductions, but not more, based on water level monitoring data multi-year trends,

5. Flow meters
 - Must be the Siemens, SITRANS F MAGFLO MAG 5100W w/ 5000 converter with smart meter capability, wireless transmission module, with near real-time reporting.
 1. High quality, single, specific meter to reduce issues and complaints regarding accuracy, quality, and integrity.
 2. Magnetic flow meter that has been tested by independent Water Lab at Utah State University and is one of the meters that meets the standard for required meters in Idaho.
 - Must be installed by March 1, 2017.
 - AB will check into data systems with no annual service charge.
 - The process for a future change in specific meter based on better technology or other unforeseen issue will be outlined in the GMP to ensure GMP amendment is not necessary.
 - Any exemptions/waivers for required magnetic flow meters will be considered on a case-by-case basis through petition to the AB and Authority.
 1. May require site specific engineering.

6. Penalties for use of water beyond annual allocation
 - Not publicized;
 - The immediate next year’s allocation will be withheld until penalties are “paid in full.”
 - 30 day grace period, from the time any portion of the individual’s overdraft is first made, to replace 1:1.
 1. If adequate replacement water allocation cannot be secured before the end of the 30 day grace period, the individual may elect to replace the overdraft up to 5% of the individual’s next year’s allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 day grace period.
 - If not “cured” within the 30 day grace period, 2:1 replacement of overdraft water allocation but must be fully made up before the immediate next year’s allocation.
 1. If adequate replacement water allocation cannot be secured before the immediate next year’s allocation, the individual may elect to replace the overdraft up to 5% of the individual’s next year’s allocation (based on benchmark reduction table) at 3:1 at least 30 days prior to allocation.

- o Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 - 1. Fine not to exceed \$10,000 per day for each violation.
 - o For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
7. Mining rights and other non-consumptive uses
- o All non-consumptive uses of water are still under the authority of the GMP. Consideration of non-consumptive uses as allocation non-debit must be analyzed through review and approval of net-depletion analysis by the Authority.
 - 1. No universal calculation for net-depletion analysis – very project specific.
 - o Shares allotted based on source irrigation permit, not current temporary right with applied consumptive use "haircut."
 - o Consumptive uses will require shares.
 - o Non-consumptive uses do not require shares but GMP will require disposal of water in a manner that provides a net-benefit to the alluvial aquifer.
 - o NSE will enforce in tandem with Authority.
8. Current permitted stock, municipal, commercial, and domestic water rights and mining rights that do not have an irrigation source permit do not get converted to shares but are still under authority of GMP.
- o These uses that are not converted to shares would be reconsidered after the "exit ramp" review of the GMP (year 6?).
 - 1. May need a set aside of shares held by the County (or other entity) for these uses.
 - o Cannot be transferred to shares and/or used for a use required to have shares.
 - o "New" uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.
 - o While these uses are not converted to shares, there would be requirements on them under the GMP.
 - 1. Enforce domestic use at or below 2 acre-feet/year.
 - 2. Enforce domestic use for domestic purposes only under Nevada Law (i.e, no commercial use, single-family residence only).
 - 3. Municipal tiered rates that incentivize conservation.
 - 4. Education on water use, especially for domestic and municipal uses.
 - Landscaping irrigation scheduling, low flow shower heads, etc.
 - 5. Waive "use it or lose it" of these uses to minimize unnecessary water use.
 - 6. Incentives for xeriscaping.
9. Start fleshing out needed legislation.
- o What new or different from amended SB 81 of the 2015 Session?
10. Diamond Valley Groundwater Authority
- o Membership:
 - 1. Water Manager
 - Non-voting, ex-officio member of Authority

- Job description still being developed by AB.
 - Independent contractor preferred with contract held by Division of Water Resources with funding, duties, etc. clearly spelled out in MOU between Authority and DWR.
 - Contract language to ensure accountability and reporting to Authority and Advisory Board.
 - Funding arrangement TBD
 - State Engineer or designee; no less than Deputy Administrator/Engineer
2. Water Resource Management, Federal Agency (e.g., NRCS)
 3. Water Resource Management, State Agency other than State Engineer's office (e.g., Cooperative Extension, CABNR)
 - State Engineer will appoint members based on recommendations of the Advisory Board
 1. He cannot appoint somebody not first approved by the AB.
11. Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers) at the Inception of the GMP
- There will be language in the GMP that out-of-basin transfers may be considered in the future but only with an amendment to the GMP and when water levels have reached some threshold of stabilization.
 1. Would require a petition signed by a majority of permit holders.
12. NSE retains authority under GMP for no conflict analysis under NRS 533.370 and no impairment under NRS 533.085
- Existing rights, including vested rights
 - Domestic wells
13. Draft GMP to State Engineer for review by October 1.

Hope to see you all there.

Jake Tibbitts
 Natural Resources Manager
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 PO Box 682
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July 25⁻²⁰¹⁶ GMP Workshop Sign-In

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- HOWARD HILL SR Dennis Hill

July 25, 2016 GMP Meeting:

All items previously discussed and voted on are on the list below. Items highlighted were specifically noted at either the full-group meeting on May 16 or the June 20 AB meeting as needing Advisory Board (AB) discussion and clarification with the AB recommendations. The list of assumptions developed last fall are also listed below for reference.

1. **20% share allotment senior-junior spread priority factor**
 - Advisory Board split vote with five members at 20%, 1 wanting a higher factor (>20%), and 2 wanting a lower factor (<20%)
 - Full group split vote with 14 at 20%, 1 wanting a higher factor (>20%), and 7 wanting a lower factor (<20%).
2. **Water banking**
 - Banking is of any given portion of an annual allocation (water per share), not core shares.
 - No timeframe for sale, lease, or use imposed under GMP.
 - Banked water will not depreciate. When used, it will be at the same amount as when banked.
 1. Rick Felling noted a possible depreciation to account for “loss” by continued ET of phreatophytes of water banked – i.e., a portion of water left in the basin continues to be used by plants.
 - GMP will include a section about working with relevant entities to manage and reduce phreatophytes to reduce their consumption of water while assisting transition to non-phreatophytic vegetation.
 - Will include language about reconsidering banking scheme under the GMP once water user pumping equals most current perennial yield estimate.
3. **Funding of GMP and Water Manager**
 - Fee schedule
 - Where will fees and other penalties go?
 - NSE DV Assessment
 - Are uses not converted to shares still under funding scheme?
4. **Benchmark pumping reductions outlined in Plan**
 - To provide certainty, and since groundwater level trends may take years to “tease out,” benchmark reductions will be locked in place for the first 10 years. Reductions after 10 years could be less than benchmark reductions, but not more, based on water level monitoring data multi-year trends,
5. **Flow meters**
 - Must be the Siemens, SITRANS F MAGFLO MAG 5100W w/ 5000 converter with smart meter capability, wireless transmission module, with near real-time reporting.
 1. High quality, single, specific meter to reduce issues and complaints regarding accuracy, quality, and integrity.
 2. Magnetic flow meter that has been tested by independent Water Lab at Utah State University and is one of the meters that meets the standard for required meters in Idaho.

- **Must be installed by March 1, 2017.**
- **AB will check into data systems with no annual service charge.**
- **The process for a future change in specific meter based on better technology or other unforeseen issue will be outlined in the GMP to ensure GMP amendment is not necessary.**
- **Any exemptions/waivers for required magnetic flow meters will be considered on a case-by-case basis through petition to the AB and Authority.**
 1. **May require site specific engineering.**

6. Penalties for use of water beyond annual allocation

- **Not publicized;**
- **The immediate next year's allocation will be withheld until penalties are "paid in full."**
- **30 day grace period, from the time any portion of the individual's overdraft is first made, to replace 1:1.**
 1. **If adequate replacement water allocation cannot be secured before the end of the 30 day grace period, the individual may elect to replace the overdraft up to 5% of the individual's next year's allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 day grace period.**
- **If not "cured" within the 30 day grace period, 2:1 replacement of overdraft water allocation but must be fully made up at least 30 days prior to immediate next year's allocation.**
 1. **If adequate replacement water allocation cannot be secured before the immediate next year's allocation, the individual may elect to replace the overdraft up to 5% of the individual's next year's allocation (based on benchmark reduction table) at 3:1 at least 30 days prior to immediate next year's allocation.**
- **Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.**
 1. **Fine not to exceed \$10,000 per day for each violation.**
- **For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.**

7. Mining rights and other non-consumptive uses

- **All non-consumptive uses of water are still under the authority of the GMP. Consideration of non-consumptive uses as allocation non-debit must be analyzed through review and approval of net-depletion analysis by the Authority.**
 1. **No universal calculation for net-depletion analysis – very project specific.**
- **Shares allotted based on source irrigation permit, not current temporary right with applied consumptive use "haircut."**
- **Consumptive uses will require shares.**
- **Non-consumptive uses do not require shares but GMP will require disposal of water in a manner that provides a net-benefit to the alluvial aquifer.**

- NSE will enforce in tandem with Authority.
8. **Current permitted stock, municipal, commercial, and domestic water rights and mining rights that do not have an irrigation source permit do not get converted to shares but are still under authority of GMP.**
- These uses that are not converted to shares would be reconsidered after the “exit ramp” review of the GMP (year 6?).
 1. May need a set aside of shares held by the County (or other entity) for these uses.
 - Cannot be transferred to shares and/or used for a use required to have shares.
 - “New” uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.
 - While these uses are not converted to shares, there would be requirements on them under the GMP.
 1. Enforce domestic use at or below 2 acre-feet/year.
 2. Enforce domestic use for domestic purposes only under Nevada Law (i.e, no commercial use, single-family residence only).
 3. Municipal tiered rates that incentivize conservation.
 4. Education on water use, especially for domestic and municipal uses.
 - Landscaping irrigation scheduling, low flow shower heads, etc.
 5. Waive “use it or lose it” of these uses to minimize unnecessary water use.
 6. Incentives for xeriscaping.
9. **Start fleshing out needed legislation.**
- What new or different from amended SB 81 of the 2015 Session?
10. **Diamond Valley Groundwater Authority**
- **Membership:**
 1. **Water Manager**
 - Non-voting, ex-officio member of Authority
 - Job description still being developed by AB.
 - Independent contractor preferred with contract held by Division of Water Resources with funding, duties, etc. clearly spelled out in MOU between Authority and DWR.
 - Contract language to ensure accountability and reporting to Authority and Advisory Board.
 - Funding arrangement TBD
 - State Engineer or designee; no less than Deputy Administrator/Engineer
 2. **Water Resource Management, Federal Agency (e.g., NRCS)**
 3. **Water Resource Management, State Agency other than State Engineer’s office (e.g., Cooperative Extension, CABNR)**
 - State Engineer will appoint members based on recommendations of the Advisory Board

1. He cannot appoint somebody not first approved by the AB.

11. Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers) at the inception of the GMP

- **There will be language in the GMP that out-of-basin transfers may be considered in the future but only with an amendment to the GMP and when water levels have reached some threshold of stabilization.**

1. Would require a petition signed by a majority of permit holders.

12. NSE retains authority under GMP for no conflict analysis under NRS 533.370 and no impairment under NRS 533.085

- **Existing rights, including vested rights**
- **Domestic wells**

13. Draft GMP to State Engineer for review by October 1.

Diamond Valley Groundwater Management Plan – Fall 2015 Assumptions

- Some type of “Unbundling” share system will be followed. Hybridize Prof. Young’s “Blueprint” to best fit Diamond Valley and local desires
- Perennial yield of 30,000 acre-feet per year is a good number and is number recognized by State Engineer but GMP should focus on sustainability, not numbers, and based on groundwater measurements (data).
 - May change based on soon to be released USGS report
- GMP apply to Diamond Valley hydrographic basin only (Basin 153) and apply to entire basin, not just a portion.
- At least through “test case,” exempt stockwater, domestic, and municipal rights and only include irrigation, mining, and other substantial water uses. All new domestic parcels after this point will bring shares and require totalizing meter (County already requires 2 af be brought forward for new parceling). Other changes from irrigation or mining to one of these grandfathered categories would require staying in the share system (i.e., once a share, always a share, even if the use changes).
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- No irrigation season – addressed through annual allocations. Use as you want until allocation for year is depleted, conserve and save for future years, or sell/trade to others for use.
- Duty and priority recognized and addressed in conversion to shares.
- Smart meters on every ag well by March 1, 2016 – even if before full Groundwater Management Plan is implemented – with all meters certified by some common standard or spec.
- No Order by the State Engineer for metering. Will be addressed and required under GMP.
- All existing groundwater permits/certificates/vested rights in good standing with Division of Water Resources will be converted to water shares, regardless of varying levels of extensions of times to put the water to use. If they are in good standing with DWR, they are legal water rights that must be converted to shares.
- Will recognize certain aspects of current Nevada water law, specifically the part of NRS 533.370(2) that ensures water transfers do not conflict with existing rights (in this case uses or shares) or the protectable interest in existing domestic wells.
- No new shares added after initial share conversion UNLESS physical, “new” water is brought into basin or legal requirements mandate changes (i.e., DWR or court ordered mitigation of vested surface water declines by replacement with groundwater).
- Annual Allocations
 - Start out with benchmark reductions from status quo for first few of years, such as 3% reduction in groundwater pumping basin wide each year for 5 years to reach 15% reduction basin wide by the fifth year, then based on groundwater monitoring and basin aquifer response.
- Board – Governance
 - Advisory Board/Community Reference Panel - 5 members nominated by and elected from Diamond Valley groundwater rights holders.
 - Executive Governing Board- 5 to 7 members with relevant technical expertise *inclusive* of a full-time manager who is paid. CEO-type is one of the members. Must be folks with no financial interest in Diamond Valley; they can’t own shares. Board members must be approved by the State Engineer.

Jake Tibbitts

From: Jake Tibbitts
Sent: Thursday, August 25, 2016 4:08 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoyle.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestariovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmoyle.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terriynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg'; 'Jessica Santoyo'; 'mccuing@unce.unr.edu'
Subject: Groundwater Management Plan (GMP) meeting - Monday, August 29
Attachments: 8 29 16 GMP meeting.docx

This is a reminder of the GMP meeting this coming Monday, August 29th, at 9 am at the Opera House. Attached is the GMP outline/working model with specific items for discussion and possible action highlighted. As always, if you know of anybody not attending the meetings or that may be left off these emails, please forward to them or invite them to the meeting. We need everybody on board working through this important effort.

See you all there.

Best,

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

Please note my email address has changed - JTibbitts@EurekaCountyNV.gov

Diamond Valley Groundwater Management Plan Outline and Working Model

August 29, 2016 GMP Meeting:

All items previously discussed and voted on are on the list below. Items highlighted are items specifically intended by the Advisory Board to be discussed and possibly acted upon by the full-group. The list of assumptions developed last fall are also listed below for reference.

1. Flow meters
 - All groundwater use under the GMP will be required to be metered using the approved meter.
 - Must be the Siemens, SITRANS F MAGFLO MAG 5100W w/ 5000 converter with smart meter capability, wireless transmission module, with near real-time reporting.
 1. High quality, single, specific meter to reduce issues and complaints regarding accuracy, quality, and integrity.
 2. Magnetic flow meter that has been tested by independent Water Lab at Utah State University and is one of the meters that meets the standard for required meters in Idaho.
 - Presentation from irrigator from Idaho to explain their process in selecting meters and data modules.
 - What did it take to get on Idaho list of approved meters?
 - Any exemptions/waivers for required magnetic flow meters will be considered on a case-by-case basis through petition to the AB and Authority.
 1. May require site specific engineering.
 2. Adopt something similar to Idaho variances
 - Develop stand-alone data collection and transmission system for our needs?
 - Must be installed, fully operational, and certified for use before use of any water allocation in 2017.
 - The process for a future change in specific meter based on better technology or other unforeseen issue will be outlined in the GMP to ensure GMP amendment is not necessary.
2. Update on recent USGS Diamond Valley Flow System Report.
 - Perennial yield and spring decline implications?
3. Legislation update
 - A request was sent from AB and DNRPCA
 - Work Session item did make agenda for August 26 Legislative Subcommittee to Study Water.
4. Share allotment details
 - 20% share allotment senior-junior spread priority factor
 1. Advisory Board split vote with five members at 20%, 1 wanting a higher factor (>20%), and 2 wanting a lower factor (<20%)
 2. Full group split vote with 14 at 20%, 1 wanting a higher factor (>20%), and 7 wanting a lower factor (<20%).

- Only groundwater rights in good standing at GMP approval will be converted to shares unless legal requirements mandate changes.
 1. There will be a rights validation process outlined in the GMP with a period of time for review and adjustment by water rights holders.
 2. Base right (permit or certificate) will be held “static” at the same status it was at share conversion in case need to revert back.
- GMP will exempt groundwater vested rights including those mitigated by groundwater rights from conversion to shares unless vested groundwater rights holder(s) opt in.
 1. Will rely on State Engineer records, USGS report, and, ultimately, adjudication/court order.
 - Currently, mitigation rights on State Engineer books are roughly 2,000 af.
 - USGS report quantifies 6,000 af of 35,000 af of groundwater discharge as being spring flow decline. Plan will keep 6000 af dedicated for mitigation rights and not convert these to shares. This 6000 af will be “fixed” with no reductions of pumping required under the GMP.
 - If adjudication, court order, or other legal requirements define more than 6000 af of groundwater go towards vested rights, shares will be reduced accordingly to ensure vested rights are not diminished.
 2. GMP will not require a deadline for vested rights holders to choose to opt in. However, if any vested rights holder voluntarily chooses to have their rights converted to shares under the GMP, they must stay in the system for the duration of the GMP.

5. Water banking

- Banking is of any given portion of an annual allocation (water per share), not core shares.
- No timeframe for sale, lease, or use imposed under GMP.
- Banked water will not depreciate. When used, it will be at the same amount as when banked.
 1. Rick Felling noted a possible depreciation to account for “loss” by continued ET of phreatophytes of water banked – i.e., a portion of water left in the basin continues to be used by plants.
 - GMP will include a section that included:
 - Working with relevant entities to manage and reduce phreatophytes to reduce their consumption of water while assisting transition to non-phreatophytic vegetation.
 - Pursuit of other groundwater enhancement options to offset phreatophyte water use and increase groundwater recharge including, but not limited to:
 - Pinyon-Juniper removal
 - Directing runoff to benefit aquifer
 - Catchment basins
 - Rotary subsoiler
 - Cloud seeding
- Will include language about reconsidering banking scheme under the GMP once water user pumping equals most current perennial yield estimate.

6. Funding of GMP and Water Manager

- Fund through assessment authority under NRS where all permitted water rights are assessed. Will come through AB and Authority annually with mandate to only fund GMP requirements and not be excessive.
 1. See NRS 534.040
 - Need legislation?
 2. Assessments will have to go up to cover costs.
 - Currently \$0.30/acre-foot; ~\$39,000.00.
 - What about current domestic wells?
 - Authority set up as non-profit (501(c)(3))?
 1. Water Manager required to “chase” funding for continuation of position?
 2. Advisory Board has not discussed this in detail, yet.
 - Fees (and penalties) will go into a fund and can only be used to administer the groundwater management plan which may include:
 1. Pay Water Manager and any other staff or consultants;
 2. Retire groundwater rights; and
 3. Implement groundwater conservation practices.
 - Entity administering water account/register will likely have separate “transaction” fees.
7. Benchmark pumping reductions outlined in Plan
- To provide certainty, and since groundwater level trends may take years to “tease out,” benchmark reductions will be locked in place for the first 10 years. Reductions after 10 years are anticipated to follow the original benchmark reductions but reductions after 10 years may be adjusted, up or down, but cannot exceed 2%, and will be informed by water level monitoring data multi-year trends.
 - Benchmark reductions:

Year	Pumping estimate	% Cumulative Reduction	Assumed Efficiency	Assumed Consumptive Use
0	74000	0	0.85	62900
1	71780	3	0.86	61731
2	69560	6	0.87	60517
3	66600	10	0.88	58608
4	62900	15	0.89	55981
5	59200	20	0.91	53872
6	57720	22	0.92	53102
7	56240	24	0.92	51741
8	54760	26	0.92	50379
9	53280	28	0.92	49018
10	51800	30	0.92	47656
11	51060	31	0.92	46975
12	50320	32	0.92	46294
13	49580	33	0.92	45614
14	48840	34	0.92	44933
15	48100	35	0.92	44252
16	47360	36	0.92	43571
17	46620	37	0.92	42890
18	45880	38	0.92	42210
19	45140	39	0.92	41529
20	44400	40	0.92	40848
21	43660	41	0.92	40167
22	42920	42	0.92	39486
23	42180	43	0.92	38806
24	41440	44	0.92	38125
25	40700	45	0.92	37444
26	39960	46	0.92	36763
27	39220	47	0.92	36082
28	38480	48	0.92	35402
29	37740	49	0.92	34721
30	37000	50	0.92	34040

8. Penalties for use of water beyond annual allocation and other general penalties/fines

- o Not publicized;
- o The immediate next year’s allocation will be withheld until penalties are “paid in full.”
- o 30 day grace period, from the time any portion of the individual’s overdraft is first made, to replace 1:1.
 - 1. If adequate replacement water allocation cannot be secured before the end of the 30 day grace period, the individual may elect to replace the overdraft up to 5% of the individual’s next year’s allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 day grace period.
- o If not “cured” within the 30 day grace period, 2:1 replacement of overdraft water allocation but must be fully made up at least 30 days prior to immediate next year’s allocation.
 - 1. If adequate replacement water allocation cannot be secured before the immediate next year’s allocation, the individual may elect to replace the overdraft up to 5% of the individual’s next year’s allocation (based on benchmark reduction table) at 3:1 at least 30 days prior to immediate next year’s allocation.

- Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 1. Fine not to exceed \$10,000 per day for each violation.
 - For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
 - Where we can, define "purposeful repeat," "egregious," "excessive," etc.
 1. Develop a chart that highlights fine based on volume overused?
 2. Look into penalty structures from other states?
 3. GMP will have provisions to appeal any penalties to AB and Authority for reconsideration, removal, or decrease.
 - Other penalties
 1. Water rights holder has obligation to keep meter system in operating condition within measurement guidelines. While Water Manager will assist where able, once water user is notified that meter system is not operating correctly, there will be 7 days to remedy issue or replace meter. Failure to remedy within 7 days will result in cease and desist of pumping until remedied.
 - Pumping data gaps will be "filled" using average pumping rates before meter system issues arose. Power meter data may also be used to match times pump was running. Clamp on meters may also be installed until magnetic flow meter can be serviced or replaced.
 2. Tampering of meter.
 - Similar to Idaho, \$350 per acre irrigated under the metered system. Cease and desist pumping until fine paid in full and meter operating under measurement guidelines.
9. Current permitted stock, municipal, commercial, and domestic water rights and mining rights that do not have an irrigation source permit do not get converted to shares but are still under authority of GMP.
- These uses that are not converted to shares would be reconsidered after the "exit ramp" review of the GMP (year 6?).
 - Cannot be transferred to shares and/or used for a use required to have shares.
 - "New" uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.
 - While these uses are not converted to shares, there would be requirements on them under the GMP.
 1. Work with County to have them relinquish their water rights not foreseen as being reasonably needed.
 2. Work with County to have them waive hookup fees to incentivize tying into municipal system and reduce new domestic wells.

3. Work with County to have them invest in infrastructure to better enable hookups to municipal system.
4. County amend water dedication ordinance for new parcels to require shares in an amount that equals 2 acre-feet per year (based on reduction table).
5. State Engineer enforce domestic use at or below 2 acre-feet/year.
 - Develop an education piece that outlines what typical domestic use at or below 2 af/yr looks like
 - Use municipal use surrogates to highlight examples
6. State Engineer enforce domestic use only for domestic purposes allowed under Nevada Law (i.e, no commercial use, single-family residence only).
7. Aggressive municipal tiered rates that incentivize conservation.
8. Education on water use, especially for domestic and municipal uses.
 - Landscaping irrigation scheduling, low flow shower heads, etc.
9. Waive “use it or lose it” of these uses to minimize unnecessary water use.
10. Incentives for xeriscaping.

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Subject: Groundwater Management Plan (GMP) meeting - Monday, August 29
Attachments: 8 29 16 GMP meeting.docx

This is a reminder of the GMP meeting this coming Monday, August 29th, at 9 am at the Opera House. Attached is the GMP outline/working model with specific items for discussion and possible action highlighted. As always, if you know of anybody not attending the meetings or that may be left off these emails, please forward to them or invite them to the meeting. We need everybody on board working through this important effort.

See you all there.

Best,

Jake Tibbitts
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Phone: 775-237-6010

Please note my email address has changed - JTibbitts@EurekaCountyNV.gov

Diamond Valley Groundwater Management Plan Outline and Working Model

August 29, 2016 GMP Meeting:

All items previously discussed and voted on are on the list below. Items highlighted are items specifically intended by the Advisory Board to be discussed and possibly acted upon by the full-group. The list of assumptions developed last fall are also listed below for reference.

1. Flow meters

- All groundwater use under the GMP will be required to be metered using the approved meter.
- Must be the Siemens, SITRANS F MAGFLO MAG 5100W w/ 5000 converter with smart meter capability, wireless transmission module, with near real-time reporting.
 1. High quality, single, specific meter to reduce issues and complaints regarding accuracy, quality, and integrity.
 2. Magnetic flow meter that has been tested by independent Water Lab at Utah State University and is one of the meters that meets the standard for required meters in Idaho.
- Presentation from irrigator from Idaho to explain their process in selecting meters and data modules.
- What did it take to get on Idaho list of approved meters?
- Any exemptions/waivers for required magnetic flow meters will be considered on a case-by-case basis through petition to the AB and Authority.
 1. May require site specific engineering.
 2. Adopt something similar to Idaho variances
- Develop stand-alone data collection and transmission system for our needs?
- Must be installed, fully operational, and certified for use before use of any water allocation in 2017.
- The process for a future change in specific meter based on better technology or other unforeseen issue will be outlined in the GMP to ensure GMP amendment is not necessary.

2. Update on recent USGS Diamond Valley Flow System Report.

- Perennial yield and spring decline implications?

3. Legislation update

- A request was sent from AB and DNRPCA
- Work Session item did make agenda for August 26 Legislative Subcommittee to Study Water.

4. Share allotment details

- 20% share allotment senior-junior spread priority factor
 1. Advisory Board split vote with five members at 20%, 1 wanting a higher factor (>20%), and 2 wanting a lower factor (<20%)
 2. Full group split vote with 14 at 20%, 1 wanting a higher factor (>20%), and 7 wanting a lower factor (<20%).

- Only groundwater rights in good standing at GMP approval will be converted to shares unless legal requirements mandate changes.
 1. There will be a rights validation process outlined in the GMP with a period of time for review and adjustment by water rights holders.
 2. Base right (permit or certificate) will be held “static” at the same status it was at share conversion in case need to revert back.
- GMP will exempt groundwater vested rights including those mitigated by groundwater rights from conversion to shares unless vested groundwater rights holder(s) opt in.
 1. Will rely on State Engineer records, USGS report, and, ultimately, adjudication/court order.
 - Currently, mitigation rights on State Engineer books are roughly 2,000 af.
 - USGS report quantifies 6,000 af of 35,000 af groundwater discharge as being spring flow decline. Plan will keep 6000 af dedicated for mitigation rights and not convert these to shares. This 6000 af will be “fixed” with no reductions of pumping required under the GMP.
 - If adjudication, court order, or other legal requirements define more than 6000 af of groundwater go towards vested rights, shares will be reduced accordingly to ensure vested rights are not diminished.
 2. GMP will not require a deadline for vested rights holders to choose to opt in. However, if any vested rights holder voluntarily chooses to have their rights converted to shares under the GMP, they must stay in the system for the duration of the GMP.

5. Water banking

- Banking is of any given portion of an annual allocation (water per share), not core shares.
- No timeframe for sale, lease, or use imposed under GMP.
- Banked water will not depreciate. When used, it will be at the same amount as when banked.
 1. Rick Felling noted a possible depreciation to account for “loss” by continued ET of phreatophytes of water banked – i.e., a portion of water left in the basin continues to be used by plants.
 - GMP will include a section that included:
 - Working with relevant entities to manage and reduce phreatophytes to reduce their consumption of water while assisting transition to non-phreatophytic vegetation.
 - Pursuit of other groundwater enhancement options to offset phreatophyte water use and increase groundwater recharge including, but not limited to:
 - Pinyon-Juniper removal
 - Directing runoff to benefit aquifer
 - Catchment basins
 - Rotary subsoiler
 - Cloud seeding
- Will include language about reconsidering banking scheme under the GMP once water user pumping equals most current perennial yield estimate.

6. Funding of GMP and Water Manager

- Fund through assessment authority under NRS where all permitted water rights are assessed. Will come through AB and Authority annually with mandate to only fund GMP requirements and not be excessive.
 - 1. See NRS 534.040
 - Need legislation?
 - 2. Assessments will have to go up to cover costs.
 - Currently \$0.30/acre-foot; ~\$39,000.00.
 - What about current domestic wells?
 - Authority set up as non-profit (501(c)(3))?
 - 1. Water Manager required to “chase” funding for continuation of position?
 - 2. Advisory Board has not discussed this in detail, yet.
 - Fees (and penalties) will go into a fund and can only be used to administer the groundwater management plan which may include:
 - 1. Pay Water Manager and any other staff or consultants;
 - 2. Retire groundwater rights; and
 - 3. Implement groundwater conservation practices.
 - Entity administering water account/register will likely have separate “transaction” fees.
7. Benchmark pumping reductions outlined in Plan
- To provide certainty, and since groundwater level trends may take years to “tease out,” benchmark reductions will be locked in place for the first 10 years. Reductions after 10 years are anticipated to follow the original benchmark reductions but reductions after 10 years may be adjusted, up or down, but cannot exceed 2%, and will be informed by water level monitoring data multi-year trends.
 - Benchmark reductions:

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8. Penalties for use of water beyond annual allocation and other general penalties/fines

- Not publicized;
- The immediate next year’s allocation will be withheld until penalties are “paid in full.”
- 30 day grace period, from the time any portion of the individual’s overdraft is first made, to replace 1:1.
 1. If adequate replacement water allocation cannot be secured before the end of the 30 day grace period, the individual may elect to replace the overdraft up to 5% of the individual’s next year’s allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 day grace period.
- If not “cured” within the 30 day grace period, 2:1 replacement of overdraft water allocation but must be fully made up at least 30 days prior to immediate next year’s allocation.
 1. If adequate replacement water allocation cannot be secured before the immediate next year’s allocation, the individual may elect to replace the overdraft up to 5% of the individual’s next year’s allocation (based on benchmark reduction table) at 3:1 at least 30 days prior to immediate next year’s allocation.

- Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 1. Fine not to exceed \$10,000 per day for each violation.
 - For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
 - Where we can, define "purposeful repeat," "egregious," "excessive," etc.
 1. Develop a chart that highlights fine based on volume overused?
 2. Look into penalty structures from other states?
 3. GMP will have provisions to appeal any penalties to AB and Authority for reconsideration, removal, or decrease.
 - Other penalties
 1. Water rights holder has obligation to keep meter system in operating condition within measurement guidelines. While Water Manager will assist where able, once water user is notified that meter system is not operating correctly, there will be 7 days to remedy issue or replace meter. Failure to remedy within 7 days will result in cease and desist of pumping until remedied.
 - Pumping data gaps will be "filled" using average pumping rates before meter system issues arose. Power meter data may also be used to match times pump was running. Clamp on meters may also be installed until magnetic flow meter can be serviced or replaced.
 2. Tampering of meter.
 - Similar to Idaho, \$350 per acre irrigated under the metered system. Cease and desist pumping until fine paid in full and meter operating under measurement guidelines.
9. Current permitted stock, municipal, commercial, and domestic water rights and mining rights that do not have an irrigation source permit do not get converted to shares but are still under authority of GMP.
- These uses that are not converted to shares would be reconsidered after the "exit ramp" review of the GMP (year 6?).
 - Cannot be transferred to shares and/or used for a use required to have shares.
 - "New" uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.
 - While these uses are not converted to shares, there would be requirements on them under the GMP.
 1. Work with County to have them relinquish their water rights not foreseen as being reasonably needed.
 2. Work with County to have them waive hookup fees to incentivize tying into municipal system and reduce new domestic wells.

3. **Work with County to have them invest in infrastructure to better enable hookups to municipal system.**
4. **County amend water dedication ordinance for new parcels to require shares in an amount that equals 2 acre-feet per year (based on reduction table).**
5. **State Engineer enforce domestic use at or below 2 acre-feet/year.**
 - **Develop an education piece that outlines what typical domestic use at or below 2 af/yr looks like**
 - **Use municipal use surrogates to highlight examples**
6. **State Engineer enforce domestic use only for domestic purposes allowed under Nevada Law (i.e, no commercial use, single-family residence only).**
7. **Aggressive municipal tiered rates that incentivize conservation.**
8. **Education on water use, especially for domestic and municipal uses.**
 - **Landscaping irrigation scheduling, low flow shower heads, etc.**
9. **Waive “use it or lose it” of these uses to minimize unnecessary water use.**
10. **Incentives for xeriscaping.**

10. Mining rights and other non-consumptive uses

- **All non-consumptive uses of water are still under the authority of the GMP. Consideration of non-consumptive uses as allocation non-debit must be analyzed through review and approval of net-depletion analysis by the Authority.**
 1. **No universal calculation for net-depletion analysis – very project specific.**
- **Shares allotted based on source irrigation permit, not current temporary right with applied consumptive use “haircut.”**
- **Consumptive uses will require shares.**
- **Non-consumptive uses do not require shares but GMP will require water be returned in a manner that provides a net-benefit to the alluvial aquifer.**
- **NSE will enforce in tandem with Authority.**

11. Diamond Valley Groundwater Authority

- **Membership:**
 1. **Water Manager**
 - **Non-voting, ex-officio member of Authority**
 - **Job description still being developed by AB.**
 - **Independent contractor preferred with contract held by Division of Water Resources with funding, duties, etc. clearly spelled out in MOU between Authority and DWR.**
 - **Contract language to ensure accountability and reporting to Authority and Advisory Board.**
 - **Funding arrangement TBD**
 - **State Engineer or designee; no less than Deputy Administrator/Engineer**
 2. **Water Resource Management, Federal Agency (e.g., NRCS)**

Diamond Valley Groundwater Management Plan – Fall 2015 Assumptions

- Some type of “Unbundling” share system will be followed. Hybridize Prof. Young’s “Blueprint” to best fit Diamond Valley and local desires
- Perennial yield of 30,000 acre-feet per year is a good number and is number recognized by State Engineer but GMP should focus on sustainability, not numbers, and based on groundwater measurements (data).
 - May change based on soon to be released USGS report
- GMP apply to Diamond Valley hydrographic basin only (Basin 153) and apply to entire basin, not just a portion.
- At least through “test case,” exempt stockwater, domestic, and municipal rights and only include irrigation, mining, and other substantial water uses. All new domestic parcels after this point will bring shares and require totalizing meter (County already requires 2 af to be brought forward for new parceling). Other changes from irrigation or mining to one of these grandfathered categories would require staying in the share system (i.e., once a share, always a share, even if the use changes).
- Application for irrigation in DV is ~3 af/ac
- No irrigation season – addressed through annual allocations. Use as you want until allocation for year is depleted, conserve and save for future years, or sell/trade to others for use.
- Duty and priority recognized and addressed in conversion to shares.
- Smart meters on every ag well by March 1, 2016 – even if before full Groundwater Management Plan is implemented – with all meters certified by some common standard or spec.
- No Order by the State Engineer for metering. Will be addressed and required under GMP.
- All existing groundwater permits/certificates/vested rights in good standing with Division of Water Resources will be converted to water shares, regardless of varying levels of extensions of times to put the water to use. If they are in good standing with DWR, they are legal water rights that must be converted to shares.
- Will recognize certain aspects of current Nevada water law, specifically the part of NRS 533.370(2) that ensures water transfers do not conflict with existing rights (in this case uses or shares) or the protectable interest in existing domestic wells.
- No new shares added after initial share conversion UNLESS physical, “new” water is brought into basin or legal requirements mandate changes (i.e., DWR or court ordered mitigation of vested surface water declines by replacement with groundwater).
- Annual Allocations
 - Start out with benchmark reductions from status quo for first few of years, such as 3% reduction in groundwater pumping basin wide each year for 5 years to reach 15% reduction basin wide by the fifth year, then based on groundwater monitoring and basin aquifer response.
- Board – Governance
 - Advisory Board/Community Reference Panel - 5 members nominated by and elected from Diamond Valley groundwater rights holders.
 - Executive Governing Board- 5 to 7 members with relevant technical expertise *inclusive* of a full-time manager who is paid. CEO-type is one of the members. Must be folks with no financial interest in Diamond Valley; they can’t own shares. Board members must be approved by the State Engineer.

August 29, 2016 GMP WORKSHOP

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Daniel Venturolo

D. Venturolo

DUSTY MOYLE

IRA RENNERT

Mark Moyle

Jake Tibbitts

From: Jake Tibbitts
Sent: Monday, August 29, 2016 5:49 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommoni'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkeley@gmail.com'; 'mwpkevin@mwpower.net'; 'terrylynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg'; 'Jessica Santoyo'; 'mccuing@unce.unr.edu'; 'Michael Young'
Subject: Groundwater Management Plan (GMP) updated working model/outline
Attachments: 8 29 16 GMP working model and outline.docx

All,

I updated the GMP working model/outline based on today's actions by the attendees. Please note that this document does not include those items that were referred back to the Advisory Board for more discussion and recommendation. If an item is on the attached, it has been voted on by the entire group as being an element to be included in the GMP.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
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As of August 29, 2016

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 - There may be allowances, on a case-by-case basis, for short-term remedies to extent past 7 days if extenuating circumstances require.
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- These uses that are not converted to shares would be reconsidered after the “exit ramp” review of the GMP (year 6?).
 - Cannot be transferred to shares and/or used for a use required to have shares.

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- While these uses are not converted to shares, there would be requirements on them under the GMP.
 1. Work with County to have them relinquish their water rights not foreseen as being reasonably needed.
 2. Work with County to have them waive hookup fees to incentivize tying into municipal system and reduce new domestic wells.
 3. Work with County to have them invest in infrastructure to better enable hookups to municipal system.
 4. County amend water dedication ordinance for new parcels to require shares in an amount that equals 2 acre-feet per year (based on reduction table).
 5. State Engineer enforce domestic use at or below 2 acre-feet/year.
 - Develop an education piece that outlines what typical domestic use at or below 2 af/yr looks like
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 7. Aggressive municipal tiered rates that incentivize conservation.
 8. Education on water use, especially for domestic and municipal uses.
 - Landscaping irrigation scheduling, low flow shower heads, etc.
 9. Waive “use it or lose it” of these uses to minimize unnecessary water use.
 10. Incentives for xeriscaping.

8. Non-consumptive uses

- All non-consumptive uses of water are still under the authority of the GMP. Consideration of non-consumptive uses as allocation non-debit must be analyzed through review and approval of net-depletion analysis by the Authority.
 1. No universal calculation for net-depletion analysis – very project specific.
- Shares allotted based on source irrigation permit, not current temporary right with applied consumptive use “haircut.”
- Consumptive uses will require shares.
- Non-consumptive uses do not require shares but GMP will require water be returned in a manner that provides a net-benefit to the alluvial aquifer.
- NSE will enforce in tandem with Authority.

9. Diamond Valley Groundwater Authority

- Membership:
 1. Water Manager
 - Non-voting, ex-officio member of Authority

- Job description still being developed by AB.
- Independent contractor preferred with contract held by Division of Water Resources with funding, duties, etc. clearly spelled out in MOU between Authority and DWR.
 - Contract language to ensure accountability and reporting to Authority and Advisory Board.
 - Funding arrangement TBD
- 2. State Engineer or designee; no less than Deputy Administrator/Engineer
- 3. Water Resource Management, Federal Agency (e.g., NRCS)
- 4. Water Resource Management, State Agency other than State Engineer's office (e.g., Cooperative Extension, CABNR)
- State Engineer will appoint members based on recommendations of the Advisory Board
 1. He cannot appoint somebody not first approved by the AB.

10. Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers) at the inception of the GMP

- There will be language in the GMP that out-of-basin transfers may be considered in the future but only with an amendment to the GMP and when water levels have reached some threshold of stabilization.
 1. Would require a petition signed by a majority of permit holders.

11. NSE retains authority under GMP for no conflict analysis under NRS 533.370 and no impairment under NRS 533.085

- Existing rights, including vested rights
- Domestic well "protectable interest"

12. Draft GMP to State Engineer for review by October 1.

Diamond Valley Groundwater Management Plan – Fall 2015 Assumptions

- Some type of “Unbundling” share system will be followed. Hybridize Prof. Young’s “Blueprint” to best fit Diamond Valley and local desires
- Perennial yield of 30,000 acre-feet per year is a good number and is number recognized by State Engineer but GMP should focus on sustainability, not numbers, and based on groundwater measurements (data).
 - May change based on soon to be released USGS report
- GMP apply to Diamond Valley hydrographic basin only (Basin 153) and apply to entire basin, not just a portion.
- At least through “test case,” exempt stockwater, domestic, and municipal rights and only include irrigation, mining, and other substantial water uses. All new domestic parcels after this point will bring shares and require totalizing meter (County already requires 2 af be brought forward for new parceling). Other changes from irrigation or mining to one of these grandfathered categories would require staying in the share system (i.e., once a share, always a share, even if the use changes).
- Application for irrigation in DV is ~3 af/ac
- No Irrigation season – addressed through annual allocations. Use as you want until allocation for year is depleted, conserve and save for future years, or sell/trade to others for use.
- Duty and priority recognized and addressed in conversion to shares.
- Smart meters on every ag well by March 1, 2016 – even if before full Groundwater Management Plan is implemented – with all meters certified by some common standard or spec.
- No Order by the State Engineer for metering. Will be addressed and required under GMP.
- All existing groundwater permits/certificates/vested rights in good standing with Division of Water Resources will be converted to water shares, regardless of varying levels of extensions of times to put the water to use. If they are in good standing with DWR, they are legal water rights that must be converted to shares.
- Will recognize certain aspects of current Nevada water law, specifically the part of NRS 533.370(2) that ensures water transfers do not conflict with existing rights (in this case uses or shares) or the protectable interest in existing domestic wells.
- No new shares added after initial share conversion UNLESS physical, “new” water is brought into basin or legal requirements mandate changes (i.e., DWR or court ordered mitigation of vested surface water declines by replacement with groundwater).
- Annual Allocations
 - Start out with benchmark reductions from status quo for first few of years, such as 3% reduction in groundwater pumping basin wide each year for 5 years to reach 15% reduction basin wide by the fifth year, then based on groundwater monitoring and basin aquifer response.
- Board – Governance
 - Advisory Board/Community Reference Panel - 5 members nominated by and elected from Diamond Valley groundwater rights holders.
 - Executive Governing Board- 5 to 7 members with relevant technical expertise *inclusive* of a full-time manager who is paid. CEO-type is one of the members. Must be folks with no financial interest in Diamond Valley; they can’t own shares. Board members must be approved by the State Engineer.

Jake Tibbitts

From: Jake Tibbitts
Sent: Thursday, September 01, 2016 8:07 AM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terrylynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg'; 'Jessica Santoyo'; 'mccuing@unce.unr.edu'; 'Michael Young'
Subject: Save the Date - Next Groundwater Management Plan (GMP) Workshop - September 19 at 9 am

All,

It was determined by the group on Monday to have the next GMP workshop on Monday, September 19 at 9:00 am at the Opera House. Please mark your calendars.

Hope you all have an enjoyable Labor Day weekend!

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

Please note my email address has changed - JTibbitts@EurekaCountyNV.gov

Jake Tibbitts

From: Jake Tibbitts
Sent: Friday, September 16, 2016 5:46 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommon'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terrilynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com' 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'JJ Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg'; 'Jessica Santoyo'; 'mccuing@unce.unr.edu'
Cc:
Subject: REMINDER - Next Groundwater Management Plan (GMP) Workshop - Monday, September 19 at 9 am
Attachments: 9 19 16 GMP meeting.docx

This is a reminder of the upcoming GMP meeting on Monday. Attached is the working outline with recent recommendations by the Advisory Board. Have a good weekend and see you all on Monday.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

Please note my email address has changed - JTibbitts@EurekaCountyNV.gov

Diamond Valley Groundwater Management Plan Outline and Working Model

September 19, 2016 Meeting:

All items discussed and voted on are on the list below. Items highlighted are Items specifically requested to be considered by the Advisory Board and includes their recommended language the full group's consideration. The list of assumptions developed last fall are also listed below for reference.

1. First year will receive introductory allocation to quantify individual use with the approved meter before reductions, allow for implementation of conservation practices (i.e., LESA, etc.) and work out other kinks.
 - A. Allocation will be made based on Year 0 (that will become Year 1) in benchmark reduction table (currently 0.85 acre-feet per share).
 - B. Individuals that don't use full introductory allocation will be able to bank unused water.
 - C. There will be no penalties for Individual overuse during introductory allocation.
2. Share allotment details
 - A. 20% share allotment senior-junior spread priority factor
 - 1) Advisory Board split vote with five members at 20%, 1 wanting a higher factor (>20%), and 2 wanting a lower factor (<20%)
 - 2) Full group split vote with 14 at 20%, 1 wanting a higher factor (>20%), and 7 wanting a lower factor (<20%).
 - B. Only groundwater rights in good standing at GMP approval will be converted to shares.
 - 1) There will be a rights validation process with a period of time for review and adjustment by water rights holders working with State Engineer if there are any discrepancies asserted.
 - If first year is "introductory" this will give ample time for validation.
 - 2) Base right (permit or certificate) will be held "static" at the same status it was at share conversion in case need to revert back.
 - C. GMP will exempt groundwater vested rights including vested rights mitigated by groundwater rights from conversion to shares unless vested groundwater rights holder(s) opt in.
 - For surface water vested rights mitigated by groundwater rights, if they opt in, constrained to use allocation only on lands within groundwater discharge area as defined by the recent USGS report (Fig 17 p. 60). There will be no reduction in water use of vested groundwater rights under the plan, even if they opt in. Their allocations will be the same every year.
 - Technical consideration – if allowed to move water to main farming area, this could actually increase the drawdown and further damage the aquifer. It's also technically preferable to keep as much pumping in the groundwater discharge area as this water is currently being used by phreatophytes, not southern DV farms. And this is the area where the water rights were put to use pre-statutorily.
 - Bailey mitigation permit – permit restriction that the groundwater cannot be moved outside of the spring discharge area.
 - Judge Fairman order citing *Carson v. Hoges* (1901) – "right to...water continue to flow to his headgate as it did when the appropriation was first made" – and *Lower Kings River Water Ditch Co. v. Kings River & Fresno Canal Co.* (1882) – "water rights holder's specific quantity of water must be allowed to remain in the water course, and be available...so that the water may be applied to the established place of use."
 - 2) Will rely on State Engineer records, recent USGS report, and, ultimately, adjudication/court order.
 - Currently, mitigation rights on State Engineer books are roughly 2,000 acre-feet (af).
 - USGS report quantifies pre-development groundwater discharge through evapotranspiration at 29,000 af and spring flow declines at 6,000 for a total of 35,000 af pre-development groundwater discharge. In fact, 29,000 af of groundwater ET was

Page 1 of 10

reported to be occurring in 2012. If adjudication, court order, or other legal requirements define more than 6000 af of groundwater go towards vested rights, allocations will not have to be reduced accordingly because an increase in the amount of spring flow decline would actually mean that the pre-development "perennial yield" is higher than 35,000 af.

- 3) GMP will not require a deadline for vested rights holders to choose to opt in. However, if any vested rights holder voluntarily chooses to have their rights converted to shares under the GMP, they must stay in the system for the duration of the GMP.

3. Flow meters

- A. All groundwater use under the GMP will be required to be metered using the approved meter, Siemens, SITRANS F MAGFLO MAG 5100W w/ 5000 converter with smart meter capability, wireless transmission module, with near real-time reporting.
 - 1) High quality, single, specific meter to reduce issues and complaints regarding accuracy, quality, and integrity.
 - 2) Magnetic flow meter that has been tested by independent Water Lab at Utah State University to meet the standard for required meters in Idaho and was the best performing meter as far as accuracy and reliability.
- B. To be installed at or near the point of diversion.
- C. Installed with a minimum straight pipe length equivalent of three (3) pipe diameters upstream and two (2) pipe diameters downstream from the center of the meter spool. Manufacturer specifications for upstream and downstream straight pipe requirements may be greater or less than this requirement. All other manufacturer installation specifications must be met.
 - 1) Owners or operators who install the approved meter without the minimum straight length spacing requirements, or otherwise inconsistent with manufacturer's specifications, will need to provide an adequate testing section of straight pipe located somewhere on the diversion system either upstream or downstream of the installed flow meter. This testing section can be excavated pipeline as long as the section of pipe carries all water being measured through the installed flow meter. Water users choosing to expose pipe will be required to excavate the pipe at their expense.
- D. Any exemptions/waivers for required magnetic flow meters will be considered on a case-by-case basis through petition to the AB and Authority.
 - 1) May require site specific engineering.
 - 2) At a minimum, any variance in use of the approved meter must be as accurate as, or otherwise is better suited to an application than the approved meter.
 - 3) If a petition for variance is submitted and granted, the water user bears the risk that the alternative meter will perform as expected.
 - 4) If an alternative meter is approved and is later found to be insufficient, the variance will be withdrawn and another acceptable meter will be required to be installed.
- E. Meter will be field-tested by the Water Manager or other designee of the Authority using manufacturers "field verifier" and a portable standard flow meter to ensure it is installed properly, functioning properly, and accurate to within $\pm 10\%$ of the rate of flow and volume as measured with a portable standard flow meter.
- F. If a meter does not pass a field check, the Authority may require the water user to replace the meter at the water user's expense.
- G. Must be installed, fully operational, and certified for use before use of any water under the GMP.
- H. The process for a future change in specific meter based on better technology or other unforeseen issue will be outlined in the GMP to ensure GMP amendment is not necessary.

- 1) Specifications and test performance of the approved meter will be referenced in the GMP for the minimum requirements that any future meter will have to meet.

4. Funding of GMP and Water Manager

- A. AB is working on preparing budget and/or cost projections on what it will take to run GMP program.
- B. Water Manager will be required to seek funding to run and further the GMP.
- C. Fund through assessment authority under NRS where all permitted water rights are assessed. Will come through AB and Authority annually with mandate to only fund GMP requirements and not be excessive.
 - 1) Assessments will have to go up to cover costs.
 - Currently \$0.40/acre-foot; ~\$53,000.00.
- D. Fees (and penalties) will go into a fund and can only be used to administer the groundwater management plan which may include:
 - 1) Pay Water Manager and any other staff or consultants;
 - 2) Retire groundwater rights; and
 - 3) Implement groundwater conservation practices.
- E. Entity administering water account/register will likely have separate "transaction" fees.

5. Penalties for use of water beyond annual allocation and other general penalties/fines

- A. Name/entity not publicized but amount and reason for penalty/fine will be;
- B. The immediate next year's allocation will be withheld until penalties are "paid in full."
- C. 30 day grace period, from the time any portion of the individual's overdraft is first made, to replace 1:1.
 - 1) If adequate replacement water allocation cannot be secured before the end of the 30 day grace period, the individual may elect to replace the overdraft up to 5% of the individual's next year's allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 day grace period.
- D. If not "cured" within the 30 day grace period, 2:1 replacement of overdraft water allocation but must be fully made up at least 30 days prior to immediate next year's allocation.
 - 1) If adequate replacement water allocation cannot be secured before the immediate next year's allocation, the individual may elect to replace the overdraft up to 5% of the individual's next year's allocation (based on benchmark reduction table) at 3:1 at least 30 days prior to immediate next year's allocation.
- E. Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 - 1) Fine not to exceed \$10,000 per day for each violation.
 - 2) Tampering of a meter will fall within this category (i.e., being purposeful).
- F. For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
- G. Where we can, define "purposeful repeat," "egregious," "excessive," etc.
 - 1) Will develop a chart (or something similar) that highlights fine based on volume overused.
 - 2) Will look into penalty structures from other states for consideration.
 - 3) GMP will have provisions to appeal any penalties to AB and Authority for reconsideration, removal, or decrease.

H. Other penalties

- 1) Water rights holder has obligation to keep meter system in operating condition within measurement guidelines. While Water Manager will assist where able, once water user is notified that meter system is not operating correctly, there will be 7 days to remedy issue or replace meter. Failure to remedy within 7 days will result in cease and desist of pumping until remedied.
 - Pumping data gaps will be “filled” using average pumping rates before meter system issues arose. Power use data may also be used to match times pump was running. Clamp on meters may also be installed until magnetic flow meter can be serviced or replaced.
 - There may be allowances, on a case-by-case basis, for short-term remedies to extent past 7 days if extenuating circumstances require.
 - For example, a specific part may not be available to obtain and get installed within 7 days. In this case, a clamp on meter could be allowed to be used in lieu of the approved meter until the ultimate remedy is achieved – the approved meter system is operational.
6. Current permitted stock, municipal, commercial, and domestic water rights and mining rights that do not have an irrigation source permit do not get converted to shares but are still under authority of GMP.
 - A. These uses that are not converted to shares would be reconsidered after the “exit ramp” review of the GMP (year 6?).
 - B. Cannot be transferred to shares and/or used for a use required to have shares.
 - C. “New” uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.
 - D. While these uses are not converted to shares, there would be requirements on them under the GMP.
 - 1) Work with County to have them relinquish their water rights not foreseen as being reasonably needed.
 - 2) Work with County to have them waive hookup fees to incentivize tying into municipal system and reduce new domestic wells and offer domestic well credit to those abandoning current domestic well and assist in cost-share in abandoning old domestic well in accordance with NRS/NAC.
 - 3) Work with County to have them invest in infrastructure to better enable hookups to municipal system.
 - 4) County amend water dedication ordinance for new parcels to require shares in an amount that equals 2 acre-feet per year (based on reduction table).
 - 5) State Engineer enforce domestic use at or below 2 acre-feet/year.
 - Develop an education piece that outlines what typical domestic use at or below 2 af/yr looks like
 - Use municipal use surrogates to highlight examples
 - 6) State Engineer enforce domestic use only for domestic purposes allowed under Nevada Law (i.e, no commercial use, single-family residence only).
 - 7) Aggressive municipal tiered rates that incentivize conservation.
 - 8) Education on water use, especially for domestic and municipal uses.
 - Landscaping irrigation scheduling, low flow shower heads, etc.
 - 9) Waive “use it or lose it” of these uses to minimize unnecessary water use.
 - 10) Incentives for xeriscaping.

7. **Lands retired from irrigation (permanently or set-aside programs)**
 - A. Funds raised through assessment may be used for these purposes but must go through annual, public budgeting process to ensure proper debate and transparency.
 - B. Funds may be pursued from grants, gifts, etc. and spent through the GMP for these purposes.
 - C. Requirements for weed and rodent control and cover crops;
 - 1) Will rely on and work with relevant entities that already have jurisdiction over these items under NRS.
 - DV Weed District, DV Rodent District, NV Dept. of Ag
 - 2) GMP generally not likely not able to impose restrictions such as these as there is no clear legal framework to do. But, where funding is raised by and spent through the GMP for water retirement, these requirements would be required in the GMP based on contractual agreements as part of receipt of funding to retire water.
 - 3) GMP will also have language encouraging funding mechanisms outside of GMP (e.g., Agricultural Sustainability Trust) to place weed and rodent control and cover crop requirements on lands with water retired.

8. **Well use approvals**
 - A. For a well to be used to withdraw water under the GMP, it must be linked to a specific water account. A well may not be pumped for any use required to have shares unless it is linked to a specific water account.
 - 1) There will be an annual well charge to keep well active and linked to an account.
 - Shows intent for use under the GMP.
 - Wells kept active and linked to account will be held exempt for abandonment requirements under NRS/NAC.
 - Wells not active will result in consideration for abandonment requirements under NRS/NAC.
 - Wells kept active but unused must have temporary, secure caps placed on them to ensure they are not exposed to open air or sources of contamination.
 - B. Wells withdrawing water under the GMP must be from a legal well according to NRS/NAC.
 - C. New wells drilled (including replacement wells) will still have to follow applicable well drilling laws and regulations under NRS and NAC and State Engineer retains authority for conflict analysis for new wells.

9. **Benchmark pumping reductions outlined in Plan**
 - A. To provide certainty, and since groundwater level trends may take years to “tease out,” benchmark reductions will be locked in place for the first 10 years. Reductions after 10 years are anticipated to follow the original benchmark reductions but reductions after 10 years may be adjusted, up or down, but annual reductions or increases from the immediate previous year cannot exceed 2%, and will be informed by water level monitoring data multi-year trends.
 - B. Benchmark reductions:

Year	Pumping estimate	% Cumulative Reduction	Assumed Efficiency	Assumed Consumptive Use
0	74000	0	0.85	62900
1	71780	3	0.86	61731
2	69560	6	0.87	60517
3	66600	10	0.88	58608
4	62900	15	0.89	55981
5	59200	20	0.91	53872
6	57720	22	0.92	53102
7	56240	24	0.92	51741
8	54760	26	0.92	50379
9	53280	28	0.92	49018
10	51800	30	0.92	47656
11	51060	31	0.92	46975
12	50320	32	0.92	46294
13	49580	33	0.92	45614
14	48840	34	0.92	44933
15	48100	35	0.92	44252
16	47360	36	0.92	43571
17	46620	37	0.92	42890
18	45880	38	0.92	42210
19	45140	39	0.92	41529
20	44400	40	0.92	40848
21	43660	41	0.92	40167
22	42920	42	0.92	39486
23	42180	43	0.92	38806
24	41440	44	0.92	38125
25	40700	45	0.92	37444
26	39960	46	0.92	36763
27	39220	47	0.92	36082
28	38480	48	0.92	35402
29	37740	49	0.92	34721
30	37000	50	0.92	34040

10. Water banking

- A. Banking is of any given portion of an annual allocation (water per share), not core shares.
- B. No timeframe for sale, lease, or use imposed under GMP.
- C. Banked water will not depreciate. When used, it will be at the same amount as when banked.
 - 1) Rick Felling noted a possible depreciation to account for "loss" by continued ET of phreatophytes of water banked – i.e., a portion of water left in the basin continues to be used by plants.
 - GMP will include a section that included:
 - Working with relevant entities to manage and reduce phreatophytes to reduce their consumption of water while assisting transition to non-phreatophytic vegetation.
 - Pursuit of other groundwater enhancement options to offset phreatophyte water use and increase groundwater recharge including, but not limited to:
 - Pinyon-Juniper removal
 - Directing runoff to benefit aquifer
 - Catchment basins

- Rotary subsoiler
 - Cloud seeding
- D. Will include language about reconsidering banking scheme under the GMP once water user pumping equals most current perennial yield estimate.

11. Non-consumptive uses

- A. All non-consumptive uses of water are still under the authority of the GMP. Consideration of non-consumptive uses as allocation non-debit must be analyzed through review and approval of net-depletion analysis by the Authority.
 - 1) No universal calculation for net-depletion analysis – very project specific.
- B. Shares allotted based on source irrigation permit, not current temporary right with applied consumptive use “haircut.”
- C. Consumptive uses will require shares.
- D. Non-consumptive uses do not require shares but GMP will require water be returned in a manner that provides a net-benefit to the alluvial aquifer.
- E. NSE will enforce in tandem with Authority.

12. Diamond Valley Groundwater Authority

- A. Membership:
 - 1) Water Manager
 - Non-voting, ex-officio member of Authority
 - Job description still being developed by AB.
 - Independent contractor preferred with contract held by Division of Water Resources with funding, duties, etc. clearly spelled out in MOU between Authority and DWR.
 - Contract language to ensure accountability and reporting to Authority and Advisory Board.
 - Funding arrangement TBD
 - 2) State Engineer or designee; no less than Deputy Administrator/Engineer
 - 3) Water Resource Management, Federal Agency (e.g., NRCS)
 - 4) Water Resource Management, State Agency other than State Engineer’s office (e.g., Cooperative Extension, CABNR)
- B. State Engineer will appoint members based on recommendations of the Advisory Board
 - 1) He cannot appoint somebody not first approved by the AB.
- C. Advisory Board
 - 1) 7 members elected by water rights/shareholders.
 - Current members represent mining, water rights holder with a primary interest in ranching in Diamond Valley, and farmers.
 - 2) At GMP inception, the current AB members will stay installed for the first 2 years. After year 2 of the GMP, the farmer seats will be open for elections. The mining and ranching seats will be up for election at year 4. After year 4, elections will be every 2 years following this alternate seat schedule and the seats will then be open to any shareholder with no designation of shareholders representing any specific use. Elections will be held at an annual meeting where all shareholders may attend, make nominations, and cast their votes.

13. Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers) at the inception of the GMP

- A. There will be language in the GMP that out-of-basin transfers may be considered in the future but only with an amendment to the GMP and when water levels have reached some threshold of stabilization.
 - 1) Would require a petition signed by a majority of permit holders.

14. NSE retains authority under GMP for no conflict analysis under NRS 533.370 and no impairment under NRS 533.085

- A. Existing rights, including vested rights
- B. Domestic well "protectable interest"
- C. The GMP will not have much description on this conflict analysis and it will be solely up to NSE to do such analysis.

15. Draft GMP to State Engineer for review by October 1.

16. Requests for proposals for development and standing up of share account is being pursued.

17. Legislation

- A. BDR language submitted:

In a basin designated as a Critical Management Area pursuant to NRS 534.110(7)(a), in consideration of a groundwater management plan submitted to the State Engineer pursuant to NRS 534.037, the State Engineer may, in addition to those powers conferred by law, approve:

- 1) *Limits to the quantity of groundwater that may be withdrawn under any permit or certificate or other use outlined in the plan as long as senior permits or certificates receive more groundwater under the plan than junior permits or certificates;*
- 2) *Conservation practices that might otherwise result in cancellation or forfeiture of the groundwater right pursuant to NRS 533.390, 533.395, 533.410 and 534.090 and exempt those rights from the requirements of NRS 533.390, 533.395, 533.410 and 534.090;*
- 3) *Groundwater use requirements within the critical management area and under the plan not bound to any specific point of diversion, place of use, and manner of use;*
- 4) *Groundwater banking for any unused volume of groundwater granted for use in any given year to be allowed for withdrawal in future years;*
- 5) *Requirements for specific groundwater measuring and data reporting devices;*
- 6) *Local governance, administration, or enforcement of the groundwater management plan while not abrogating any ultimate authority of the State Engineer over the plan;*
- 7) *Assessment of fees on groundwater uses outlined in the plan or receive other funding to expend to administer the groundwater management plan, retire groundwater rights, or implement groundwater conservation practices;*
- 8) *Penalties in accordance with NRS 534.190 through NRS 534.195 for violations with provisions of the plan by any entity under the plan with expenditure of any fines used to administer the groundwater management plan, retire groundwater rights, or implement groundwater conservation practices;*
- 9) *Voluntary relinquishment to the groundwater source a portion of a groundwater right in exchange for exemption from provisions requiring the filing and approval of extensions of time to avoid cancellation and forfeiture during the period the groundwater management plan is in effect, but rights not relinquished would not be exempt from regulation by priority;*

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10) Any other actions reasonably related to the implementation of a specific Groundwater Management Plan as outlined in that specific plan.

A groundwater management plan approved pursuant to NRS 534.037 may continue beyond critical management area designation unless and until a petition is presented to the State Engineer, under the same procedures as NRS 534.037(1) and NRS 534.110(7)(b), to remove the plan.

Diamond Valley Groundwater Management Plan – Fall 2015 Assumptions

- Some type of “Unbundling” share system will be followed. Hybridize Prof. Young’s “Blueprint” to best fit Diamond Valley and local desires
- Perennial yield of 30,000 acre-feet per year is a good number and is number recognized by State Engineer but GMP should focus on sustainability, not numbers, and based on groundwater measurements (data).
 - May change based on soon to be released USGS report
- GMP apply to Diamond Valley hydrographic basin only (Basin 153) and apply to entire basin, not just a portion.
- At least through “test case,” exempt stockwater, domestic, and municipal rights and only include irrigation, mining, and other substantial water uses. All new domestic parcels after this point will bring shares and require totalizing meter (County already requires 2 af be brought forward for new parceling). Other changes from irrigation or mining to one of these grandfathered categories would require staying in the share system (i.e., once a share, always a share, even if the use changes).
- Application for irrigation in DV is ~3 af/ac
- No irrigation season – addressed through annual allocations. Use as you want until allocation for year is depleted, conserve and save for future years, or sell/trade to others for use.
- Duty and priority recognized and addressed in conversion to shares.
- Smart meters on every ag well by March 1, 2016 – even if before full Groundwater Management Plan is implemented – with all meters certified by some common standard or spec.
- No Order by the State Engineer for metering. Will be addressed and required under GMP.
- All existing groundwater permits/certificates/vested rights in good standing with Division of Water Resources will be converted to water shares, regardless of varying levels of extensions of times to put the water to use. If they are in good standing with DWR, they are legal water rights that must be converted to shares.
- Will recognize certain aspects of current Nevada water law, specifically the part of NRS 533.370(2) that ensures water transfers do not conflict with existing rights (in this case uses or shares) or the protectable interest in existing domestic wells.
- No new shares added after initial share conversion UNLESS physical, “new” water is brought into basin or legal requirements mandate changes (i.e., DWR or court ordered mitigation of vested surface water declines by replacement with groundwater).
- Annual Allocations
 - Start out with benchmark reductions from status quo for first few of years, such as 3% reduction in groundwater pumping basin wide each year for 5 years to reach 15% reduction basin wide by the fifth year, then based on groundwater monitoring and basin aquifer response.
- Board – Governance
 - Advisory Board/Community Reference Panel - 5 members nominated by and elected from Diamond Valley groundwater rights holders.

- o **Executive Governing Board- 5 to 7 members with relevant technical expertise *inclusive* of a full-time manager who is paid. CEO-type is one of the members. Must be folks with no financial interest in Diamond Valley; they can't own shares. Board members must be approved by the State Engineer.**

Sept. 19, 2016 GMP Mtg.

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Jake Tibbitts

From: Jake Tibbitts
Sent: Thursday, October 20, 2016 9:15 AM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'JJ Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'basqboy@gmail.com'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terrylynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'J.J. Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg'; 'Jessica Santoyo'; 'mccuing@unce.unr.edu'; 'jeffbulkley@gmail.com'; 'corbinknowles@cableone.net'
Subject: REMINDER - Next Groundwater Management Plan (GMP) Workshop - Monday, October 24 at 9 am
Attachments: 10 24 16 GMP meeting.docx

This is a reminder of the upcoming GMP meeting on Monday at the Opera House. Attached is the working outline with recent recommendations by the Advisory Board. This outline is still being worked into the official draft plan that will be submitted to the State Engineer for his review and feedback.

PLEASE NOTE: It is anticipated that on Monday, the group will vote whether to formally forward the draft GMP to the State Engineer for his review and feedback. This will not be the official petition process that will eventually be required to get the final plan sent to the State Engineer. There has been confusion by some that Monday will be the final "yea or nay" on the GMP. That will come when the group feels comfortable that we are as far as we are going to get with the GMP and an official petition will be presented for all holders of groundwater permits or certificates to consider.

Have a good weekend and see you all on Monday.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Diamond Valley Groundwater Management Plan Outline and Working Model

October 24, 2016 Meeting:

All items discussed and voted on are on the list below. Items highlighted are items specifically requested to be considered by the Advisory Board and includes their recommended language the full group's consideration. The list of assumptions developed last fall are also listed below for reference.

1. First year will receive introductory allocation to quantify individual use with the approved meter before reductions, allow for implementation of conservation practices (i.e., LESA, etc.) and work out other kinks.
 - A. Allocation will be made based on Year 0 (that will become Year 1) in benchmark reduction table (currently 0.85 acre-feet per share).
 - B. Individuals that don't use full introductory allocation will be able to bank unused water.
 - C. There will be no penalties for individual overuse during introductory allocation.
2. Share allotment details
 - A. 20% share allotment senior-junior spread priority factor
 - 1) Advisory Board split vote with five members at 20%, 1 wanting a higher factor (>20%), and 2 wanting a lower factor (<20%)
 - 2) Full group split vote with 14 at 20%, 1 wanting a higher factor (>20%), and 7 wanting a lower factor (<20%).
 - B. Only groundwater rights in good standing at GMP approval will be converted to shares.
 - 1) There will be a rights validation process with a period of time for review and adjustment by water rights holders working with State Engineer if there are any discrepancies asserted.
 - If first year is "Introductory" this will give ample time for validation.
 - 2) Base right (permit or certificate) will be held "static" at the same status it was at share conversion in case need to revert back.
 - C. Vested groundwater rights, including surface water vested rights that have been mitigated with groundwater rights, will not be under the requirements of the GMP.
 - 1) Recent USGS report quantifies pre-development groundwater discharge through evapotranspiration at 29,000 af and spring flow declines at 6,000 for a total of 35,000 af pre-development groundwater discharge. In fact, 29,000 af of groundwater ET was reported to be occurring in 2012. If adjudication, court order, or other legal requirements define more than 6000 af of groundwater go towards mitigating vested surface rights, allocations under the GMP will not have to be reduced accordingly because an increase in the amount of spring flow decline would actually mean that the pre-development "perennial yield" would have to be higher than 35,000 af.
3. Flow meters
 - A. All groundwater use under the GMP will be required to be metered using the approved meter, Siemens, SITRANS F MAGFLO MAG 5100W w/ 5000 converter with smart meter capability, wireless transmission module, with near real-time reporting.
 - 1) High quality, single, specific meter to reduce issues and complaints regarding accuracy, quality, and integrity.
 - 2) Magnetic flow meter that has been tested by independent Water Lab at Utah State University to meet the standard for required meters in Idaho and was the best performing meter as far as accuracy and reliability.
 - B. To be installed at or near the point of diversion.
 - C. Installed with a minimum straight pipe length equivalent of three (3) pipe diameters upstream and two (2) pipe diameters downstream from the center of the meter spool. Manufacturer specifications for

upstream and downstream straight pipe requirements may be greater or less than this requirement. All other manufacturer installation specifications must be met.

- 1) Owners or operators who install the approved meter without the minimum straight length spacing requirements, or otherwise inconsistent with manufacturer's specifications, will need to provide an adequate testing section of straight pipe located somewhere on the diversion system either upstream or downstream of the installed flow meter. This testing section can be excavated pipeline as long as the section of pipe carries all water being measured through the installed flow meter. Water users choosing to expose pipe will be required to excavate the pipe at their expense.

D. Any exemptions/waivers for required magnetic flow meters will be considered on a case-by-case basis through petition to the AB and Authority.

- 1) May require site specific engineering.
- 2) At a minimum, any variance in use of the approved meter must be as accurate as, or otherwise is better suited to an application than the approved meter.
- 3) If a petition for variance is submitted and granted, the water user bears the risk that the alternative meter will perform as expected.
- 4) If an alternative meter is approved and is later found to be insufficient, the variance will be withdrawn and another acceptable meter will be required to be installed.

E. Meter will be field-tested by the Water Manager or other designee of the Authority using manufacturers "field verifier" and a portable standard flow meter to ensure it is installed properly, functioning properly, and accurate to within $\pm 10\%$ of the rate of flow and volume as measured with a portable standard flow meter.

F. If a meter does not pass a field check, the Authority may require the water user to replace the meter at the water user's expense.

G. Must be installed, fully operational, and certified for use before use of any water under the GMP.

H. The process for a future change in specific meter based on better technology or other unforeseen issue will be outlined in the GMP to ensure GMP amendment is not necessary.

- 1) Specifications and test performance of the approved meter will be referenced in the GMP for the minimum requirements that any future meter will have to meet.

4. Funding of GMP and Water Manager (after system is "stood up.")

A. AB projects that it will cost about \$150,000 per year to run the GMP.

- 1) Water Manager independent contract
- 2) Office supplies
- 3) Field Equipment
- 4) Vehicle
- 5) Contingency

B. Water Manager will be required to seek funding to run and further the GMP (but not for their salary).

C. Fund through assessment authority under NRS where all permitted water rights are assessed. Will come through a budget process with the AB and Authority annually with mandate to only fund GMP requirements and not be excessive and not create large annual roll-overs.

- 1) Assessments will have to go up to cover costs.

- Currently \$0.40/acre-foot; ~\$53,000.00.
- There are 86,179 shares on the preliminary spreadsheet. To raise \$150,000 per year for the GMP would result in an assessment of \$1.74 per share.

- D. Fees (and penalties) will go into a fund and can only be used to administer the groundwater management plan which may include:
 - 1) Pay Water Manager and any other staff or consultants;
 - 2) Retire groundwater rights; and
 - 3) Implement groundwater conservation practices.
 - E. Entity administering water account/register will likely have separate "transaction" fees.
5. Penalties for use of water beyond annual allocation and other general penalties/fines
- A. Name/entity not publicized but amount and reason for penalty/fine will be;
 - B. The immediate next year's allocation will be withheld until penalties are "paid in full."
 - C. 30 day grace period, from the time any portion of the individual's overdraft is first made, to replace 1:1.
 - 1) If adequate replacement water allocation cannot be secured before the end of the 30 day grace period, the individual may elect to replace the overdraft up to 5% of the individual's next year's allocation (based on benchmark reduction table) at 2:1 as long as done within the 30 day grace period.
 - D. If not "cured" within the 30 day grace period, 2:1 replacement of overdraft water allocation but must be fully made up at least 30 days prior to immediate next year's allocation.
 - 1) If adequate replacement water allocation cannot be secured before the immediate next year's allocation, the individual may elect to replace the overdraft up to 5% of the individual's next year's allocation (based on benchmark reduction table) at 3:1 at least 30 days prior to immediate next year's allocation.
 - E. Financial penalty provisions similar to NRS 534.193(1)(a) will be enacted for egregious, excessive, or purposeful repeat offenses, as determined by the Authority based on consultation with the Advisory Board.
 - 1) Fine not to exceed \$10,000 per day for each violation.
 - 2) Tampering of a meter will fall within this category (i.e., being purposeful).
 - F. For any of the above penalties, may require the person to pay the costs of any proceeding, including investigative costs and attorney's fees, similar to requirements of NRS 534.193(3), as determined by the Authority based on consultation with the Advisory Board.
 - G. To get past subjective definitions of "purposeful repeat," "egregious," "excessive," etc.
 - 1) Will develop a chart (or something similar) that highlights fine based on volume or incidences overused.
 - 2) Will look into penalty structures from other states for consideration.
 - 3) GMP will have provisions to appeal any penalties to AB and Authority for reconsideration, removal, or decrease.
 - H. Other penalties
 - 1) Water rights holder has obligation to keep meter system in operating condition within measurement guidelines. While Water Manager will assist where able, once water user is notified that meter system is not operating correctly, there will be 7 days to remedy issue or replace meter. Failure to remedy within 7 days will result in cease and desist of pumping until remedied.
 - Pumping data gaps will be "filled" using average pumping rates before meter system issues arose. Power use data may also be used to match times pump was running. Clamp on meters may also be installed until magnetic flow meter can be serviced or replaced.

- There may be allowances, on a case-by-case basis, for short-term remedies to extent past 7 days if extenuating circumstances require.
 - For example, a specific part may not be available to obtain and get installed within 7 days. In this case, a clamp on meter could be allowed to be used in lieu of the approved meter until the ultimate remedy is achieved – the approved meter system is operational.
6. **Current permitted stock, municipal, commercial, and domestic water rights and mining rights that do not have an irrigation source permit do not get converted to shares but are still under authority of GMP.**
- A. **These uses that are not converted to shares would be reconsidered after the “exit ramp” review of the GMP (year 6?).**
 - B. **Cannot be transferred to shares and/or used for a use required to have shares.**
 - C. **“New” uses under one of these categories would require shares to cover use. Benchmark reduction table would be used to project maximum share needs for the life of any project/use (may be in perpetuity) and would require shares be dedicated for this period of time.**
 - D. **While these uses are not converted to shares, there would be requirements on them under the GMP.**
 - 1) **Work with County to have them relinquish their water rights not foreseen as being reasonably needed.**
 - 2) **Work with County to have them waive hookup fees to incentivize tying into municipal system and reduce new domestic wells and offer domestic well credit to those abandoning current domestic well and assist in cost-share in abandoning old domestic well in accordance with NRS/NAC.**
 - 3) **Work with County to have them invest in infrastructure to better enable hookups to municipal system.**
 - 4) **County amend water dedication ordinance for new parcels to require shares in an amount that equals 2 acre-feet per year (based on reduction table).**
 - 5) **State Engineer enforce domestic use at or below 2 acre-feet/year.**
 - **Develop an education piece that outlines what typical domestic use at or below 2 af/yr looks like**
 - **Use municipal use surrogates to highlight examples**
 - 6) **State Engineer enforce domestic use only for domestic purposes allowed under Nevada Law (i.e, no commercial use, single-family residence only).**
 - 7) **Aggressive municipal tiered rates that incentivize conservation.**
 - 8) **Education on water use, especially for domestic and municipal uses.**
 - **Landscaping irrigation scheduling, low flow shower heads, etc.**
 - 9) **Waive “use it or lose it” of these uses to minimize unnecessary water use.**
 - 10) **Incentives for xeriscaping.**
7. **Lands retired from irrigation (permanently or set-aside programs)**
- A. **Funds raised through assessment may be used for these purposes but must go through annual, public budgeting process to ensure proper debate and transparency.**
 - B. **Funds may be pursued from grants, gifts, etc. and spent through the GMP for these purposes.**
 - C. **Requirements for weed and rodent control and cover crops;**
 - 1) **Will rely on and work with relevant entities that already have jurisdiction over these items under NRS.**
 - **DV Weed District, DV Rodent District, NV Dept. of Ag**

- 2) GMP generally not likely not able to impose restrictions such as these as there is no clear legal framework to do. But, where funding is raised by and spent through the GMP for water retirement, these requirements would be required in the GMP based on contractual agreements as part of receipt of funding to retire water.
- 3) GMP will also have language encouraging funding mechanisms outside of GMP (e.g., Agricultural Sustainability Trust) to place weed and rodent control and cover crop requirements on lands with water retired.

8. Well-use approvals

- A. For a well to be used to withdraw water under the GMP, it must be linked to a specific water account. A well may not be pumped for any use required to have shares unless it is linked to a specific water account.
 - 1) There will be an annual well charge to keep well active and linked to an account.
 - Shows intent for use under the GMP.
 - Wells kept active and linked to account will be held exempt for abandonment requirements under NRS/NAC.
 - Wells not active will result in consideration for abandonment requirements under NRS/NAC.
 - Wells kept active but unused must have temporary, secure caps placed on them to ensure they are not exposed to open air or sources of contamination.
- B. Wells withdrawing water under the GMP must be from a legal well according to NRS/NAC.
- C. New wells drilled (including replacement wells) will still have to follow applicable well drilling laws and regulations under NRS and NAC and State Engineer retains authority for conflict analysis for new wells.

9. Benchmark pumping reductions outlined in Plan

- A. To provide certainty, and since groundwater level trends may take years to “tease out,” benchmark reductions will be locked in place for the first 10 years. Reductions after 10 years are anticipated to follow the original benchmark reductions but reductions after 10 years may be adjusted, up or down, but annual reductions or increases from the immediate previous year cannot exceed 2%, and will be informed by water level monitoring data multi-year trends.
- B. Benchmark reductions:

Year	Pumping estimate	% Cumulative Reduction	Assumed Efficiency	Assumed Consumptive Use
0	74000	0	0.85	62900
1	71780	3	0.86	61731
2	69560	6	0.87	60517
3	66600	10	0.88	58608
4	62900	15	0.89	55981
5	59200	20	0.91	53872
6	57720	22	0.92	53102
7	56240	24	0.92	51741
8	54760	26	0.92	50379
9	53280	28	0.92	49018
10	51800	30	0.92	47656
11	51060	31	0.92	46975
12	50320	32	0.92	46294
13	49580	33	0.92	45614
14	48840	34	0.92	44933
15	48100	35	0.92	44252
16	47360	36	0.92	43571
17	46620	37	0.92	42890
18	45880	38	0.92	42210
19	45140	39	0.92	41529
20	44400	40	0.92	40848
21	43660	41	0.92	40167
22	42920	42	0.92	39486
23	42180	43	0.92	38806
24	41440	44	0.92	38125
25	40700	45	0.92	37444
26	39960	46	0.92	36763
27	39220	47	0.92	36082
28	38480	48	0.92	35402
29	37740	49	0.92	34721
30	37000	50	0.92	34040

10. Water banking

- A. Banking is of any given portion of an annual allocation (water per share), not core shares.
- B. No timeframe for sale, lease, or use imposed under GMP.
- C. Banked water will not depreciate. When used, it will be at the same amount as when banked.
 - 1) Rick Felling noted a possible depreciation to account for “loss” by continued ET of phreatophytes of water banked – i.e., a portion of water left in the basin continues to be used by plants.
 - GMP will include a section that included:
 - Working with relevant entities to manage and reduce phreatophytes to reduce their consumption of water while assisting transition to non-phreatophytic vegetation.
 - Pursuit of other groundwater enhancement options to offset phreatophyte water use and increase groundwater recharge including, but not limited to:
 - Pinyon-Juniper removal
 - Directing runoff to benefit aquifer
 - Catchment basins

- Rotary subsoiler
 - Cloud seeding
- D. Will include language about reconsidering banking scheme under the GMP once water user pumping equals most current perennial yield estimate.

11. Non-consumptive uses

- A. All non-consumptive uses of water are still under the authority of the GMP. Consideration of non-consumptive uses as allocation non-debit must be analyzed through review and approval of net-depletion analysis by the Authority.
 - 1) No universal calculation for net-depletion analysis – very project specific.
- B. Shares allotted based on source irrigation permit, not current temporary right with applied consumptive use “haircut.”
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- C. Advisory Board
 - 1) 7 members elected by water rights/shareholders.
 - Currently has 8 members represent mining, water rights holder with a primary interest in ranching in Diamond Valley, two fully-senior farmers, and then remaining farmers with both senior and junior rights.
 - 2) AB will elect a chair and vice-chair and conduct meetings and business generally following a procedure such as Robert’s Rule of Order or parliamentary procedure. The AB, through its elected chair, will establish and follow formal agendas when conducting meetings. The Water Manager may be tasked with preparing agenda, taking notes, and preparing meeting minutes or the AB may hire a secretary for these duties depending on funding availability.
 - 3) All elections held for AB members will be held at an annual meeting between November 1 and December 15 where all shareholders may attend, make nominations, and cast their votes.

Nominations will be made from the floor and votes will be weighted according to number of shares a voting shareholder holds. Counting of the votes will be open to view by all shareholders attending the meeting.

- At GMP inception, the current AB members will stay installed for the first 2 years. Petition to forward GMP to State Engineer for approval will be considered ratification inception AB structure.
 - At year 2 of the GMP, 4 farmer seats will be open for elections and one farmer seat will be dropped so AB will have 7 seats.
 - At year 4, the mining seat, the ranching seat, and 1 farming seat will be up for election.
 - At year 6, the 4 farming seats up for election will be replaced with 1 seat to represent agriculture and 3 seats to any shareholder (with any water use interest).
 - At year 8, the mining seat will be elected and ranching seat will transition to a seat for any shareholder (with any water use interest). After year 8 the AB will be made up of 1 mining seat, 2 agriculture seats, and 4 open seats (any shareholder with any water use interest).
 - Elections will be held every 2 years following this alternate seat schedule.
- 4) Any seat that becomes vacant before term is up will be filled by appointment by Authority based on letters of interest and recommendation of the AB and will only fill unexpired term of vacant seat.

13. Water will stay within the Diamond Valley basin (i.e., no out-of-basin transfers) at the inception of the GMP

- A. There will be language in the GMP that out-of-basin transfers may be considered in the future but only with an amendment to the GMP and when water levels have reached some threshold of stabilization.
- 1) Would require a petition signed by a majority of permit holders.

14. NSE retains authority under GMP for no conflict analysis under NRS 533.370 and no impairment under NRS 533.085

- A. Existing rights, including vested rights
- B. Domestic well "protectable interest"
- C. The GMP will not have much description on this conflict analysis and it will be solely up to NSE to do such analysis.
- 1) It is anticipated that well-use approval process will provide a nexus for this analysis by NSE.

15. Draft GMP to State Engineer for in October 2016.

16. Requests for proposals for development and standing up of share and allocation account and trading platform is being pursued.

- A. Proposal is being put together by Waterfind USA
- B. H2OX has been approached

17. Legislation

- A. BDR language submitted:

In a basin designated as a Critical Management Area pursuant to NRS 534.110(7)(a), in consideration of a groundwater management plan submitted to the State Engineer pursuant to NRS 534.037, the State Engineer may, in addition to those powers conferred by law, approve:

- 1) *Limits to the quantity of groundwater that may be withdrawn under any permit or certificate or other use outlined in the plan as long as senior permits or certificates receive more groundwater under the plan than junior permits or certificates;*
- 2) *Conservation practices that might otherwise result in cancellation or forfeiture of the groundwater right pursuant to NRS 533.390, 533.395, 533.410 and 534.090 and exempt those rights from the requirements of NRS 533.390, 533.395, 533.410 and 534.090;*
- 3) *Groundwater use requirements within the critical management area and under the plan not bound to any specific point of diversion, place of use, and manner of use;*
- 4) *Groundwater banking for any unused volume of groundwater granted for use in any given year to be allowed for withdrawal in future years;*
- 5) *Requirements for specific groundwater measuring and data reporting devices;*
- 6) *Local governance, administration, or enforcement of the groundwater management plan while not abrogating any ultimate authority of the State Engineer over the plan;*
- 7) *Assessment of fees on groundwater uses outlined in the plan or receive other funding to expend to administer the groundwater management plan, retire groundwater rights, or implement groundwater conservation practices;*
- 8) *Penalties in accordance with NRS 534.190 through NRS 534.195 for violations with provisions of the plan by any entity under the plan with expenditure of any fines used to administer the groundwater management plan, retire groundwater rights, or implement groundwater conservation practices;*
- 9) *Voluntary relinquishment to the groundwater source a portion of a groundwater right in exchange for exemption from provisions requiring the filing and approval of extensions of time to avoid cancellation and forfeiture during the period the groundwater management plan is in effect, but rights not relinquished would not be exempt from regulation by priority;*
- 10) *Any other actions reasonably related to the implementation of a specific Groundwater Management Plan as outlined in that specific plan.*

A groundwater management plan approved pursuant to NRS 534.037 may continue beyond critical management area designation unless and until a petition is presented to the State Engineer, under the same procedures as NRS 534.037(1) and NRS 534.110(7)(b), to remove the plan.

Diamond Valley Groundwater Management Plan – Fall 2015 Assumptions

- Some type of “Unbundling” share system will be followed. Hybridize Prof. Young’s “Blueprint” to best fit Diamond Valley and local desires
- Perennial yield of 30,000 acre-feet per year is a good number and is number recognized by State Engineer but GMP should focus on sustainability, not numbers, and based on groundwater measurements (data).
 - May change based on soon to be released USGS report
- GMP apply to Diamond Valley hydrographic basin only (Basin 153) and apply to entire basin, not just a portion.
- At least through “test case,” exempt stockwater, domestic, and municipal rights and only include irrigation, mining, and other substantial water uses. All new domestic parcels after this point will bring shares and require totalizing meter (County already requires 2 af be brought forward for new parceling). Other changes from irrigation or mining to one of these grandfathered categories would require staying in the share system (i.e., once a share, always a share, even if the use changes).
- Application for irrigation in DV is ~3 af/ac
- No irrigation season – addressed through annual allocations. Use as you want until allocation for year is depleted, conserve and save for future years, or sell/trade to others for use.

- Duty and priority recognized and addressed in conversion to shares.
- Smart meters on every ag well by March 1, 2016 – even if before full Groundwater Management Plan is implemented – with all meters certified by some common standard or spec.
- No Order by the State Engineer for metering. Will be addressed and required under GMP.
- All existing groundwater permits/certificates/vested rights in good standing with Division of Water Resources will be converted to water shares, regardless of varying levels of extensions of times to put the water to use. If they are in good standing with DWR, they are legal water rights that must be converted to shares.
- Will recognize certain aspects of current Nevada water law, specifically the part of NRS 533.370(2) that ensures water transfers do not conflict with existing rights (in this case uses or shares) or the protectable interest in existing domestic wells.
- No new shares added after initial share conversion UNLESS physical, “new” water is brought into basin or legal requirements mandate changes (i.e., DWR or court ordered mitigation of vested surface water declines by replacement with groundwater).
- Annual Allocations
 - Start out with benchmark reductions from status quo for first few of years, such as 3% reduction in groundwater pumping basin wide each year for 5 years to reach 15% reduction basin wide by the fifth year, then based on groundwater monitoring and basin aquifer response.
- Board – Governance
 - Advisory Board/Community Reference Panel - 5 members nominated by and elected from Diamond Valley groundwater rights holders.
 - Executive Governing Board- 5 to 7 members with relevant technical expertise *inclusive* of a full-time manager who is paid. CEO-type is one of the members. Must be folks with no financial interest in Diamond Valley; they can’t own shares. Board members must be approved by the State Engineer.

Oct. 24, 2016. GMP Mtg

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Oct 24, 2016 GMP mtg

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Sandie Halpin

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Jake Tibbitts

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Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'J.J. Goicoechea'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg'; 'Jessica Santoyo'; 'mccuing@unce.unr.edu'; 'jeffbulkley@gmail.com'; 'corbinknowles@cableone.net'
Subject: Draft GMP submitted to State Engineer
Attachments: Nov 2016 DRAFT Diamond Valley GMP for SE review.docx

All:

I sent the Draft GMP to all of you some time ago. This was sent to the State Engineer. However, the County email system was down for about a week and I have heard from many that they never received it. The County system is back up and running so I am again sending this on to you all.

Keep in mind that this is a draft GMP submitted to the State Engineer for feedback. The draft GMP is consistent with the outline, working model, assumptions, notes, etc. that have been developed by the GMP attendees (all of you) over the past several months (over a year). This document will be the main item of discussion at the next GMP meeting scheduled for December 7. Please come to that meeting prepared to discuss and consider any additions or changes that may be desired by all of you.

Jake Tibbitts
Natural Resources Manager
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Eureka, NV 89316

Jake Tibbitts

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Subject: Save the date - Next Groundwater Management Plan (GMP) Workshop - Wednesday, December 7 at 9 am

Please save the date for the next GMP meeting scheduled for December 7 at 9 am.

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Cc: 'Steve Walker'; Rick Felling; Jason King; Steve Lewis; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu
Subject: GMP meeting reminder - Wednesday, December 7
Attachments: Nov 2016 DRAFT Diamond Valley GMP for SE review.docx

All:

This is a reminder of the GMP meeting next week on Wednesday, December 7, at 9 am at the Opera House.

Have a good weekend.

Jake Tibbitts

Dec. 7, 2016 GMP Mtg.

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Cc: 'Steve Walker'; Rick Felling; Jason King; Steve Lewis; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu
Subject: Save the Date - Next GMP meeting Thursday, January 12 at 9 am

Please save the date for the next GMP meeting scheduled for Thursday, January 12 at 9:00 am at the Opera House.

Merry Christmas and Happy New Years to you all!

Jake Tibbitts
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Cc:
Subject: Next GMP meeting Thursday, January 12 at 9 am
Attachments: 1 5 17 DRAFT DV GMP.docx

This is a reminder of the next GMP meeting scheduled for next Thursday, January 12 at 9:00 am at the Opera House.

Attached is the most recent draft of the GMP. It has incorporated some changes from the previous draft based on discussion and agreement by the full group meeting in December. There are new red-line edits that are Advisory Board suggestions for the groups consideration.

See you all next week.

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JAN. 12, 2017 GMA Mtg

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From: Jake Tibbitts
Sent: Thursday, January 26, 2017 12:14 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurrealde'; 'J.J. Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'Jim Ithurrealde'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkevin@mwpower.net'; 'terrylynbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'; 'rotoone@aol.com'; 'btalbot@generalmoly.com'; 'dbarmranch@mwpower.net'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg; Jessica Santoyo; 'mccuing@unce.unr.edu'
Subject: Save the Date: Next GMP meeting Monday, February 27 at 9 am

Please save the date for the next GMP meeting scheduled for Monday, February 27 9:00 am at the Opera House.

Jake Tibbitts

Jake Tibbitts

From: Jake Tibbitts
Sent: Friday, February 24, 2017 3:55 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurrealde'; 'J.J. Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'Jim Ithurrealde'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkvein@mwpower.net'; 'terriynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'; 'rotoone@aol.com'; 'btalbot@generalmoly.com'; 'dbarmranch@mwpower.net'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg; Jessica Santoyo; 'mccuing@unce.unr.edu'
Subject: GMP Meeting on Monday the 27th at 9 am
Attachments: February 2017 DRAFT DV GMP.docx

All:

The next GMP meeting is Monday (27th) at 9:00 am at the Opera House. The most recent draft of the GMP is attached that incorporates some suggested changes based on the State Engineer's most recent review and the Advisory Board's recommendations. Have a great weekend and see you all on Monday.

Jake Tibbitts

February 27, 2017 GMP Mtg-

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Jake Tibbitts

From: Jake Tibbitts
Sent: Friday, March 17, 2017 9:23 AM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'J.J. Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'Jim Ithurralde'; 'conleyag@gmail.com'; 'huntboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpkewin@mwpower.net'; 'terriynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'; 'rotoone@aol.com'; 'btalbot@generalmolymoly.com'; 'dbarmranch@mwpower.net'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'Steve Lewis'; 'Kelvin Hickenbottom'; 'Jackie Berg; Jessica Santoyo; 'mccuing@unce.unr.edu'
Subject: RE: Legislative Information

The other bill related to GMPs, SB 269, was introduced on Wednesday. You can read more about it at <https://www.leg.state.nv.us/App/NELEIS/REL/79th2017/Bill/5226/Text>.

This is the bill that came out of the Subcommittee to Study Water.

Also, please remember the next GMP meeting will be Monday, April 10.

Happy St. Patrick's Day!

Jake Tibbitts

From: Jake Tibbitts
Sent: Monday, February 27, 2017 1:37 PM
To: 'Lynn Conley' <dnrpca@gmail.com>; 'Anthony Miller' <lionsunlimited@gmail.com>; 'Billy Norton' <nortoncritters@yahoo.com>; 'Bob Burnham' <burnhamhayfarm@msn.com>; 'Carrie Dubray' <lazygbaraqhas@gmail.com>; 'Craig Benson' <haystax@icloud.com>; 'D'Mark Mick' <dmarkmick@firstcommercellc.com>; 'Dale Bugenig' <eurekah2o.bugenig@gmail.com>; 'Dave & Leora Betschart'

April 10, 2017 GMP Mtg.

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May 2, 2017

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Jake Tibbitts

From: Jake Tibbitts
Sent: Friday, May 05, 2017 3:27 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurrealde'; 'J.J. Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'Jim Ithurrealde'; 'conleyag@gmail.com'; 'huntboy@gmail.com'; 'lamarmoyles@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkley@gmail.com'; 'mwpekin@mwpower.net'; 'terrylynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'; 'rotoone@aol.com'; 'btalbot@generalmolymoly.com'; 'dbarmranch@mwpower.net'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg; Jessica Santoyo; 'mccuing@unce.unr.edu'
Subject: RESCHEDULE - Next GMP Meeting on Tuesday May 16

All:

Due to some conflicts, there will not be a GMP meeting next Tuesday the 9th. The next GMP meeting will be Tuesday, May 16th at the Opera House.

Please also remember that there will be an evening meeting on Monday, May 22 at 6 pm at the Opera House.

Finally, early next week you will all receive a copy of the most recent version of the GMP. It will have all of the recent changes made at the full-group meeting and will incorporate edits from the outside editor that has been looking at the document and helping clean it up for better reading.

Let me know if you have any questions. I hope to see you all on May 16.

Best,
Jake Tibbitts

Jake Tibbitts

From: Jake Tibbitts
Sent: Wednesday, May 10, 2017 3:01 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurrealde'; 'J.J. Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandie Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'Jim Ithurrealde'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkeley@gmail.com'; 'mwpkvein@mwpower.net'; 'terrylynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'; 'rotoone@aol.com'; 'btalbot@generalmolymoly.com'; 'dbarmranch@mwpower.net'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg; Jessica Santoyo; 'mccuing@unce.unr.edu'
Subject: Most recent draft GMP and meeting reminder for Tuesday May 16
Attachments: May 2017 Draft DV GMP.docx

Good afternoon. Attached is the most recent draft of the GMP. This draft incorporates all changes agreed to by the full-group attendees over the last few meetings. It also has some readability and grammatical clean-up based on assistance from the outside editor review. There are some red-lines with the most recent draft changes based on the last meeting.

Please also remember the GMP meeting for this coming Tuesday, May 16, at 9:00 am at the Opera House.

Best,

Jake Tibbitts

May 16, 2017 GMP Mtg.

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Jake Tibbitts

From: Jake Tibbitts
Sent: Thursday, May 18, 2017 1:48 PM
To: 'Lynn Conley'; 'Anthony Miller'; 'Billy Norton'; 'Bob Burnham'; 'Carrie Dubray'; 'Craig Benson'; 'D'Mark Mick'; 'Dale Bugenig'; 'Dave & Leora Betschart'; 'Denise Moyle'; 'Dusty Moyle'; 'Fred Etchegaray'; 'Jayme Halpin'; 'Jeff Lommori'; 'Jerry & Trina Machachek'; 'Jerry Sestanovich'; 'Jim Baumann'; 'Jim Gallagher'; 'Jim Ithurralde'; 'J.J. Goicoechea'; 'Ken Conley'; 'Ladd Dubray'; 'Lloyd Morrison'; 'Lynford Miller'; 'Mark Moyle'; 'Martin Etcheverry'; 'Martin Etcheverry'; 'Marty Plaskett'; 'Matthew Morrison'; 'Nick Etcheverry'; 'Paul Etzler'; 'Pete Goicoechea'; 'Robert Beck'; 'Tim & Sandle Halpin'; 'Tim Bailey'; 'Travis Gallagher'; 'schay@live.com'; 'Vickie Buchanan'; 'Wayne Conway'; 'doug@sadlerranch.org'; 'dofr@comcast.net'; 'Patrick Rogers (progers@generalmolymoly.com)'; 'chadbliss@mwpower.org'; 'imrenner@yahoo.com'; 'buckaroodan@gmail.com'; 'rhunt29085@AOL.com'; 'rbjballen2@gmail.com'; 'haystaxwest@gmail.com'; 'matt6560@hotmail.com'; 'bellfarmingco@aol.com'; 'Jim Ithurralde'; 'conleyag@gmail.com'; 'huntnboy@gmail.com'; 'lamarmoyle@gmail.com'; 'jsestanovich@gmail.com'; 'saragroth67@gmail.com'; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; 'Ari Erickson'; 'ropin4fun2@yahoo.com'; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; 'kkinsella@generalmolymoly.com'; 'grothhay@gmail.com'; 'cdubray@frontier.com'; 'bryan562185@gmail.com'; 'Sandy Green'; 'corbinknowles@cableone.net'; 'jeffbulkeley@gmail.com'; 'mwpkvein@mwpower.net'; 'temilynnbrown9@gmail.com'; 'Carol Bailey (rangeriders@yahoo.com)'; 'Jerry & Trina Machachek'; 'dvmfarmgirl@aol.com'; 'ropp91@gmail.com'; 'randye@mwpower.org'; 'Debbie Lassiter'; 'minonancy@hotmail.com'; 'Joseph Martini'; 'countrymortgage@aol.com'; 'andcgo@gmail.com'; 'minoletti3j@yahoo.com'; 'momma_wood@hotmail.com'; 'ab24602@gmail.com'; 'rotoone@aol.com'; 'btalbot@generalmolymoly.com'; 'dbarmranch@mwpower.net'
Cc: 'Steve Walker'; 'Rick Felling'; 'Jason King'; 'Steve Lewis'; 'Kelvin Hickenbottom'; Jackie Berg; Jessica Santoyo; 'mccuing@unce.unr.edu'
Subject: GMP Q&A Meeting - Monday, May 22 at 6 pm
Attachments: DV GMP May 2017 Draft.pdf; DV GMP May 2017 Draft.docx; Diamond Valley priority sorted UG 2017-05-03.xlsx

All:

This is a reminder of the May 22 evening meeting on the Diamond Valley Groundwater Management Plan. The meeting will start at 6:00 pm and the Advisory Board will be in attendance to answer questions. Refreshments will be provided, courtesy of the Conservation District.

Attached is the latest draft of the GMP in both Word and PDF versions. It is nearly at the point of being ready for gathering signatures. If you have questions, concerns, or suggestions, please attend the meeting.

Finally, attached is the most recent water rights abstract (spreadsheet) ordered by priority.

Best,
Jake Tibbitts

DV Groundwater Management Plan Meeting May 22, 2017 6:00 PM

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Jake Tibbitts

From: Jake Tibbitts
Sent: Wednesday, July 26, 2017 4:06 PM
To: Rick Felling; Jason King
Subject: RE: DV GMP for your review
Attachments: DV GMP May 2017 Draft - without appendices.docx

Jason and Rick,

Please see the email below. I'm glad I had the chance to catch Rick last week in Elko at the HRB meeting to find out you never received the draft DV GMP for review at the end of May. I looked back through my emails and it never gave me a notice that it bounced back. But after looking at the file size, it was over 20 MB. Many of the appendices were really creating a large file size due to being copies of PDFs and having many figures. So, I removed the appendices that were making it too large. Attached is the draft GMP without all of the appendices. I'll send a CD or jump drive with the complete draft GMP on it by the end of the week.

Hopefully you'll get the chance to give this your thorough review soon so we can start the process of finalizing it and gathering petition signatures.

Thanks,
Jake

From: Jake Tibbitts
Sent: Tuesday, May 30, 2017 3:44 PM
To: 'Rick Felling' <rfelling@water.nv.gov>; 'Jason King' <jking@water.nv.gov>;
Subject: DV GMP for your review

Dear Jason and Rick,

I've attached the most recent GMP that incorporates all of the changes from previous reviews from your office as well as from the water rights holders that have been attending the meeting. Please note that we tried to provide the GMP to you as a complete package with all of the appendices populated, but there are still a few things that need to be worked into the appendices. The draft GMP itself is complete. As Rick knows, at the May 22 meeting at the Opera House, it was determined by the group that from their perspective, the GMP is at the point where petition signatures can be gathered. However, they did not want to move forward with gathering signatures to find that there was language that you could not accept or you needed clarity on. This would require changes to the GMP and another difficult effort to re-gather signatures.

The document is in Word to assist you in your review. Please don't hesitate to contact me if you have any questions. We look forward to your review.

Best,

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Jake Tibbitts

From: Jake Tibbitts
Sent: Monday, October 02, 2017 9:09 AM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithurrealde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmolymoly.com); chadbliss@mwpower.org; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; Jim Ithurrealde; conleyag@gmail.com; huntboy@gmail.com; lamarmoyale@gmail.com; jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmolymoly.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkeley@gmail.com; mwpkvin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; Jerry & Trina Machachek; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmolymoly.com; dbarmranch@mwpower.net; minoletti5@yahoo.com
Cc: 'Steve Walker'; Rick Felling; Jason King; Steve Lewis; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu
Subject: RE: Save the Date: Next GMP Meeting - Monday, October 9
Attachments: DV GMP May 2017 Draft _NDWR edits.docx

This is a reminder of the next GMP meeting to be held a week from today.

The State Engineer's office completed their review of the Draft GMP. Their edited workup is attached. The main items for next week's meeting will be discussion and addressing of this review and next steps.

Have a great week and see you all next Monday.

Jake

From: Jake Tibbitts
Sent: Tuesday, September 12, 2017 8:27 AM
To: 'Lynn Conley' <dnrpca@gmail.com>; 'Anthony Miller' <lionsunlimited@gmail.com>; 'Billy Norton' <nortoncritters@yahoo.com>; 'Bob Burnham' <burnhamhayfarm@msn.com>; 'Carrie Dubray' <lazygbaraqhas@gmail.com>; 'Craig Benson' <haystax@icloud.com>; 'D'Mark Mick' <dmarkmick@firstcommercellc.com>; 'Dale Bugenig' <eurekah2o.bugenig@gmail.com>; 'Dave & Leora Betschart' <leorabetschart@gmail.com>; 'Denise Moyle' <denisemoyle@gmail.com>; 'Dusty Moyle' <dustymoyle1@gmail.com>; 'Fred Etchegaray' <fred.etchegaray@yahoo.com>; 'Jayme Halpin' <halpin40@hotmail.com>; 'Jeff Lommori'

<dirtandpots@gmail.com>; 'Jerry & Trina Machachek' <jerrytrina@sbcglobal.net>; 'Jerry Sestanovich' <csestanovich@gmail.com>; 'Jim Baumann' <simpsoncreekranch@gmail.com>; 'Jim Gallagher' <JGEU45@gmail.com>; 'Jim Ithurralde' <basqboy@gmail.com>; J.J. Goicoechea <JGoicoechea@EurekaCountyNV.gov>; 'Ken Conley' <bkconley@gmail.com>; 'Ladd Dubray' <directforce_ladd@frontier.com>; 'Lloyd Morrison' <lloyd89316@yahoo.com>; 'Lynford Miller' <lynford.miller@gmail.com>; 'Mark Moyle' <nhc.moyle@gmail.com>; 'Martin Etcheverry' <midgeamachi@aol.com>; 'Martin Etcheverry' <martin@eresheepcompany.com>; 'Marty Plaskett' <diamondvalleyhay@yahoo.com>; 'Matthew Morrison' <matt@mchayneveda.com>; 'Nick Etcheverry' <nicketcheverry@yahoo.com>; 'Paul Etzler' <p_etzler@msn.com>; 'Pete Goicoechea' <Pete.Goicoechea@sen.state.nv.us>; 'Robert Beck' <rbecknet@gmail.com>; 'Tim & Sandie Halpin' <tshalpin@gmail.com>; 'Tim Bailey' <t_cbailey@yahoo.com>; 'Travis Gallagher' <eu93tg@aol.com>; 'schay@live.com' <schay@live.com>; 'Vickie Buchanan' <vckbuchanan@gmail.com>; 'Wayne Conway' <waynenco@gmail.com>; 'doug@sadlerranch.org' <doug@sadlerranch.org>; 'dofr@comcast.net' <dofr@comcast.net>; 'Patrick Rogers (progers@generalmoly.com)' <progers@generalmoly.com>; 'chadbliss@mwpower.org' <chadbliss@mwpower.org>; 'imrenner@yahoo.com' <imrenner@yahoo.com>; 'buckaroodan@gmail.com' <buckaroodan@gmail.com>; 'rhunt29085@AOL.com' <rhunt29085@AOL.com>; 'rbjballen2@gmail.com' <rbjballen2@gmail.com>; 'haystaxwest@gmail.com' <haystaxwest@gmail.com>; 'matt6560@hotmail.com' <matt6560@hotmail.com>; 'bellfarmingco@aol.com' <bellfarmingco@aol.com>; 'Jim Ithurralde' <basqboy@gmail.com>; 'conleyag@gmail.com' <conleyag@gmail.com>; 'huntnboy@gmail.com' <huntnboy@gmail.com>; 'lamarmoyle@gmail.com' <lamarmoyle@gmail.com>; 'jsestanovich@gmail.com' <jsestanovich@gmail.com>; 'saragroth67@gmail.com' <saragroth67@gmail.com>; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)' <Ty@TyEricksonMD.com>; 'Ari Erickson' <Ari@gullsil.com>; 'ropin4fun2@yahoo.com' <ropin4fun2@yahoo.com>; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)' <Jaime.Jasmine@nv.usda.gov>; 'kkinsella@generalmoly.com' <kkinsella@generalmoly.com>; 'grothhay@gmail.com' <grothhay@gmail.com>; 'cdubray@frontier.com' <cdubray@frontier.com>; 'bryan562185@gmail.com' <bryan562185@gmail.com>; 'Sandy Green' <sandygreen01@gmail.com>; 'corbinknowles@cableone.net' <corbinknowles@cableone.net>; 'jeffbulkley@gmail.com' <jeffbulkley@gmail.com>; 'mwpkevin@mwpower.net' <mwpkevin@mwpower.net>; 'terriynnbrown9@gmail.com' <terriynnbrown9@gmail.com>; 'Carol Bailey (rangeriders@yahoo.com)' <rangeriders@yahoo.com>; 'Jerry & Trina Machachek' <jerrytrina@sbcglobal.net>; 'dvmfarmgirl@aol.com' <dvmfarmgirl@aol.com>; 'ropp91@gmail.com' <ropp91@gmail.com>; 'randye@mwpower.org' <randye@mwpower.org>; 'Debbie Lassiter' <debbie.lassiter@elkominggroup.com>; 'minonancy@hotmail.com' <minonancy@hotmail.com>; 'Joseph Martini' <joseph.martini@elkominggroup.com>; 'countrymortgage@aol.com' <countrymortgage@aol.com>; 'andcgo@gmail.com' <andcgo@gmail.com>; 'minoletti3j@yahoo.com' <minoletti3j@yahoo.com>; 'momma_wood@hotmail.com' <momma_wood@hotmail.com>; 'ab24602@gmail.com' <ab24602@gmail.com>; 'rotoone@aol.com' <rotoone@aol.com>; 'btalbot@generalmoly.com' <btalbot@generalmoly.com>; 'dbarmranch@mwpower.net' <dbarmranch@mwpower.net>; 'minoletti5@yahoo.com' <minoletti5@yahoo.com>
Cc: 'Steve Walker' <stevewalker@gbis.com>; 'Rick Felling' <rfelling@water.nv.gov>; 'Jason King' <jking@water.nv.gov>; 'Steve Lewis' <lewisst@UNCE.unr.edu>; 'Kelvin Hickenbottom' <kwhicken@water.nv.gov>; Jackie Berg <JBerg@EurekaCountyNV.gov>; Jessica Santoyo <JSantoyo@EurekaCountyNV.gov>; 'mccuing@unce.unr.edu' <mccuing@unce.unr.edu>

Subject: Save the Date: Next GMP Meeting - Monday, October 9

Importance: High

Please save the date for the next full-group Diamond Valley Groundwater Management Plan meeting to be held **Monday, October 9 at 9:00 am**. The State Engineer's office will have their review of the GMP complete and the main purpose of the meeting on October 9 will be to address the State Engineer's review points.

Attached is the most recent version of the GMP which is the version the State Engineer's office is currently reviewing (without all of the appendices).

Jake Tibbitts
Natural Resources Manager
Eureka County, NV

October 9, 2017 GMP Mtg.

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Bib Burnham	

Jake Tibbitts

From: Jake Tibbitts
Sent: Thursday, November 09, 2017 10:58 AM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithurrealde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmoly.com); 'chadbliss@mwpower.org'; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; Jim Ithurrealde; conleyag@gmail.com; huntboy@gmail.com; lamarmoyle@gmail.com; jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmoly.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkley@gmail.com; mwpkevin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; Jerry & Trina Machachek; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmoly.com; dbarmranch@mwpower.net; minoletti5@yahoo.com; alainam@gmail.com
Cc: 'Steve Walker'; Rick Felling; Jason King; Steve Lewis; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu
Subject: Re: Save the Date: Next GMP Meeting - Wednesday, November 15

This is a reminder of the GMP meeting next Wednesday. This is a very important meeting to attend. There are some important items to go over and make decisions on, including addressing the State Engineer's review points.

Hope you can all make it.

Jake

From: Jake Tibbitts
Sent: Thursday, October 12, 2017 10:41:27 AM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithurrealde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmoly.com); 'chadbliss@mwpower.org'; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; Jim Ithurrealde; conleyag@gmail.com; huntboy@gmail.com; lamarmoyle@gmail.com;

jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmolymoly.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkley@gmail.com; mwpkevin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; Jerry & Trina Machachek; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmolymoly.com; dbarmranch@mwpower.net; minoletti5@yahoo.com; alainam@gmail.com
Cc: 'Steve Walker'; Rick Felling; Jason King; Steve Lewis; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu

Subject: Save the Date: Next GMP Meeting - Wednesday, November 15

Please save the date for the next full-group Diamond Valley Groundwater Management Plan meeting to be held **Wednesday, November 15 at 9:00 am**. There were some relatively significant changes to the GMP discussed at the last meeting based in part on the State Engineer's review of the GMP. The November meeting will be an important one for everybody to attend. Please plan on joining.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

Nov. 15, 2017 GMP mtg.

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Brian Morrison	
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Jake Tibbitts

From: Jake Tibbitts
Sent: Tuesday, November 28, 2017 2:06 PM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithuralde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmoly.com); 'chadbliss@mwpower.org'; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; conleyag@gmail.com; huntnboy@gmail.com; lamarmoyle@gmail.com; jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmoly.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkley@gmail.com; mwpkevin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmoly.com; dbarmranch@mwpower.net; minoletti5@yahoo.com; alainam@gmail.com
Cc: 'Steve Walker'; Rick Felling; Jason King; Steve Lewis; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu
Subject: Save the Date: Next GMP Meeting - Wednesday, December 13

All:

Please save the date for the next full-group Diamond Valley Groundwater Management Plan meeting to be held **Wednesday, December 13 at 9:00 am at the County Commission Chambers (Courthouse).**

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

December 13, 2017 GMP mtg

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Jake Tibbitts

From: Jake Tibbitts
Sent: Tuesday, December 19, 2017 10:26 AM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithurralde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmolymoly.com); 'chadbliss@mwpower.org'; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; conleyag@gmail.com; huntboy@gmail.com; lamarmoyle@gmail.com; jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmolymoly.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkeley@gmail.com; mwpkevin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmolymoly.com; dbarmranch@mwpower.net; minoletti5@yahoo.com; alainam@gmail.com; Mike Worley 'Steve Walker'; Rick Felling; Jason King; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu
Cc:
Subject: Save the Date - GMP meeting January 22

Please save the date for the next full-group Diamond Valley Groundwater Management Plan meeting scheduled for Monday, January 22 at 9:00 am at the Commissioners' Chambers.

From my perspective, it appears that the GMP is getting very close to being complete with a couple important details to still work out. The meeting in January will be very important to attend so these crucial loose ends can be buttoned up.

My very best wishes to each of you and yours during this holiday season.

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

Jan. 22, 2018 GMP Mtg.

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Denise Moyle	Jim Moyle Linda McDonald

Jake Tibbitts

From: Jake Tibbitts
Sent: Tuesday, February 20, 2018 3:53 PM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithurralde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmoly.com); 'chadbliss@mwpower.org'; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; conleyag@gmail.com; huntboy@gmail.com; lamarmoyle@gmail.com; jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmoly.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkley@gmail.com; mwpkevin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmoly.com; dbarmranch@mwpower.net; minoletti5@yahoo.com; alainam@gmail.com; Mike Worley 'Steve Walker'; Jason King; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu; Adam Sullivan
Cc:
Subject: RE: Next GMP meeting, Feb. 21, and most recent draft of GMP
Attachments: GMP Mtg. 1.22.18 Notecards and other written comments on GMP.docx

Another reminder about tomorrow's meeting.

Attached is a list of comments, issues, etc. that came out of the full-group's exercise at the last meeting as well as other comments that have been presented in writing about the GMP over the last couple years. We will be discussing these tomorrow as well.

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Subject: RE: Next GMP meeting, Feb. 21, and most recent draft of GMP

This is a reminder of the GMP meeting next week on the 21st at 9:00 am at the Courthouse. The State Engineer's office completed their review of the most recent draft and it is attached. As noted below, the meeting will also be an opportunity to discuss an Executive Summary and a list of questions and responses for those issues that have been discussed and addressed that continue to come up at these meetings. We will also be discussing the State Engineer assessment needed to administer the GMP.

See you all next week.

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From: Jake Tibbitts

Sent: Friday, January 26, 2018 1:02 PM

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Subject: Next GMP meeting, Feb. 21, and most recent draft of GMP

Please mark your calendars for the next Diamond Valley GMP meeting scheduled for Wednesday, February 21, at 9:00 am at the Commissioners' Chambers in the Courthouse.

Attached is the most recent draft GMP. This version is a clean version with no red-lines or comments included and incorporates all of the edits based on the State Engineer's previous review and the last three full-group meetings. Based on Monday's full group meeting, this version has been sent back to the State Engineer's office for one more review. Also, at meeting on Monday, the group asked the Advisory Board to put together an Executive Summary and a list of questions and responses for those issues that have been discussed and addressed that continue to come up at these meetings.

Depending on the responses from the State Engineer's review, the meeting on February 21 could be a final full-group meeting before moving forward with gathering signatures on the petition to move the plan to the State Engineer for approval.

I hope you all have a great weekend.

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Feb. 21, 2018 GMP Meeting

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March 29, 18 GMP Mtg

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Jake Tibbitts

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Cc:
Subject: GMP meeting reminder - Tuesday, April 24 at 9:00 am
Attachments: DV GMP April 2018 Draft incorporating all edits to date.docx

Good afternoon, all. This is a reminder of the GMP meeting next Tuesday, April 24, at 9:00 am at the Courthouse. Attached is the most recent draft GMP that incorporates all changes accepted by the group at the last meeting and has a few additional red-line changes to be discussed. Also at the meeting next week, we will discuss and work out details on the upcoming petition process and discuss the status of the Executive Summary, Table of Contents, and Frequently Asked Questions/Issues and Concerns Identified document.

See you all there.

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4/24/18 GMP Meeting

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GMP Issues and Concerns Identified Through the Process*

Overarching comment response: This GMP does not address inequities of the past. The GMP starts with current pumping levels and current water rights in good standing and works forward to reduce pumping to sustainable levels.

*Issues or concerns submitted in writing are preserved word-for-word so there may be various grammatical and spelling errors.

- How do we get folks to sign petition that have not attended meetings or are “watching” from the sidelines?
 - Those that support GMP need to work with those that may not be inclined to sign the petition. Understanding the alternative – all junior pumping curtailed – needs to be understood by those choosing not to participate and/or sign the petition.
- While it may be difficult, we should go back and document the big issues and how we got where we are.
 - That’s the purpose of this list and other comments from folks.
- GMP is a voluntary curtailment.
 - Signing the petition to have NSE approve the plan is voluntary. The GMP process has been voluntary. But, when the GMP is approved, all uses that fall under the GMP are required to follow the plan and the GMP is no longer voluntary.
- Does the GMP represent priority?
 - Yes, refer to share allocation in GMP. There is still disagreement from some about the spread between senior and junior water rights holders being 20%.
- How will shares be calculated?
 - Section 12.4
- What is the difference between shares and annual allocation?
 - Sec 12.4; shares are based off the full volume of the base water right with an adjustment based on priority. Sec 13.1 - Allocations change each year and result in water per year (af) based on pumping reductions outlined in the GMP. Shares are used to calculate wet water received in any given year of the GMP based on total water to be allocated according to the pumping reduction table and groundwater monitoring.
- How will annual allocation be determined?
 - In GMP
- Why is there depreciation of banked water?
 - In GMP; NSE requires all ASR-type (aquifer storage and recovery) projects in the State of Nevada to account for losses. While not a an ASR project, the GMP does allow leaving groundwater in the aquifer for use in future years and all of this water “banked” is not available in the future.
- Is an acre feet of water a full share?
 - In GMP. No; shares are based on paper water rights and water allocated each year in acre-feet is based on pumping allowed in that given year.
- Will the state issue the water cut for the next year?
 - 2019 expected to be Year 1 – this change will be made in GMP. NSE meter order in place now. It is recommended that water users use 2018 as if under the GMP including installing the approved meter and tracking water usage.
- Who’s presenting this plan to the County Commissioners? Advisory Board. Are they in support?
 - The County has the opportunity to sign the petition the same as any individual groundwater rights holder does. The AB does not plan on seeking BoCC approval. Individuals can try to convince their elected officials however they deem necessary.
- No one has the right to tell me how to run my farm/land.
 - Pumping reduction plan in GMP does not dictate any land use or farming practice. GMP focuses on water pumping reductions, not how to get there individually.

GMP Issues and Concerns Identified Through the Process*

Overarching comment response: This GMP does not address inequities of the past. The GMP starts with current pumping levels and current water rights in good standing and works forward to reduce pumping to sustainable levels.

*Issues or concerns submitted in writing are preserved word-for-word so there may be various grammatical and spelling errors.

- I'm (I think) a senior water right holder so this shouldn't apply to me. I shouldn't have to change.
 - Some individuals aren't sure about their status and believe they have senior rights, but may not. This is a collective effort that incorporates priority in the way shares are issued. It is intended to meet the vision of shared sacrifice by all with junior rights sacrificing more than seniors to reduce pumping to sustainable levels. This GMP was developed to avoid strict priority curtailment. The GMP was developed under Water Law provisions. If the NSE approves the GMP, he believes it comports with Water Law. No GMP is litigation proof.
- Let them curtail... I'm (I think) a senior right holder and curtailment won't effect me.
 - Some individuals aren't sure about their status and believe they have senior rights, but may not. This is a collective effort that incorporates priority in the way shares are issued. It is intended to meet the vision of shared sacrifice by all with junior rights sacrificing more than seniors to reduce pumping to sustainable levels. This GMP was developed to avoid strict priority curtailment. The GMP was developed under Water Law provisions. If the NSE approves the GMP, he believes it comports with Water Law. No GMP is litigation proof.
 - If you are senior, it is true that a curtailment by priority would allow for continued use of the water you prove you've used. It would not overcome "use it or lose it" and curtailment could endanger water not used under senior permits. There may be other effects beyond just water such as hay marketing ability, rodents, weeds, etc.
- (I believe) I'm a senior right holder but junior holders get more water than me.
 - Per acre, seniors will always have more shares that translate to more water. Looking at a quarter-section collectively, a junior may end up with more water if their corners are water righted and a senior does not have water rights on their corners.
- I'm going to run out of water before this process is over.
 - There are two different ways to run out of water; 1) a well running dry and 2) not having enough water under the GMP with current rights as is. The GMP is a pumping reduction plan that is intended to solve issue 1. The GMP does not guarantee that replacement or deepening of wells will not be required but does work towards reducing pumping to stabilize the water table. For point 2, every water rights holder under the GMP will have to make adjustments in water use practices and/or purchase additional water to meet water demands.
- This plan is going to bankrupt/put me out of business.
 - The GMP does not dictate how one will meet pumping reductions. The GMP allows banking, trading, and sales of water in ways not currently allowed. Every water rights holder under the GMP will have to make adjustments in water use practices and/or purchase additional water to meet water demands.
- Its not possible to grow alfalfa/timothy on anything less than 1,000 GPM.
 - That has been proven to be untrue. Studies in Diamond Valley (see U of I, NIWR of DWR) and data from farmers in DV. GMP does not dictate system or how to use water. Individual fine-tuning of each individual well and system will likely need to occur.
- I can't make a living/grow anything else in Diamond Valley.
 - The GMP does not dictate how one will meet pumping reductions. The GMP allows banking, trading, and sales of water in ways not currently allowed. Every water rights holder under the GMP will have to make adjustments in water use practices and/or purchase additional water to meet water demands.

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- This is just a stop measure by the SWE to get me to forfeit my water rights.
 - The GMP has language to preclude this – Sec. 26 – base rights held in same status as when GMP approved and any subsequent changes following current right change process. Also, recent changes in water law in 2017 session require letter and 1 year to cure if NSE wishes to pursue forfeiture.
- Why have we not received support from our state legislator?
 - Not within the scope of the GMP. The legislature passed AB 419 that allowed a GMP to be developed in the first place as a means to avoid strict curtailment by priority.
- GMP may have been better labeled as water reform.
 - A GMP is allowed in a Critical Mgmt Area (CMA) under current NV Water Law.
- Increase monitoring of annual water level to verify plan is working.
 - The GMP has a heavy monitoring component through the DWR. There is already much groundwater monitoring data in DV to compare to as the GMP progresses. Allocations at year 10 and beyond will be based on water table response which will require detailed monitoring.
- Why does this plan exempt stock water, domestic, and mining water rights? Aren't they groundwater use?
 - Mining rights are not exempt other than a couple that do not have irrigation base rights. All of the exempt uses combined are less than 5% of the total use. The GMP does have provisions related to these rights. The group that developed the GMP did not believe that the efforts needed to include these uses would be worth any benefit to be gained by including them.
- If I had never read the plan and asked to sign my first concern would be priority in the plan.
 - See above. Differing sides still exist on this issue. The 20% was a compromise but there was not unanimity.
- I don't like by starting with dry water in the plan.
 - Valid water rights not used (i.e. "dry") are nonetheless still in good standing. See above about addressing past inequities.
- Why is the senior to junior priority factor spread only 20%? The spread should be higher to give the senior water rights holders more shares.
 - See above. Differing sides still exist on this issue. The 20% was a compromise but there was not unanimity.
- I am a senior water right holder. Why should I give up some of my certificated water to keep junior pumpers from being curtailed under a curtailment scenario?
 - See above. GMP allowance in Water Law is intended to avoid strict curtailment. Some uncertainty on where the senior-junior line is – there is a grey area of seniority.
- I am worried about litigation down the road.
 - The GMP is not litigation proof. The process was intended to involve everybody to find a GMP that would have consensus but it is understood that there are some that may not find the GMP acceptable.
- This plan is an extension of the integrity of this community from the beginning (1950's), to survive as a community and to enjoy the successes of business family, education, county services and lifestyle. We are blazing a new trail no doubt, we cannot fail due to narrow mindedness or inability to see the benefits of this survival, sustainable course of action.

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- See above. The GMP process was intended to involve everybody to find a GMP that would have consensus and full community support but it is understood that there are some that may not find the GMP acceptable.
- **Why are the majority of JR right holders able to dictate what SRS have?**
 - Overappropriation of DV has resulted in this misbalance. The GMP provisions in the Law require a majority of all water rights holders to move a GMP forward. Juniors do outnumber seniors in DV. There are many senior water rights holders that have supported the GMP as written.
- **How is the priority slide determined?**
 - Based on many GMP meetings and workshops where this compromise was determined.
- **Why should SRS sign on to this process?**
 - Each person will have to weigh the benefits of the GMP to decide whether or not to sign. Some things to consider: flexibility, promotes efficient use of a limited resource, community benefits, allows banking and trading of water as a commodity currently not easily done.
- **How does this allow a small producer to continue farming?**
 - The same opportunities exist for each acre of land in DV. The GMP has opportunities built in for water flexibility that do not currently exist for small and large producers. The GMP was not developed to separate benefits based on farm size.
- **How many years can a single pivot without corners farm?**
 - Depends on irrigation practices and water banking and trading. The same opportunities exist for each acre of land in DV. The GMP was not developed based on a single pivot basis.
- **Why are we change it use it or lose it law without requiring proof of beneficial use?**
 - The GMP contemplates all water allocated under the plan to be used at some point. See above if question is related to the issue of paper water. The GMP considers any valid right in good standing to be issued shares.
- **Those with reissued certificates knew they were on the chopping block why are we absolving them.**
 - See header.
- **Junior holders will out-vote seniors at every occasion.**
 - See above.
- **Initial conversion and allocation is not fair to seniors.**
 - See above.
- **1 vote per permit is not fair to seniors.**
 - Water Law gives each permit/certificate a vote.
- **Water that was re-issued needs to go away before we allocate water.**
 - See header.
- **Small acreage owners of senior water will not be able to survive.**
 - See above.
- **Cutting an operation with senior water in half is not fair if they cannot have an equitable vote.**
 - See above.
- **Vote based on converted shares X Priority.**

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- GMP petition does not weigh priority for votes; each permit or certificate, regardless of priority or volume, gets one signature per permit based on Water Law. AB election is weighted by shares which gives more weight to senior shareholders.
- Senior right holders, in particular do not see how they can survive the allotment reductions.
 - See above.
- People without water righted corners feel that they are being unfairly treated.
 - Acre per acre equity
- Many people still don't understand how the plan will affect them quantitatively. They need to be educated.
- Some water right holders i.e. stock water, claim much more water than they have ever used.
 - Provision in GMP to request NSE to address this issue. GMP precludes the exempt uses from being converted to irrigation.
- Some holder still carry old grievance over past inequalities. How do we move past these old grievances.
 - Header.
- Why is the spread from seniority 20%?
 - See above.
- Why are we starting at 76,000 acre feet?
 - NSE has required that this GMP reduce pumping. 76K is the current estimate of pumping, hence, the starting point.
- Why does dry water get a share in the GMP if we are trying to reduce pumping dry water shouldn't get water?
 - Good standing. Pumping cannot exceed starting point of 76K af.
- Why do stock water rights get to vote on petition of GMP if they are not included in the GMP?
 - State law requires all groundwater rights to be able to sign petition.
- Under the meter issue by State Engineer I can use any meter, why is the GMP requiring the Siemens?
 - Group developing GMP wanted to remove arguments about accuracy and the GMP needed to be consistent and uniform.
- Why are we allowing water to be taken out of DV if the owner wants? Shouldn't we keep water in our valley?
 - The GMP as written does **NOT** allow export of water from DV.
- Why have I been going to a meeting every month since April 2015 and understand the GMP but half of the farmers in the valley can't come to 1 meeting and continue to complain why they don't understand?
 - People cannot be forced to participate. The GMP process was an effort to gain consensus and get everybody involved.
- Unfair for people w/o dry water on corners.
 - above
- Unfair for smaller operations vs. larger operations.
 - above
- Ability for future users to move H2O out of the basin.
 - Footnote allows a chance to look at this but does not mean that it will happen. For this to happen will require a majority of water rights holders to approve of a GMP amendment **AND** for the NSE to approve it.
- Destroy all the phreatophytes? Why?

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- The GMP does not call for destruction of phreatophytes. The pumping reductions in the GMP will result in a slower decline of the water table and eventual stabilization thereby decreasing the impact to phreatophytes.
- People don't understand that it's this or strict curtailment by priority.
 - In plan
- People don't realize how much H₂O it takes to grow a crop.
 - The GMP will incentivize efficient use of water.
- With continued over pumping comes a continue of damaging existing rights. Why shouldn't there be a mitigation plan for that in the big plan?
 - Guidance from NSE was that this GMP was to reduce pumping to sustainable levels, not mitigate and real or perceived conflicts. Reductions in pumping will ameliorate impacts due to groundwater pumping over time.
- Recharge over est.
 - USGS report is the best available science. The GMP has language about adjustments to be made based on future studies that come up with a different perennial yield. GMP must use the best available data.
- SR w/o corner severely impacted.
 - above
- Religious groups not voting
 - Can't force participation or signing of GMP.
- 80% is Too Much!!!!
 - See above.
- No compensation for Seniors.
 - This was discussed and guidance from NSE was that the GMP needed to focus on reducing pumping to sustainable levels and not on mitigation of conflicts or impacts.
- Initial inclusion of dry acres.
 - Good standing rights
- Some juniors have more water allocation than seniors.
 - Not on a per acre basis

- Concern about allowing GMP to continue even after CMA designation goes away
 - Legislative change needed for GMP to continue without CMA.
- Despite the over-appropriation that resulted in farmers competing for insufficient groundwater, pre-statutory rights must be protected
 - The GMP was written to exempt vested rights and does not limit the ability for vested rights holders or the State Engineer to take actions to protect vested rights. The GMP reduces pumping and stabilizes the water table providing benefit to all water uses in DV, including vested rights.
- The GMP must allow for the full replacement of vested rights that have been impacted by groundwater pumping of the Diamond Valley aquifer. It must also be capable of incorporating changes in the quantity of those rights as well as the final rights awarded through the adjudication process.
 - The GMP does not limit replacement of vested rights and will have to honor adjudication.

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- No part of the GMP should impinge on our vested water rights in any manner. For example, the quantity of those rights cannot be diminished whether we participate in a trading system or not. Any plan that approves the unauthorized taking or restriction of our water rights for the benefit of other water right holders is prohibited by law and will be considered a taking.
 - GMP does not include vested rights and in no way affects State Engineer or court authority to address conflicts with vested rights. The GMP has explicit language recognizing State Engineer authority to address conflicts.
- To protect our pre-statutory rights, the GMP must ensure that, as soon as practical, groundwater pumping is reduced to a level where there is no further net loss of groundwater from the Diamond Valley Basin's primary aquifer. New pumping rates must be based on sound scientific analysis and verified with robust groundwater modelling and monitoring.
 - It has taken nearly 60 years of over-appropriation and over-pumping to reach the current overdraft situation in DV. The GMP will reduce net-pumping to reach the perennial yield in about half that time or even one-third of that time if the most-aggressive pumping reductions are imposed. The GMP requires stabilization of water levels based on this same timeframe. The GMP reduces pumping from current levels by 30% in the first 10 years and net-pumping to perennial yield and stabilization of water levels within 22 and 35 years. Pumping reductions after Year 10 will be informed by robust groundwater monitoring to ensure stabilization of the water table is occurring.
- The USGS report on Diamond Valley (August, 2016) estimated the perennial yield of the Basin to be 35,000 acre-feet/year. Benchmark pumping reductions should take into account: a. replacing the loss of vested spring flow rights since it was measured by the USGS in 2010 and 2011; b. the loss of groundwater to evapotranspiration as described in the report and listed in Table 17 of the report.
 - See previous response on GMP interaction with vested rights. Water is managed in Nevada based on the perennial yield concept which seeks to "capture" or "salvage" groundwater loss due to ET by phreatophytes. Pumping in DV has yet to capture any significant ET by phreatophytes as noted in the USGS report and the comment. Based on the perennial yield concept, pumping only at 30,000 afa would also, over time, eventually capture ET by phreatophytes. It is very unlikely that valley floor springs will ever flow to the pre-development amounts especially given the fact that mitigation groundwater rights are being pumped very near these springs. The fact is that the GMP will delay full ET capture because of the significant pumping reductions in the GMP.
- If the final plan calls for continued pumping, significant additional permanent impacts to our vested rights as well as our domestic well rights will result. The GMP must include measures to mitigate those impacts.
 - See previous response. The GMP is not a mitigation plan, per se, but a pumping reduction plan which in itself provided mitigation over time.
- The concern that banking groundwater could increase groundwater evapotranspiration. Between the time of Harrill's report in 1968 and this recent USGS report, groundwater evapotranspiration has apparently changed very little; there was essentially no change in groundwater evapotranspiration despite huge changes in the amount of water stored in the aquifer. Relative to the massive declines in water levels, banking of water purchased but not used is unlikely to have a noticeable effect on water levels. These minor effects on groundwater storage are unlikely to impact groundwater evapotranspiration.

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- The State Engineer required analysis to determine the appropriate level of banking depreciation, if any. The analysis in the GMP provided results that suggested depreciation of banked water would be required by the State Engineer.
- **Consumptive mining and domestic rights.** Consumptive mining and domestic rights need to be included in calculations of use within the basin. If they are not subject to reduction, then the amount of water available for other uses must be reduced accordingly.
 - These uses were considered as the GMP was developed. The bulk of all mining rights in DV are subject to the GMP and pumping reductions. While not under the GMP, domestic wells, municipal rights, and stockwater rights are still subject to regulation by the regular State Engineer processes.
- **Rights that are only on paper.** There are about 133,000 acre-feet of water rights on the books and many of these are not currently pumped. If all rights are eligible to be converted into shares and shares are valuable, then the owners of these inactive rights would enter them into the share market. If all 133,000 shares are put in the market, why would pumping in year 1 be limited 76,000 acre-feet?
 - This is a fundamental misunderstanding of how shares are allotted and pumping reduction met. The GMP does convert water rights in good standing to Shares but pumping will be based on current levels a go down. So, the amount of water available in any given year is divided into the number of Shares in DV. It is true that some water rights in good standing have not been used. Analysis completed during the GMP process determined that the large bulk of unused water rights is tied to corners of irrigation circles.
- **Participation of vested rights.** We believe the ability of vested rights to participate in the share system will allow flexibility in the distribution of water among users and will ultimately benefit the owners of both vested and junior rights.
 - Vested rights holders attending the meetings made it very clear that they did NOT wish to be part of the GMP.
- **Unintended impacts of penalties.** If water users will be penalized for going over their allocation, won't most farmers buy more water than they need? If that happens, could shares be unnecessarily tied up by cautious farmers?
 - Since the GMP starts with current pumping levels and only goes down, it is anticipated that not much water will be "tied up." If water were not needed at the current levels pumped, water being used would already be less than 76,000. Some farmers may wish to provide themselves a buffer of water to avoid penalties but it is anticipated that all water allocated under the GMP will be eventually used.
- **Funding of the Authority by owners of vested rights.** Owners of vested rights shouldn't be required to help fund the Authority unless they participate in the share system.
 - The GMP no longer has an Authority. The GMP uses the current special assessment authority of the State Engineer in Nevada Law to fund the GMP AND all other administration by the State Engineer in DV.
- **Effect of share system on small farms.** If farmers who have lost water have to purchase water from the share system to make up for their shortfall, won't small farmers eventually be at a disadvantage to larger operators? Farmers with multiple pivots often have a greater profit margin and can therefore afford to pay more for water than smaller farms. Doesn't that mean that small farms will eventually be outcompeted?
 - See previous response. The GMP provides acre-per-acre equity. Some economies of scale may exist for larger farmers.

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- **Trading system.** The share trading system needs to be described in great detail. Creating an efficient and tamper-proof mechanism for buying and selling shares will take considerable ingenuity, experience and skill.
 - The GMP only allows buying and selling of shares through the same process always followed by the State Engineer for buying and selling of water rights. Sale of water allocations will be done through a similar process with the State Engineer. The State Engineer's office has decades of experience and skill managing water rights.
- **Piping configuration at the meters.** If the configuration of piping above and below meters is important for accurate measurements, specifications for piping should be described.
 - The GMP requires installation according to manufacturer's specs which is spelled out in great detail with the meter documentation. It was determined that including this level of detail in the GMP would be redundant and unnecessary.
- **Plan Amendments and Changes.** The Plan should clearly lay out the process of how the plan would be amended or changed. This would include who would be authorized to recommend changes and what approval would be needed from the State and water users. Would a hearing process be needed?
 - Amendments to the GMP would be required to follow NRS. This would entail getting a majority of water rights holders to sign on to a petition requesting the change. Yes, NRS does require a hearing for approval of a GMP and any amendments.
- **The draft plan does not protect our vested rights because it allows for continued drawdown of the aquifer for the next 30 years and beyond. Similarly, since the Plan would allow groundwater levels to drop indefinitely, any user in Diamond Valley dependent on groundwater would be adversely affected by the Plan.**
 - The GMP has the stated goal of avoiding impairment of vested rights. The GMP does not preclude current efforts to mitigate declines in springs with vested claims and clearly recognizes the authority of the State Engineer to overcome conflicts with existing rights.
 - The GMP does not allow drawdown for "30 years and beyond." It has taken nearly 60 years of over-appropriation and over-pumping to reach the current overdraft situation in DV. The GMP will reduce net-pumping to reach the perennial yield in about half that time or even one-third of that time if the most-aggressive pumping reductions are imposed. The GMP requires stabilization of water levels based on this same timeframe. The GMP reduces pumping from current levels by 30% in the first 10 years and net-pumping to perennial yield and stabilization of water levels within 22 and 35 years.
- **The USGS, in their report issued last August, estimated an annual net loss of 61,000 acre-feet of groundwater from storage in the Diamond Valley aquifer. The draft GMP proposes phasing in a reduction in pumping of up to 28,680 acre-feet per year. This goal for reduction is only half of what the USGS found is needed for sustainability. The GMP also ignores the need to replenish the 6,000 acre-feet that the USGS identified as lost flow from vested spring rights. And the 6,000 acre feet does not account for spring flow declines at the measured springs before the mid-1960s, after the study was completed, or at springs that were not measured. Over the next 30 years, the pumping allowed in the GMP will result in the loss of more than a million acre-feet of groundwater from storage. If 1 foot of drawdown occurs for every 28,000 acre-feet of groundwater withdrawal (Harrill's, 1968 report, Table 13) the result could be another fifty feet of permanent drawdown basin-wide in 30 years. In addition, groundwater levels would continue to decline beyond the 30-year timeline since the cutbacks outlined in the GMP aren't sufficient.**
 - Water is managed in Nevada based on the perennial yield concept which seeks to "capture" or "salvage" groundwater loss due to ET by phreatophytes. Pumping in DV has yet to capture any significant ET by

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phreatophytes as noted in the USGS report and the comment. Based on the perennial yield concept, pumping only at 30,000 afa would also, over time, eventually capture ET by phreatophytes. It is very unlikely that valley floor springs will ever flow to the pre-development amounts especially given the fact that mitigation groundwater rights are being pumped very near these springs. The fact is that the GMP will delay full ET capture because of the significant pumping reductions in the GMP. Based on the comment, one could also argue that increasing pumping, temporarily, is necessary to capture ET as soon as possible because this water is being "lost" from DV.

- It has taken nearly 60 years of over-appropriation and over-pumping to reach the current overdraft situation in DV. The GMP will reduce net-pumping to reach the perennial yield in about half that time or even one-third of that time if the most-aggressive pumping reductions are imposed. The GMP requires stabilization of water levels based on this same timeframe. The GMP reduces pumping from current levels by 30% in the first 10 years and net-pumping to perennial yield and stabilization of water levels within 22 and 35 years.
- The recent ruling from the Nevada Supreme Court to protect Mud Spring requires a mitigation plan to be put in place prior to any pumping from the Moly Mine. If the GMP will result in continued impacts to the vested rights in Diamond Valley, it must also include a plan to mitigate any future impacts of that drawdown.
 - See previous responses. The GMP is not a mitigation plan, per se, but a pumping reduction plan which in itself provides mitigation over time. The GMP does not impair the ability for vested rights holders to be mitigated for any spring declines not does it preclude the State Engineer or a court from doing so. Mitigation of conflicted rights and the GMP development are separate processes.
- I heard third hand (so please forgive me if I have misunderstood the issues) that the State insists on the GMP shall penalize farmers who bank water. The rumor is that Rick Felling is saying that banked water will result in increased loss to phreatophyte and the quantity of water should be reduced if carried forward (like a negative interest rate). The GMP should allow farmers to bank water since a goal of the GMP should be to help farmers where it can. The idea that saving that tiny amount of water will affect phreatophytes is ridiculous.
 - Banking depreciation was determined based on guidance from the State Engineer's office and numerical flow modeling using the best available information.
- My understanding is that we will lose 1/3 (reduced to .661 %) of our water rights in year one because about 50,000 acre feet of currently unused water (some abandon) will be added into the equation, right?
 - This is a fundamental misunderstanding of how shares are allotted and pumping reduction met. The GMP does convert water rights in good standing to Shares but pumping will be based on current levels and go down. So, the amount of water available in any given year is divided into the number of Shares in DV. It is true that some water rights in good standing have not been used. Analysis completed during the GMP process determined that the large bulk of unused water rights is tied to corners of irrigation circles. Very few complete water rights are not being uses. Most "paper water" is tied to currently used permits/certificates.

I believe some 200,000 acre feet, or more, of that unused (some abandon) water could be "banked" just by year four or so. The GMP does not clearly state how this water will be reflected in the yearly allocation formula. Is my water right reduced further by the expanding water "bank" balance? This scheme to profit "use it or lose it" water clearly is destructive to some and benefits others. Especially since it grows by the year, not suffering the cuts the wet water user suffers. Please explain to me how your "banked" water is accounted for in later years in

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the allocation formula or when someone decides to make a withdrawal. Obviously, the acre feet in the "bank" could quickly skyrocket for those that have water that, in my opinion should have been taken off the books.

- See above. Misunderstanding of how system works. Shares allotted does not equal water for use. GMP starts at current pumping levels and goes down. No water rights holder will receive additional reductions based on any banking. Allocations are not affected by amount of water banked in previous years because that water was already allocated and expected to be used. Water rights under the GMP in good standing are converted to Shares. The GMP does not address inequities of the past such as who or who has not used their water rights.
- The Plan does not discuss the impacts of groundwater drawdown, either unchecked as it is now, or reduced as proposed in the Groundwater Management Plan (GMP). Continued drawdown of the aquifer will allow continued farming and economic activity, but at a cost for others, such as domestic well owners, municipal water users, mining interests, vested water right holders, ranchers and even wildlife. The GMP should discuss impacts caused by the projected drawdown in the GMP, including the need to for some users to deepen wells and pay permanently higher electricity costs.
 - There are many reports, studies, testimony, etc. that discusses these things. The GMP has language that alludes to these impacts. All water rights holders in DV and those that have been working on this GMP are well aware of these impacts which are the reasons to move forward with the GMP. Including discussion of this level in the GMP does not gain anything as the GMP moves forward but serves to create a tone of conflict.
- Junior farmers will receive economic benefit from continued pumping, but others will bear a cost; the GMP essentially transfers the groundwater resource from one group to another. Those interests who will be losing access to the resource should be compensated, or the damage to their rights should be mitigated. The GMP contains no discussion of impacts caused by continued draw down, estimates of the costs of impacts or a plan for mitigating these losses. Nor does the Plan discuss the long term consequences of ongoing drawdown on farming itself. Those impacted by the plan should have access to information about its costs and a chance to comment on those costs before the plan is approved.
 - This level of analysis and discussion was not determined to be necessary because of the large range of uncertainties and assumptions such would provide. The GMP seeks to reduce pumping to sustainable levels and stabilize the water table within 22 to 35 years. Water users in DV are well aware of the need to reach this goal. The GMP is not a mitigation plan, per se, but will mitigate impacts as water levels are stabilized.
- Section 3: The Plan claims that, if the GMP is not implemented, the State Engineer must regulate by priority and possibly prohibit pumping of domestic wells. We disagree and believe that the State Engineer can give preference outside of the priority system to domestic users. While sounding the alarm that the State Engineer may curtail domestic wells if the plan isn't enacted, the Plan fails to address the long-term consequences of continued agricultural pumping on domestic wells if the plan is enacted (such as the drying up of domestic wells).
 - Nevada law does allow the State Engineer to designate preferred uses. The GMP does not assume what would be done in this case because it is not a requirement of law. Also, Nevada law regulated domestic use by priority the same as any other use. Section 3 is simply summarizing the statutory sideboards. The NRS specific to GMPs (NRS 534.110(7)(b)) unequivocally states that there is a requirement to regulate domestic wells with other water rights if a GMP is not developed in 10

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years – “If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer *shall order that withdrawals, including, without limitation, withdrawals from domestic wells*, be restricted in that basin to conform to priority rights, unless a groundwater management plan has been approved for the basin pursuant to NRS 534.037.” If the GMP is not enacted, impacts to domestic wells can arguably be much worse since less than a handful of domestic wells in DV are considered senior enough to avoid curtailment by priority.

- GMP addresses exactly the use the comment specifies needs to be addressed - irrigation.
- Section 6, Goal A (Remove CMA designation by stabilizing groundwater levels): The reduction schedule in the GMP will not stabilize GW levels in 35 years. The 2016 USGS Report (See footnote 2 in GMP) describes an overdraft of about 66,900 acre-ft per year: “Estimated net groundwater withdrawal was about 65,000 acre-ft in the southern part and about 1,900 acre-ft in the northern part of Diamond Valley [in 2011-2012]”. In other words, pumping is currently about 66,900 acre-feet too much. To achieve a stable resource, pumping would have to be reduced by 66,900 from 76,000 acre-feet, not a 35,000 acre-foot reduction. The perennial yield goal of 35,000 is based on the amount of water going into the aquifer, and how much used to flow out of it pre-development. It is not an estimate of how much can be safely removed by pumping. The USGS Report found that the loss of groundwater due to plant uptake, evaporation and replenishment of dried up springs approaches 30,000 acre-ft per year. This leaves little left for irrigation pumping.
 - Comment mischaracterizes the USGS report and is a misunderstanding of the use of the perennial yield concept. The USGS report does state that net pumping is 66,900 af. Net pumping is not the same as “overdraft” or “overpumping.” Based on the perennial yield in the report of 35,000, the USGS report concludes that overdraft is 31,900 af. Based on perennial yield, the USGS report does in fact identify 29,000 af of ET that can be captured by groundwater pumping based on the perennial yield concept. This is exactly how NV water law is implemented – capturing water lost by ET. Taking the 6,000 af out of the equation for the springs in the groundwater discharge area leaves 29,000 af still not captured by groundwater pumping in DV. Each basin is in balance before any groundwater pumping takes place. It is recognized that transitional groundwater storage will be used until ET is captured.
- Section 6, Goal G (Avoid impairment of vested rights): Since the overdraft will continue indefinitely and the groundwater table will continue to decline basin-wide, vested rights will be impacted because the ability to withdraw groundwater will be impaired. The current GMP will result in an average Basin-wide drop of 50 feet in the groundwater table over 35 years and a drop of about 5 feet every 10 years after that.
 - The GMP does not allow overdraft to continue indefinitely. It has taken nearly 60 years of over-appropriation and over-pumping to reach the current overdraft situation in DV. The GMP will reduce net-pumping to reach the perennial yield in about half that time or even one-third of that time if the most-aggressive pumping reductions are imposed. The GMP requires stabilization of water levels based on this same timeframe. The GMP reduces pumping from current levels by 30% in the first 10 years and net-pumping to perennial yield and stabilization of water levels within 22 and 35 years. Pumping reductions after Year 10 will be informed by robust groundwater monitoring to ensure stabilization of the water table is occurring. Based on current understanding of the water table, it is expected that pumping reductions will start to stabilize the center of the drawdown area

GMP Issues and Concerns Identified Through the Process*

Overarching comment response: This GMP does not address inequities of the past. The GMP starts with current pumping levels and current water rights in good standing and works forward to reduce pumping to sustainable levels.

*Issues or concerns submitted in writing are preserved word-for-word so there may be various grammatical and spelling errors.

(cone of depression) within just a few years. Also, ET has yet to be substantially captured by groundwater pumping. Capture of ET over time will also assist in stabilizing the water table.

- 11.3: Specific names should not be included in the plan and instead should be replaced by name of the Board positions and a description of the process by which new members selected. The Advisory Board should represent the public as a whole and not individual people.
 - The group developing the GMP wanted the names included so folks that have not participated up to this point would know who to contact for their specific questions, concerns, etc. The names are no longer the main text of the GMP but are referenced in a footnote.

The person representing the interests of those with vested spring rights should be selected by those with vested rights, not be the junior farmers. The interests of those with vested rights can't be represented if our representative is appointed by junior farmers. For example, the Democratic Party does not select which Republican can represent the Republican Party. 11.6.7: Procedure for filling empty Board seats: Non-vested farmers should not be deciding who represents mining interests, vested right interests or the interest of the community at large.

- The AB has no independent power and is simply an advisory body providing a forum for vetting local concerns and bridging the gap with the State Engineer. Any individual interest has the ability to advocate for their own or collective interests outside of the AB and the GMP has specific language allowing folks to petition the State Engineer on decisions without having to go through the AB. Further, there are very few "pure" single interest water rights holders in DV. For example, many of the mines also have farms in DV. Many ranchers are farmers. The group felt that following an election process similar to the County Commission would be useful where a Commissioner represents a specific district but is voted on by the county as a whole.
- Since groundwater is a community resource, a person from the community, perhaps someone dependent on Municipal water or a domestic well, with minimal other financial interests that are effected by the GMP, should be on the Board. That representative should ideally be appointed by the community at large.
 - Domestic wells and municipal uses are exempt from the GMP and the group felt that only those under the GMP should be represented on the AB. Again, the AB is simply an advisory body and has no independent authority.
- 13.9 ET Depreciation: There is no information supporting how the north-south dividing line was delineated. Similarly, support is also lacking for the 17% and 1% depreciation factors. Presumably the depreciation factor simulates the groundwater lost to Groundwater Evapotranspiration (ETgw) (see USGS, 2016 Report for definition of ETgw) when it is stored. If stored groundwater is being lost to ETgw in the Basin, then all groundwater is subject to ETgw loss. If groundwater is lost to ETgw then its not available to pump. Loss of groundwater due to ETgw is described in detail in the 2016 USGS report. These losses should be considered when calculating how much water can be safely pumped by farmers.
 - Appendix J will contain this detailed analysis on the depreciation. The line was derived from Harrill's report from 1966. It is true that pumping in DV has yet to substantially capture ET loss by phreatophytes. This is the water available for groundwater pumping on a "perennial" basis. These losses were considered in development of the GMP and in framing the goals and benchmark pumping reductions. The GMP requires that net-pumping get to perennial yield within 22 to 35 years. It must be understood that pumping reductions will also reduce the rate in which ET will be captured.

GMP Issues and Concerns Identified Through the Process*

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- **13.12: Since determining the rate of pumping reduction is such an important decision, the GMP should describe who will make the decision and the criteria to be used. It should describe how groundwater levels are translated into reduction targets and if groundwater modelling will be used.**
 - **The GMP retains State Engineer authority to make these determinations based on data collection and consultation with the AB. It was determined by the group that the exact process needs to be fairly flexible but still be based on data. Groundwater modeling is an option for use as the GMP progresses. The GMP allows more aggressive pumping reductions to be put in place if the water table is not stabilizing fast enough as determined by the State Engineer. In this case, this would accelerate the GMP by 13 years.**
- **13.13 Perennial yield and a stabilized groundwater levels are two different goals. If both are goals, then the Plan should describe how they are linked. Adjusting the pumping reduction should not be limited by the 2% maximum cumulative adjustment. Pumping reductions should be determined by what is necessary to bring the Basin back into balance. The methodology for determining the Annual Allocation should also be described.**
 - **Yes, the two goals are linked. Until ET is captured, transitional storage will continue to be used with associated water drawdown. However, based on monitoring data in DV, small reductions in pumping have created substantial reductions in drawdown. Based on past monitoring in DV, the pumping reductions in the GMP will result in water levels in the main drawdown cone of depression stabilizing and even rising in a few years. The GMP outlines how the Annual Allocations will be made. It is expected that they will follow the benchmark reductions but can be greater if stabilization is not occurring fast enough. The group wanted some certainty for planning and financing purposes and set this certainty set at the 2% cumulative amount. While the limitation is on the cumulative pumping amount, year-to-year reductions after Year 10 would actually average 1.75% under the benchmark reductions and 3.5% under the most aggressive reductions. Some years could see over 4% reductions based on the immediate previous year. This actually provides a lot of room for the State Engineer to make adjustments as necessary should the water table not respond to the pumping reductions favorably.**
- **15.4 Order 1292 apparently supersedes meter requirements as described by the GMP. The GMP should leave meter requirements and enforcement to the State Engineer.**
 - **The GMP, once approved, would be through an Order of the State Engineer and will supersede previous Orders. If the GMP is approved, the meter requirements and enforcement would be left to the State Engineer. A uniform and highly accurate flow meter is needed to remove arguments about accuracy and to provide consistent data. See flow meter testing from USU that clearly highlighted the large range of variability in meters. The GMP wishes to move past data wrangling and accuracy arguments.**
- **19.3 The Plan should describe how water can be returned to the aquifer in a way that provides a net-benefit (or provide an example).**
 - **One typical example: Mines typically dewater compartmentalized bedrock or carbonate aquifers. Most water in DV is drawn from the alluvial fill aquifer. Removing of water from bedrock for mining and placing the water back in the ground in the alluvium would provide a benefit to the alluvial fill water resource.**
- **23.2 What is the harm in enhancing groundwater recharge?**

GMP Issues and Concerns Identified Through the Process*

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- **There is no harm in this and it is actually recommended in 23.1. The GMP just does not allow for these land management activities to receive Shares or Allocations because of the uncertainties in quantifying the water gained and the durability of long-term maintenance of these activities that cannot be guaranteed.**
- **26.3 Is citation to the NAC correct?**
 - **The citation is to NRS, not NAC, and it is correct.**
- **26.4 There needs to be a better end to the GMP process than to have everything revert back to the way it is today. We don't want to do this again.**
 - **Many agree. However, the law as it reads not requires that the GMP outline measures to remove the basin as a CMA. Currently, a GMP is only allowed in a CMA. This is somewhat of a Catch-22 because if the GMP has worked for 20 to 30 years, it is likely the management the users want to remain under. There has been identified a need to pursue legislation (as was done in the 2017 session) that allows a GMP to be in place indefinitely unless and until water rights holders come together and put something else in place.**

Jake Tibbitts

From: Jake Tibbitts
Sent: Monday, May 07, 2018 9:14 AM
To: Lynn Conley; Anthony Miller; Billy Norton; Bob Burnham; Carrie Dubray; Craig Benson; D'Mark Mick; Dale Bugenig; Dave & Leora Betschart; Denise Moyle; Dusty Moyle; Fred Etchegaray; Jayme Halpin; Jeff Lommori; Jerry & Trina Machachek; Jerry Sestanovich; Jim Baumann; Jim Gallagher; Jim Ithurrealde; J.J. Goicoechea; Ken Conley; Ladd Dubray; Lloyd Morrison; Lynford Miller; Mark Moyle; Martin Etcheverry; Marty Plaskett; Matthew Morrison; Nick Etcheverry; Paul Etzler; Pete Goicoechea; Robert Beck; Tim & Sandie Halpin; Tim Bailey; Travis Gallagher; schay@live.com; Vickie Buchanan; Wayne Conway; doug@sadlerranch.org; dofr@comcast.net; Patrick Rogers (progers@generalmoyle.com); 'chadbliss@mwpower.org'; imrenner@yahoo.com; buckaroodan@gmail.com; rhunt29085@AOL.com; rbjballen2@gmail.com; haystaxwest@gmail.com; matt6560@hotmail.com; bellfarmingco@aol.com; conleyag@gmail.com; huntboy@gmail.com; lamarmoyle@gmail.com; jsestanovich@gmail.com; saragroth67@gmail.com; 'Ty B. Erickson, M.D. (Ty@TyEricksonMD.com)'; Ari Erickson; ropin4fun2@yahoo.com; 'Jasmine, Jaime - Elko, NV (Jaime.Jasmine@nv.usda.gov)'; kkinsella@generalmoyle.com; grothhay@gmail.com; cdubray@frontier.com; bryan562185@gmail.com; Sandy Green; corbinknowles@cableone.net; jeffbulkley@gmail.com; mwpkevin@mwpower.net; terrilynnbrown9@gmail.com; 'Carol Bailey (rangeriders@yahoo.com)'; dvfarmgirl@aol.com; ropp91@gmail.com; randye@mwpower.org; Debbie Lassiter; minonancy@hotmail.com; Joseph Martini; countrymortgage@aol.com; andcgo@gmail.com; minoletti3j@yahoo.com; momma_wood@hotmail.com; ab24602@gmail.com; rotoone@aol.com; btalbot@generalmoyle.com; dbarmranch@mwpower.net; minoletti5@yahoo.com; alainam@gmail.com; Mike Worley; farms4g@yahoo.com
Cc: 'Steve Walker'; Jason King; Kelvin Hickenbottom; Jackie Berg; Jessica Santoyo; mccuing@unce.unr.edu; Adam Sullivan
Subject: GMP update and save the dates for various meetings
Attachments: April 2018 DV GMP final draft without appendices.docx; April 2018 DV GMP final draft without appendices.pdf; 2018 GMP petition process and schedule.docx

All:

At the GMP meeting last week, the group finalized the last few edits of the draft GMP. This included the Executive Summary and Contents sections. Attached is the GMP version that was considered by the group to be the final DRAFT. It is attached in both Word and PDF. It is still a draft and may have various needed grammatical, formatting, or other changes take place. But the group did determine that there are no anticipated changes to the substance of the Plan. This copy does not have all of the appendices populated. That will be complete soon and a full version of the GMP with these appendices will be provided to everybody to download through a link. With all of the appendices in place, the document becomes too large to email.

The group also outlined the schedule and petition process that will be taking place over the next 3 to 4 months. This process is attached as well. In this document, it outlines various upcoming meetings to keep folks informed and to gather signatures on the petition.

Please save the following dates in your calendars:

- Tuesday, June 5 at 6 pm at Opera House

- Roll out GMP and answer questions
 - Gather petitions
- Tuesday, June 26 at 6 pm at Opera House
 - Tally signatures
 - Verify signatures as needed
- Tuesday, July 24 at 6 pm at Opera House
 - Tally signatures
 - Verify signatures as needed
 - Determine if a majority of holders have signed and process to send petition and GMP to State Engineer

Jake Tibbitts
Natural Resources Manager
Eureka County, NV
PO Box 682
Eureka, NV 89316

Phone: 775-237-6010

GMP Petition Process and Schedule - 2018

- 1. GMP packet sent out by May 23; send certified with return receipt**
 - a. Bound GMP with all appendices**
 - b. Petition**
 - c. Cover letter**
 - i. Requesting return by June 22 (30 days)**
 - ii. Noting evening meeting on June 5 at 6:00 pm at Opera House**
- 2. June 5 meeting at Opera House at 6 pm**
 - a. Roll out GMP and answer questions**
 - i. Clarify meeting is not to work on the GMP**
 - b. Gather petitions**
- 3. Full group evening meeting on June 26 at 6 pm at Opera House**
 - a. Tally signatures**
 - b. Verify signatures/ownership as needed**
- 4. Advisory Board and individual gathering of additional petitions**
 - a. June 26 through July 24**
- 5. Full group meeting July 24 at 6 pm**
 - a. Tally signatures**
 - b. Verify signatures/ownership as needed**
 - c. Determine if a majority of holders have signed and process to send petition and GMP to State Engineer**
- 6. If majority met – submit petitions and GMP to State Engineer by August 1 requesting approval**
 - a. Cover letter**
 - i. How majority was met in multiple ways**
 - ii. Document the process that was followed**
- 7. Possible State Engineer hearing in August in Eureka**
- 8. Possible GMP approval by September**

Appendix F – Preliminary Table of Groundwater Rights and Associated Shares

Permit No.	Cert. No.	Priority Date	MOU	Water Right Duty (Acre-Feet)	Owner of Record	Cumulative Duty	Priority Factor	Shares
30927	11110	3/2/1951	IRR	69.120	CHANEY ASSOCIATES,LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST DATED 12/9/13	69.1200	0.9997	69.1024
44606	12431	3/2/1951	IRR	18.880	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST	88.0000	0.9997	18.8752
44609	12433	3/2/1951	IRR	236.800	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST	324.8000	0.9997	236.7397
48871	13200	9/17/1951	IRR	296.495	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY	621.2950	0.9988	296.1493
70588	18508	9/17/1951	IRR	229.105	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY	850.4000	0.9988	228.8378
14948	6406	3/30/1953	IRD	617.200	DONALD F AND ELIZA M. FAMILY TRUST	1467.6000	0.9967	615.1874
44451	11639	3/30/1953	IRR	576.580	DONALD F. AND LIZA M. PALMORE FAMILY TRUST	2044.1800	0.9967	574.6999
53872	14215	3/30/1953	IRR	617.200	PALMORE FAMILY TRUST	2661.3800	0.9967	615.1874
71748	20006	5/9/1955	IRR	506.800	FRED L. ETCHEGARAY AND JOHN J. ETCHEGARAY, A NEVADA PARTNERSHIP	3168.1800	0.9950	504.2556
77447		3/29/1957	MMD	52.400	RUBY HILL MINING COMPANY, LLC	3220.5800	0.9947	52.1230
77449		3/29/1957	MMD	80.000	RUBY HILL MINING COMPANY, LLC	3300.5800	0.9947	79.5771
83506		3/29/1957	MMD	185.600	RUBY HILL MINING COMPANY, LLC	3486.1800	0.9947	184.6189
18242	6510	8/13/1959	IRR	640.000	ANDERSEN, BONNIE G.,ANDERSEN, HARLOW B.	4126.1800	0.9930	635.4907
72370		8/13/1959	IRR	640.000	ANDERSEN, HARLOW B. & BONNIE G.	4766.1800	0.9930	635.4907
18621	6233	3/7/1960	IRD	412.580	MACHACEK, EUNICE & LAVERNE,RUBY HILL MINING COMPANY, LLC	5178.7600	0.9858	406.7362
18622	6234	3/7/1960	IRD	412.580	MACHACEK, LAVERNE & EUNICE,RUBY HILL MINING COMPANY, LLC	5591.3400	0.9858	406.7362
18623	6205	3/7/1960	IRD	673.231	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA,MACHACEK, JERRY L. & TRINA L.,RUBY HILL MINING COMPANY, LLC	6264.5706	0.9858	663.6949
22194	6182	3/7/1960	IRR	536.000	BAILEY, TIMOTHY LEE AND CONSTANCE MARIE	6800.5706	0.9858	528.4081

22195	6183	3/7/1960	IRR	622.000	BAILEY, TIMOTHY LEE AND CONSTANCE MARIE	7422.5706	0.9858	613.1900
22551	6235	3/7/1960	IRR	439.649	MACHACEK, EUNICE & LAVERNE,RUBY HILL MINING COMPANY, LLC	7862.2200	0.9858	433.4222
22648	6358	3/7/1960	IRR	593.440	BENSON, KENNETH F.,BENSON, PATTI E.	8455.6600	0.9858	585.0345
22921	7874	3/7/1960	IRR	593.440	BENSON, KENNETH F.,BENSON, PATTI E.	9049.1000	0.9858	585.0345
22922	7875	3/7/1960	IRR	279.740	BENSON, PATTI E. AND KENNETH F.	9328.8396	0.9858	275.7773
27976	9084	3/7/1960	IRR	504.480	MARSHALL FAMILY TRUST,RAND, JOSEPH & ELLEN	9833.3196	0.9858	497.3345
36321	10136	3/7/1960	IRR	177.707	BENSON, PATTI E. AND KENNETH F.	10011.0269	0.9858	175.1903
36322	10137	3/7/1960	IRR	188.913	BENSON, PATTI E. AND KENNETH F.	10199.9400	0.9858	186.2373
42891	12226	3/7/1960	IRR	77.165	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA	10277.1048	0.9858	76.0718
55727	15957	3/7/1960	IRR	20.556	BAILEY, CAROLYN,BAILEY, FRED	10297.6608	0.9858	20.2648
64630	16943	3/7/1960	IRR	157.122	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA	10454.7827	0.9858	154.8964
64631	16944	3/7/1960	IRR	157.122	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA	10611.9045	0.9858	154.8964
64632	16945	3/7/1960	IRR	39.031	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA	10650.9360	0.9858	38.4786
86032		3/7/1960	IRR	35.320	BENSON, KENNETH F. AND PATTI E.	10686.2560	0.9858	34.8197
86037		3/7/1960	IRR	159.800	BENSON, KENNETH F. AND PATTI E.	10846.0560	0.9858	157.5366
22982	6191	3/9/1960	IRR	1260.800	AMERICAN FIRST FEDERAL	12106.8560	0.9808	1236.6107
24609	7228	3/14/1960	IRD	1108.140	DIAMOND VALLEY RANCH, LLC,SEWELL, J.H. - LIBERTY LIVESTOCK	13214.9960	0.9791	1084.9336
22352	6309	3/21/1960	IRR	129.280	MARK MOYLE FARMS, LLC	13344.2760	0.9779	126.4255
22353	6310	3/21/1960	IRR	632.000	MARK MOYLE FARMS, LLC	13976.2760	0.9779	618.0455
70940	17146	3/21/1960	IRR	502.720	MARK MOYLE FARMS, LLC	14478.9960	0.9779	491.6200
23803	6521	4/11/1960	IRR	684.800	MILLER, ANTHONY	15163.7960	0.9753	667.8906
83622		4/11/1960	IRR	836.000	LC PROPERTIES	15999.7960	0.9753	815.3571
22566	6561	4/22/1960	IRR	468.000	BUFFHAM, JAMES OR PAMELA,MILLER, LAVON AND KRISTI	16467.7960	0.9704	454.1384
22567	6562	4/22/1960	IRR	468.000	BUFFHAM, JAMES OR PAMELA,MILLER, LAVON AND KRISTI	16935.7960	0.9704	454.1384
23272	6303	4/22/1960	IRR	640.000	BURNHAM FARMS, LLC,BURNHAM, ROBERT O.	17575.7960	0.9704	621.0440
24574	7013	4/22/1960	IRD	680.680	MORRISON, D. LLOYD	18256.4760	0.9704	660.5191
28641	9226	4/22/1960	IRR	640.000	BURNHAM FARMS, LLC	18896.4760	0.9704	621.0440
29405	9671	4/22/1960	IRR	591.320	MORRISON, D. LLOYD	19487.7960	0.9704	573.8059
50963	13183	4/22/1960	IRR	172.000	KOBEH VALLEY RANCH LLC	19659.7960	0.9704	166.9056
57838	15993	4/22/1960	IRR	172.000	KOBEH VALLEY RANCH LLC	19831.7960	0.9704	166.9056

70249	6302	4/22/1960	IRR	1270.800	BURNHAM, ROBERT O.	21102.5960	0.9704	1233.1605
18786	5756	5/2/1960	IRD	640.000	RUTH MARTIN RANCHES, LLC	21742.5960	0.9626	616.0708
18787	5757	5/2/1960	IRD	640.000	RUTH MARTIN RANCHES, LLC	22382.5960	0.9626	616.0708
18788	5758	5/2/1960	IRD	640.000	RUTH MARTIN RANCHES, LLC	23022.5960	0.9626	616.0708
18789	5759	5/2/1960	IRD	640.000	RUTH MARTIN RANCHES, LLC	23662.5960	0.9626	616.0708
18794	6480	5/2/1960	IRD	480.000	MOYLE, DENISE L. AND HICKS, DEANNE M.	24142.5960	0.9626	462.0531
18796	6482	5/2/1960	IRD	640.000	SMITH, CRAIG ALLEN & SHELBA KAY	24782.5960	0.9626	616.0708
18797	6483	5/2/1960	IRD	640.000	SMITH, CRAIG ALLAN & SHELBA KAY	25422.5960	0.9626	616.0708
28036	8415	5/3/1960	IRR	277.000	BAILEY, CAROYLN,BAILEY, FRED	25699.5960	0.9589	265.6139
48948	13361	5/3/1960	IRR	478.560	BAILEY, CAROLYN,BAILEY, FRED	26178.1560	0.9589	458.8887
18802	6024	5/4/1960	IRR	640.000	FRED L. ETCHEGARAY AND JOHN J. ETCHEGARAY, A NEVADA PARTNERSHIP	26818.1560	0.9575	612.8009
18834	5988	5/12/1960	IRR	1276.230	NEWTON, DEBRA L.	28094.3860	0.9545	1218.1188
18835	5987	5/12/1960	IRR	1277.800	NEWTON, DEBRA L.	29372.1860	0.9545	1219.6173
18851	6831	5/16/1960	IRD	512.440	GALLAGHER FARMS, LLC	29884.6260	0.9522	487.9577
70587	18507	5/16/1960	IRR	123.560	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY	30008.1860	0.9522	117.6568
83616		5/16/1960	IRR	544.000	J & T FARMS LLC	30552.1860	0.9522	518.0099
24127	6884	5/18/1960	IRR	640.000	CONAWAY, DALE R.,CONAWAY, ELMA G.	31192.1860	0.9491	607.4060
24128	6883	5/18/1960	IRR	640.000	CONAWAY, DALE R.,CONAWAY, ELMA G.	31832.1860	0.9491	607.4060
24129	7005	5/18/1960	IRR	620.400	MORRISON, ALBERTA J.,MORRISON, DONALD E.	32452.5860	0.9491	588.8042
24130	7006	5/18/1960	IRR	620.400	MORRISON, ALBERTA J.,MORRISON, DONALD E.	33072.9860	0.9491	588.8042
24264	6961	6/3/1960	IRR	928.920	BUFFHAM, JAMES OR PAMELA,DIAMOND VALLEY HAY CO., INC.	34001.9060	0.9446	877.4361
24265	6962	6/3/1960	IRR	944.000	BUFFHAM, JAMES OR PAMELA,DIAMOND VALLEY HAY CO., INC.	34945.9060	0.9446	891.6803
57839		6/3/1960	IRR	156.460	KOBEH VALLEY RANCH LLC	35102.3660	0.9446	147.7884
57840		6/3/1960	IRR	156.460	KOBEH VALLEY RANCH LLC	35258.8260	0.9446	147.7884
66062		6/3/1960	IRR	303.080	KOBEH VALLEY RANCH LLC	35561.9060	0.9446	286.2823
18978	6517	6/6/1960	IRD	730.679	BENSON, CRAIG AND KATHRYN,COOPER, CHARLES C.	36292.5848	0.9417	688.0805
80799		6/6/1960	MMD	123.306	BLISS, CHAD D. & ROSIE J.	36415.8908	0.9417	116.1173
81229		6/6/1960	MMD	39.200	BLISS, CHAD D. & ROSIE J.	36455.0908	0.9417	36.9147
81612		6/6/1960	MMD	222.500	GARAVENTA, GARY G AND MELODY I	36677.5908	0.9417	209.5283
81653		6/6/1960	MMD	222.500	GARAVENTA, GARY G AND MELODY I	36900.0908	0.9417	209.5283
83504		6/6/1960	MMD	100.000	BLISS, CHAD D. & ROSIE J.	37000.0908	0.9417	94.1700
87315T		6/6/1960	MMD	123.306	RUBY HILL MINING COMPANY, LLC	37123.3968	0.9417	116.1173

42019	11844	6/6/1960	IRR	325.041	BENSON, CRAIG AND KATHRYN	37448.4380	0.9417	306.0915
18911	6814	6/8/1960	IRD	1176.000	HILL, HOWARD SR.,HILL, KATHY	38624.4380	0.9388	1104.0194
18927	6085	6/14/1960	IRD	640.000	A.G. FARM COMMODITIES, INC.,HOVIOUS, JOHN R.	39264.4380	0.9373	599.8533
18928	6084	6/14/1960	IRD	640.000	A.G. FARM COMMODITIES, INC.,HOVIOUS, JOHN R.	39904.4380	0.9373	599.8533
18975	6488	7/1/1960	IRD	727.280	SESTANOVICH HAY & CATTLE LLC,SESTANOVICH RANCHES	40631.7180	0.9352	680.1615
34950	10550	7/1/1960	IRR	502.720	SESTANOVICH HAY & CATTLE LLC	41134.4380	0.9352	470.1502
18981	6520	7/6/1960	IRD	80.760	BENSON, CRAIG AND KATHRYN,COOPER, ERMYLE R.	41215.1980	0.9338	75.4150
39552	11804	7/6/1960	IRR	552.120	BENSON, CRAIG AND KATHRYN	41767.3180	0.9338	515.5786
39553	11805	7/6/1960	IRR	543.240	BENSON, CRAIG AND KATHRYN	42310.5580	0.9338	507.2863
18988	6163	7/8/1960	IRD	638.000	SESTANOVICH HAY AND CATTLE	42948.5580	0.9314	594.2539
18989	6164	7/8/1960	IRD	640.000	SESTANOVICH HAY & CATTLE LLC	43588.5580	0.9314	596.1168
18999	6734	7/11/1960	IRD	91.200	COOPER, CHARLES E.	43679.7580	0.9278	84.6144
21426	6720	7/11/1960	IRR	640.000	MORRISON, LLOYD & BELINDA FAYE	44319.7580	0.9278	593.7854
21839	6733	7/11/1960	IRR	632.000	BERGENER, LINDA AND DON	44951.7580	0.9278	586.3631
21841	6736	7/11/1960	IRR	632.000	MICHEL & MARGARET ETHCEVERRY FAMILY LP	45583.7580	0.9278	586.3631
21843	6715	7/11/1960	IRR	624.000	MORRISON, LLOYD AND BELINDA FAYE	46207.7580	0.9278	578.9408
21844	6718	7/11/1960	IRR	632.000	M & C HAY MORRISON TRUST DATED MARCH 26, 2016	46839.7580	0.9278	586.3631
42021	11846	7/11/1960	IRR	548.800	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016	47388.5580	0.9278	509.1710
19014	6860	7/13/1960	IRR	640.000	J & T FARMS, LLC	48028.5580	0.9235	591.0115
83615		7/13/1960	IRR	189.360	J & T FARMS LLC	48217.9180	0.9235	174.8655
83617		7/13/1960	IRR	442.640	J & T FARMS LLC	48660.5580	0.9235	408.7583
19052	5989	7/21/1960	IRD	0.000	NEWTON, DEBRA L.	48660.5580	0.9229	0.0000
19053	5990	7/21/1960	IRR	0.008	NEWTON, DEBRA L.	48660.5660	0.9229	0.0074
19110	6963	8/10/1960	IRD	640.000	MARK MOYLE FARMS, LLC	49300.5660	0.9214	589.6837
19111	6964	8/10/1960	IRD	622.000	MILES, HAROLD R.,MILES, MURIEL M.	49922.5660	0.9214	573.0988
43268	11523	8/12/1960	IRR	782.100	MARK MOYLE FARMS, LLC	50704.6660	0.9196	719.2571
21428	6722	8/22/1960	IRR	465.960	BENSON, PATTI E. AND KENNETH F.	51170.6260	0.9188	428.1229
86035		8/22/1960	IRR	142.040	BENSON, KENNETH F. AND PATTI E.	51312.6660	0.9188	130.5060
19145	6719	8/24/1960	IRD	640.000	MOYLE, JAMES L.,MOYLE, NANCY J.	51952.6660	0.9177	587.3093
24606	7229	9/7/1960	IRD	1232.000	DIAMOND VALLEY RANCH, LLC	53184.6660	0.9157	1128.1652
19191	6824	9/9/1960	IRD	524.300	ANDERSON, JERRY LEE	53708.9660	0.9144	479.4277
19192	6769	9/9/1960	IRD	596.600	HALPIN FAMILY TRUST	54305.5660	0.9144	545.5399
19218	6713	9/23/1960	IRD	362.400	EUREKA MOLY LLC	54667.9660	0.9130	330.8663
19218	6713	9/23/1960	IRD	348.560	MILLER, OWEN J. AND CHERYL	55016.5260	0.9130	318.2306

19218	6713	9/23/1960	IRD	24.720	WALTER, NORBERT AND EILEEN B.	55041.2460	0.9130	22.5690
24607	7043	9/29/1960	IRD	1232.000	DIAMOND VALLEY RANCH, LLC	56273.2460	0.9108	1122.1352
21929	6189	10/6/1960	IRR	630.400	DIAMOND VALLEY RANCH, LLC	56903.6460	0.9083	572.6177
21930	6215	10/6/1960	IRR	635.200	AMERICAN FIRST FEDERAL	57538.8460	0.9083	576.9778
22316	6190	10/6/1960	IRR	628.800	AMERICAN FIRST FEDERAL	58167.6460	0.9083	571.1644
78906		10/6/1960	IRR	584.400	DIAMOND VALLEY RANCH LLC	58752.0460	0.9083	530.8341
21399	6504	10/10/1960	IRR	1013.168	MICHEL AND MARGARET ANN ETCHEVERRY FAMILY LIMITED PARTNERSHIP	59765.2140	0.9053	917.2112
19279	6870	10/17/1960	IRR	332.000	DUBRAY, FERNO L. & CARRIE M., GENERAL MOLY, INC.	60097.2140	0.9045	300.3028
44621	12228	10/17/1960	IRR	0.000	RUBY HILL MINING COMPANY, LLC	60097.2140	0.9045	0.0000
48226	11908	10/17/1960	IRR	300.000	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016	60397.2140	0.9045	271.3579
64633	16946	10/17/1960	IRR	0.000	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA	60397.2140	0.9045	0.0000
19292	6195	10/24/1960	IRD	559.200	DAMELE FARMS, INC.	60956.4140	0.9024	504.6288
19293	6279	10/24/1960	IRD	529.600	DAMELE FARMS, INC.	61486.0140	0.9024	477.9174
23739	6723	10/24/1960	IRR	9.000	EUREKA MOLLY, LLC	61495.0140	0.9024	8.1217
23739	6723	10/24/1960	IRR	893.760	MILLER, OWEN J. AND CHERYL	62388.7740	0.9024	806.5397
35418	10861	11/2/1960	IRR	4.000	RUBIO, DAVID M., RUBIO, SALLY R.	62392.7740	0.9008	3.6033
47521	11617	11/2/1960	IRR	168.240	ANDERSON, EDWARD B.	62561.0140	0.9008	151.5543
85134		11/2/1960	IRR	240.000	RENNER, IRA R. AND MONTIRA	62801.0140	0.9008	216.1973
19324	6549	11/9/1960	IRD	632.000	SESTANOVICH HAY & CATTLE LLC, WILBANKS, LEROY WINDELL	63433.0140	0.8995	568.4701
19360	6490	11/25/1960	IRD	620.000	ETCHEGARAY FAMILY TRUST	64053.0140	0.8980	556.7626
19361	6491	11/25/1960	IRD	620.000	ETCHEGARAY FAMILY TRUST	64673.0140	0.8980	556.7626
78771		12/5/1960	IRR	362.400	J.W.L. PROPERTIES, LLC	65035.4140	0.8969	325.0356
78774		12/5/1960	IRR	52.000	J.W.L. PROPERTIES, LLC	65087.4140	0.8969	46.6387
19378	7235	12/9/1960	IRR	949.564	MOYLE, DUSTY L.	66036.9779	0.8937	848.6426
19379	6784	12/9/1960	IRD	632.000	MOYLE, DUSTY L.	66668.9779	0.8937	564.8299
19381	6785	12/9/1960	IRR	960.000	MOYLE, DUSTY L.	67628.9779	0.8937	857.9695
24605	7078	12/9/1960	IRR	306.436	MOYLE, DUSTY L.	67935.4140	0.8937	273.8675
19411	7025	12/19/1960	IRD	384.000	HOMESTAKE MINING COMPANY OF CALIFORNIA, RUBY HILL MINING COMPANY, LLC	68319.4140	0.8916	342.3712
73204		12/19/1960	MM	16.000	RUBY HILL MINING COMPANY, LLC	68335.4140	0.8916	14.2655
79706		12/19/1960	MMD	48.000	RUBY HILL MINING COMPANY, LLC	68383.4140	0.8916	42.7964
85646		12/19/1960	MMD	65.000	RUBY HILL MINING COMPANY, LLC	68448.4140	0.8916	57.9535
87314T		12/19/1960	MMD	113.000	RUBY HILL MINING COMPANY, LLC	68561.4140	0.8916	100.7498
19490	6807	1/25/1961	IRD	0.000	SOLARLIOS LLC	68561.4140	0.8914	0.0000
19492	6786	1/27/1961	IRD	624.000	CONLEY, BEVERLY A. AND CONLEY, KENNETH E.	69185.4140	0.8878	553.9950

19492	6786	1/27/1961	IRD	632.000	MOYLE, DUSTY L.	69817.4140	0.8878	561.0975
19500	7464	1/27/1961	IRR	664.400	CONLEY LAND & LIVESTOCK, LLC	70481.8140	0.8878	589.8626
19501	7465	1/27/1961	IRD	657.920	CONLEY LAND & LIVESTOCK, LLC	71139.7340	0.8878	584.1096
19502	7517	1/27/1961	IRR	609.080	CONLEY LAND & LIVESTOCK, LLC	71748.8140	0.8878	540.7488
22217	7576	1/27/1961	IRR	644.280	CONLEY LAND AND LIVESTOCK LLC	72393.0940	0.8878	571.9998
19526	6759	2/3/1961	IRD	1204.000	BAUMAN, JAMES E.,BAUMAN, VERA L.	73597.0940	0.8834	1063.5787
87115T		2/8/1961	IRR	418.670	DIAMOND VALLEY RANCH, LLC	74015.7640	0.8823	369.3948
87116T		2/8/1961	IRR	146.530	DIAMOND VALLEY RANCH, LLC	74162.2940	0.8823	129.2842
87117T		2/8/1961	IRR	468.000	DIAMOND VALLEY RANCH, LLC	74630.2940	0.8823	412.9190
19563	6258	2/13/1961	IRD	1279.480	PLASKETT, TOMMYE J.,PLASKETT, WALTER L.	75909.7740	0.8797	1125.5664
19760	6797	4/18/1961	IRD	1276.000	BURNHAM FARMS, LLC	77185.7740	0.8767	1118.7180
24272	7072	4/18/1961	IRR	640.000	BURNHAM FARMS, LLC,EDEN ESTATES, LLC	77825.7740	0.8767	561.1125
46505	13353	4/18/1961	IRR	510.400	BURNHAM FARMS, LLC	78336.1740	0.8767	447.4872
19904	6484	6/6/1961	IRR	0.000	DIAMOND VALLEY RANCH, LLC	78336.1740	0.8759	0.0000
19965	6764	7/3/1961	IRD	632.000	BAR D LAND & LIVESTOCK, LLC,RAND, JOSEPH L. AND ELLEN M.	78968.1740	0.8733	551.9505
19966	7041	7/3/1961	IRR	218.200	BAR D LAND & LIVESTOCK, LLC,RAND, JOSEPH L. & ELLEN M.	79186.3740	0.8733	190.5627
19971	8082	7/3/1961	IRD	0.000	PLASKETT, TOMMYE J.,PLASKETT, WALTER L.	79186.3740	0.8733	0.0000
19972	6241	7/3/1961	IRR	456.893	PLASKETT, TOMMYE J.,PLASKETT, WALTER L.	79643.2670	0.8733	399.0226
19973	6242	7/3/1961	IRR	456.893	PLASKETT, TOMMYE,PLASKETT, WALTER	80100.1600	0.8733	399.0226
28160	9043	7/3/1961	IRR	0.000	PLASKETT, TOMMYE J.,PLASKETT, WALTER L.	80100.1600	0.8733	0.0000
34948	10615	7/3/1961	IRR	180.287	PLASKETT, TOMMYE J.,PLASKETT, WALTER L.	80280.4468	0.8733	157.4516
46348	11793	7/3/1961	IRR	187.247	PLASKETT, TOMMYE J.,PLASKETT, WALTER L.	80467.6940	0.8733	163.5304
78447		7/3/1961	IRR	0.000	BAR D LAND & LIVESTOCK, LLC	80467.6940	0.8733	0.0000
80581		7/3/1961	IRR	405.800	BAR D LAND & LIVESTOCK, LLC	80873.4940	0.8733	354.4011
20000	6991	7/24/1961	IRD	0.000	MOYLE, DUSTY L.	80873.4940	0.8717	0.0000
78772		7/24/1961	IRR	128.000	J.W.L. PROPERTIES, LLC	81001.4940	0.8717	111.5826
20015	6760	7/28/1961	IRD	0.000	MOYLE, DUSTY L.	81001.4940	0.8716	0.0000
20046	6545	8/23/1961	IRR	640.000	BURNHAM FARMS, LLC	81641.4940	0.8706	557.1988
20087	6173	9/19/1961	IRD	0.000	DIAMOND VALLEY RANCH, LLC	81641.4940	0.8706	0.0000
20088	6227	9/19/1961	IRD	16.000	DIAMOND VALLEY RANCH, LLC	81657.4940	0.8706	13.9294
24262	6959	9/19/1961	IRR	7.540	BUFFHAM, JAMES OR PAMELA,DIAMOND VALLEY HAY CO., INC.	81665.0340	0.8706	6.5642

24263	6960	9/19/1961	IRR	7.540	BUFFHAM, JAMES OR PAMELA, DIAMOND VALLEY HAY CO., INC.	81672.5740	0.8706	6.5642
57835		9/19/1961	IRR	0.000	KOBEH VALLEY RANCH LLC	81672.5740	0.8706	0.0000
57836		9/19/1961	IRR	0.000	KOBEH VALLEY RANCH LLC	81672.5740	0.8706	0.0000
20366	6196	3/14/1962	IRR	638.310	MARK MOYLE FARMS, LLC	82310.8840	0.8696	555.0503
21561	6958	3/21/1962	IRR	3.000	EUREKA MOLY LLC	82313.8840	0.8693	2.6080
21561	6958	3/21/1962	IRR	132.560	MILLER, OWEN J. AND CHERYL	82446.4440	0.8693	115.2395
21561	6958	3/21/1962	IRR	24.720	WALTER, NORBERT AND EILEEN B.	82471.1640	0.8693	21.4900
81650		3/21/1962	IRR	106.448	EUREKA MOLY, LLC	82577.6120	0.8693	92.5393
80780		5/23/1962	IRR	0.000	SESTANOVICH HAY & CATTLE LLC	82577.6120	0.8691	0.0000
80781		5/23/1962	IRR	0.000	SESTANOVICH HAY & CATTLE LLC	82577.6120	0.8691	0.0000
20487	7352	5/25/1962	IRR	510.800	BUFFHAM, JAMES OR PAMELA, MARSHALL, REESE W.	83088.4120	0.8682	443.4907
50962	13182	5/25/1962	IRR	129.200	KOBEH VALLEY RANCH LLC	83217.6120	0.8682	112.1750
20565	6942	7/12/1962	IRR	250.000	MINOLETTI, JOHN B. AND NANCY M	83467.6120	0.8677	216.9323
20694	6503	9/6/1962	IRD	0.000	MICHEL AND MARGARET ANN ETCHEVERRY FAMILY LIMITED PARTNERSHIP	83467.6120	0.8677	0.0000
48872	13201	12/10/1962	IRR	203.540	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY	83671.1520	0.8667	176.4103
67172	17329	12/10/1962	IRR	495.070	MARK MOYLE FARMS, LLC	84166.2220	0.8667	429.0824
78568	18992	12/10/1962	IRR	327.800	MARK MOYLE FARMS, LLC	84494.0220	0.8667	284.1077
21085	6485	2/18/1963	IRD	623.600	MILLER, ANTHONY	85117.6220	0.8651	539.4854
43270	11525	8/7/1963	IRR	217.900	MARK MOYLE FARMS, LLC	85335.5220	0.8648	188.4332
83623		8/16/1963	IRR	402.000	LC PROPERTIES	85737.5220	0.8641	347.3811
23738	6529	10/30/1963	IRR	0.000	EUREKA MOLLY, LLC, MILLER, OWEN J. AND CHERYL	85737.5220	0.8641	0.0000
44452	11640	3/4/1964	IRR	637.020	DONLAD F. AND ELIZA M. PALMORE FAMILT TRUST	86374.5420	0.8631	549.8264
40010	10593	8/6/1964	IRR	458.640	THE LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST DATED DEC.9,2013	86833.1820	0.8620	395.3635
40011	10594	8/6/1964	IRR	108.590	BURNHAM FARMS, LLC	86941.7720	0.8620	93.6083
80879	19853	8/6/1964	IRR	249.520	NORTON, WILLIAM H JR AND PATRICIA A	87191.2920	0.8620	215.0948
80880	19854	8/6/1964	IRR	87.280	NORTON, WILLIAM H JR AND PATRICIA A	87278.5720	0.8620	75.2384
79707		10/19/1964	MMD	3.000	RUBY HILL MINING COMPANY, LLC	87281.5720	0.8614	2.5843
83501		10/19/1964	MMD	10.000	RUBY HILL MINING COMPANY, LLC	87291.5720	0.8614	8.6143
83502		10/19/1964	MMD	55.200	RUBY HILL MINING COMPANY, LLC	87346.7720	0.8614	47.5507
83507		10/19/1964	MMD	134.800	RUBY HILL MINING COMPANY, LLC	87481.5720	0.8614	116.1202
85647		10/19/1964	MMD	35.000	RUBY HILL MINING COMPANY, LLC	87516.5720	0.8614	30.1499

68923		10/19/1964	IRR	236.000	RUBY HILL MINING COMPANY, LLC	87752.5720	0.8614	203.2966
83505		2/22/1965	MMD	105.454	RUBY HILL MINING COMPANY, LLC	87858.0256	0.8606	90.7542
85645		2/22/1965	MMD	206.134	RUBY HILL MINING COMPANY, LLC	88064.1600	0.8606	177.4010
50581	12378	12/13/1965	IRR	249.660	EZRA C. LUNDAHL, INC.,SADLER RANCH, LLC	88313.8200	0.8599	214.6807
77083		12/13/1965	IRR	198.290	SADLER RANCH, LLC	88512.1100	0.8599	170.5081
23462	7831	10/28/1966	IRR	0.000	MILLER, ANTHONY	88512.1100	0.8597	0.0000
23711	6794	2/23/1967	IRR	0.000	EUREKA MOLLY, LLC,MILLER, OWEN J. AND CHERYL	88512.1100	0.8597	0.0000
50650	13836	4/17/1967	IRR	640.000	MOYLE, JAMES L.,MOYLE, NANCY JANE	89152.1100	0.8582	549.2645
77666		4/17/1967	IRR	394.120	BAR D LAND & LIVESTOCK, LLC	89546.2300	0.8582	338.2439
83567		4/17/1967	IRR	149.280	BAR D LAND & LIVESTOCK, LLC	89695.5100	0.8582	128.1159
29765	8881	5/15/1967	IRR	656.200	HALPIN FAMILY TRUST	90351.7100	0.8568	562.2453
23893	7695	5/25/1967	IRR	0.000	MILES, HAROLD R.,MILES, MURIEL M.	90351.7100	0.8568	0.0000
23918	8648	6/5/1967	IRR	44.400	NORTON, WILLIAM H. AND SHIRLEY,NORTON, WILLIAM H. JR.	90396.1100	0.8566	38.0315
77646	19847	6/5/1967	IRR	123.600	WILLIAM H NORTON	90519.7100	0.8566	105.8714
80926	19851	6/5/1967	IRR	103.200	NORTON, WILLIAM H JR	90622.9100	0.8566	88.3975
47520	11616	7/13/1967	IRR	638.720	ANDERSON, EDWARD B.	91261.6300	0.8554	546.3471
24214	8174	11/13/1967	IRR	600.320	ANDERSON, EDWARD B.,ANDERSON, JERRY LEE	91861.9500	0.8544	512.9295
28061	8639	12/11/1967	IRR	0.000	BURNHAM FARMS, LLC	91861.9500	0.8544	0.0000
24378	8556	2/22/1968	IRR	0.000	EUREKA MOLY LLC,RUBY HILL RANCH, INC.,SEAN PECK,WALTER, NORBERT AND EILEEN B.	91861.9500	0.8544	0.0000
78905		7/25/1968	IRR	0.000	DIAMOND VALLEY RANCH LLC	91861.9500	0.8544	0.0000
81230		12/30/1968	MMD	0.000	BLISS, CHAD D. & ROSIE J.	91861.9500	0.8544	0.0000
83503		12/30/1968	MMD	0.000	BLISS, CHAD D. & ROSIE J.	91861.9500	0.8544	0.0000
30102	10113	8/27/1969	IRR	890.270	MOYLE, JAMES L.,MOYLE, NANCY JANE	92752.2200	0.8530	759.4145
46287	13993	9/14/1970	IRR	632.000	GROTH, DANIEL E..	93384.2200	0.8516	538.1833
51647	13582	9/14/1970	IRR	578.800	GROTH, DANIEL E.	93963.0200	0.8516	492.8805
26437	11004	12/14/1971	IRR	508.800	ALLEN, ROGER B. & JUDY B.	94471.8200	0.8499	432.4229
47591	11243	12/14/1971	IRR	508.800	ALLEN, ROGER B. & JUDY B.	94980.6200	0.8499	432.4229
26664	8945	4/12/1972	IRR	160.000	KEPHART, MARY A.,KEPHART, RICHARD E.	95140.6200	0.8491	135.8567
56652	14447	4/12/1972	IRR	160.000	KEPHART, MARI A.,KEPHART, RICHARD E.	95300.6200	0.8491	135.8567
29278	9262	4/9/1973	IRR	0.000	BURNHAM FARMS, LLC	95300.6200	0.8490	0.0000
28035	8414	1/23/1974	IRR	201.560	BAILEY, CAROLYN,BAILEY, FRED	95502.1800	0.8487	171.0555
28561	9171	8/1/1974	IRR	520.000	BURNHAM FARMS, LLC	96022.1800	0.8478	440.8737
43271	11526	3/17/1975	IRR	525.615	BERG PROPERTIES CALIFORNIA, LLC	96547.7950	0.8449	444.1084
43272	11527	3/17/1975	IRR	525.615	BERG PROPERTIES CALIFORNIA, LLC	97073.4100	0.8449	444.1084

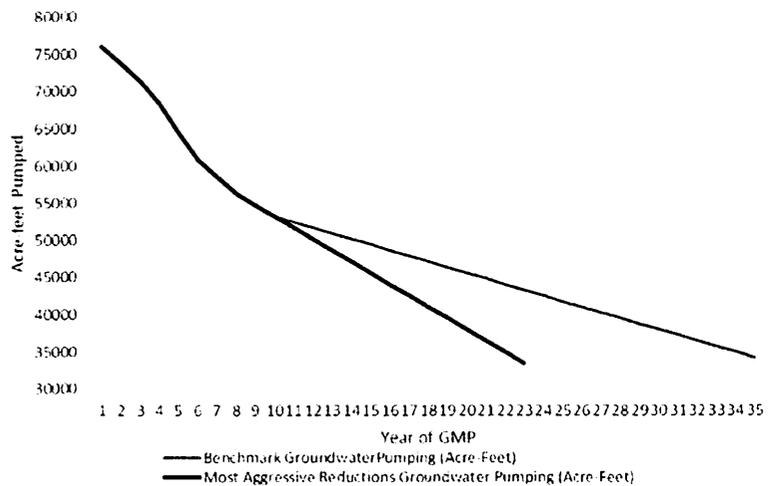
43273	11528	3/17/1975	IRR	514.385	BERG PROPERTIES CALIFORNIA, LLC	97587.7950	0.8449	434.6199
43274	11529	3/17/1975	IRR	514.385	BERG PROPERTIES CALIFORNIA, LLC	98102.1800	0.8449	434.6199
43837	11531	3/17/1975	IRR	111.985	BLANCO RANCH, LLC	98214.1650	0.8449	94.6196
43838	11532	3/17/1975	IRR	111.985	BLANCO RANCH, LLC	98326.1500	0.8449	94.6196
43839	11533	3/17/1975	IRR	109.615	BLANCO RANCH, LLC	98435.7650	0.8449	92.6171
43840	11534	3/17/1975	IRR	109.615	BLANCO RANCH, LLC	98545.3800	0.8449	92.6171
29557	10090	7/29/1975	IRR	487.360	MOYLE, JAMES L. & N. JANE	99032.7400	0.8426	410.6282
43397	11636	7/29/1975	IRR	640.000	MOYLE, JAMES L. & N. JANE	99672.7400	0.8426	539.2359
39156	10716	8/8/1975	IRR	891.855	FRED L. ETCHEGARAY & JOHN J. ETCHEGARAY (PTR), A NEVADA PARTNERSHIP	100564.5946	0.8404	749.4716
55535	14918	8/8/1975	IRR	358.385	FRED L. ETCHEGARAY & JOHN J. ETCHEGARAY (PTR), A NEVADA PARTNERSHIP	100922.9800	0.8404	301.1698
29873	10129	12/24/1975	IRR	194.865	MOYLE, JAMES L., MOYLE, NANCY JANE	101117.8450	0.8396	163.6095
81268		12/24/1975	IRR	194.865	MOYLE, JAMES L AND N JANE	101312.7100	0.8396	163.6095
29895	11107	1/7/1976	IRR	502.640	BLEHM, RONALD W. AND GLADYS A., OLIVIERA, EGIDIO	101815.3500	0.8380	421.2053
30928	11111	1/7/1976	IRR	433.520	CHANEY ASSOCIATES, LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST DATED 12/9/13	102248.8700	0.8380	363.2837
44604	12429	1/7/1976	IRR	137.360	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST	102386.2300	0.8380	115.1058
44605	12430	1/7/1976	IRR	109.760	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST	102495.9900	0.8380	91.9774
49185	13309	6/1/1976	IRR	502.720	MOYLE, DUSTY L.	102998.7100	0.8368	420.6652
40402	11634	6/10/1976	IRR	508.800	MOYLE, DUSTY L.	103507.5100	0.8360	425.3426
30913	11109	12/10/1976	IRR	477.800	MOYLE, DUSTY L.	103985.3100	0.8352	399.0657
50582	12379	12/22/1976	IRR	850.380	EZRA C. LUNDAHL, INC., SADLER RANCH, LLC	104835.6900	0.8333	708.6299
85145		12/22/1976	IRR	703.790	SADLER RANCH LLC	105539.4800	0.8333	586.4750
31062	10132	2/2/1977	IRR	553.680	BAR D LAND & LIVESTOCK, LLC	106093.1600	0.8315	460.3628
31063	10133	2/2/1977	IRR	523.200	BAR D LAND & LIVESTOCK, LLC	106616.3600	0.8315	435.0199
31108	9331	2/17/1977	IRR	541.440	MOYLE, DENISE L. AND HICKS, DEANNE M.	107157.8000	0.8274	447.9760
31110	9333	2/17/1977	IRR	541.440	MOYLE, DENISE L. AND HICKS, DEANNE M.	107699.2400	0.8274	447.9760
31111	9334	2/17/1977	IRR	158.000	MOYLE, DENISE L. AND HICKS, DEANNE M.	107857.2400	0.8274	130.7259
31113	9336	2/17/1977	IRR	533.600	MOYLE, DENISE L. AND HICKS, DEANNE, M	108390.8400	0.8274	441.4893
31114	9337	2/17/1977	IRR	537.600	MOYLE, DENISE L. AND HICKS, DEANNE M.	108928.4400	0.8274	444.7989
76358		2/17/1977	IRR	545.440	MOYLE, DENISE L. AND HICKS, DEANNE M.	109473.8800	0.8274	451.2855
77569		2/17/1977	IRR	326.380	MOYLE, DENISE L. AND HICKS, DEANNE M.	109800.2600	0.8274	270.0399

78062		2/17/1977	IRR	628.000	MOYLE, DENISE L. AND HICKS, DEANNE M.	110428.2600	0.8274	519.5939
81269		2/17/1977	IRR	207.220	MOYLE, DENISE L. AND HICKS, DEANNE M.	110635.4800	0.8274	171.4494
31454	10708	5/3/1977	IRR	520.000	HALPIN, JAYME L.	111155.4800	0.8233	428.1079
31455	10709	5/3/1977	IRR	512.120	HALPIN, JAYME L.	111667.6000	0.8233	421.6204
81004		5/3/1977	IRR	51.080	HALPIN, JAYME L	111718.6800	0.8233	42.0534
43269	11524	7/21/1977	IRR	76.800	BLANCO RANCH, LLC	111795.4800	0.8228	63.1940
43836	11530	7/21/1977	IRR	0.000	MARK MOYLE FARMS, LLC	111795.4800	0.8228	0.0000
33018	11069	8/3/1977	IRR	480.000	MARTIN P. & KATHLEEN A. ETCHEVERRY TRUST & ETCHEVERRY, MARK T. & JENNIFER	112275.4800	0.8213	394.2118
33019	11070	8/3/1977	IRR	480.000	MARTIN P. & KATHLEEN A. ETCHEVERRY TRUST & ETCHEVERRY, MARK T. & JENNIFER	112755.4800	0.8213	394.2118
42367	14443	8/3/1977	IRR	40.000	KEPHART, MARI ALICE,KEPHART, RICHARD E.	112795.4800	0.8213	32.8510
42368	14444	8/3/1977	IRR	40.000	KEPHART, MARI ALICE,KEPHART, RICHARD E.	112835.4800	0.8213	32.8510
42369	14445	8/3/1977	IRR	120.000	KEPHART, MARI ALICE,KEPHART, RICHARD E.	112955.4800	0.8213	98.5530
42370	14446	8/3/1977	IRR	120.000	KEPHART, MARI ALICE,KEPHART, RICHARD E.	113075.4800	0.8213	98.5530
33668	9386	9/19/1977	IRR	611.870	WISEHART, LARRY	113687.3500	0.8184	500.7308
33669	9387	9/19/1977	IRR	611.870	WISEHART, LARRY	114299.2200	0.8184	500.7308
33670	10433	9/19/1977	IRR	632.350	WISEHART, LARRY	114931.5700	0.8184	517.4908
33671	9672	9/19/1977	IRR	632.350	WISEHART, LARRY	115563.9200	0.8184	517.4908
33817	12364	9/27/1977	IRR	511.600	BELL, SCOTT THOMAS AND KRISTINE LOUISE,MULFORD, DELLA C. AND DENNY S.	116075.5200	0.8154	417.1440
33818	12365	9/27/1977	IRR	510.800	BELL, SCOTT THOMAS AND KRISTINE LOUISE,MULFORD, DELLA C. AND DENNY S.	116586.3200	0.8154	416.4917
85131		9/27/1977	IRR	33.200	RENNER, IRA R. AND MONTIRA	116619.5200	0.8154	27.0703
85132		9/27/1977	IRR	128.400	RENNER, IRA R. AND MONTIRA	116747.9200	0.8154	104.6937
34561	10529	11/3/1977	IRR	516.010	MARK MOYLE FARMS, LLC	117263.9300	0.8138	419.9168
34562	10530	11/3/1977	IRR	499.480	MARK MOYLE FARMS, LLC	117763.4100	0.8138	406.4651
34596	11007	11/10/1977	IRR	330.628	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016	118094.0385	0.8126	268.6704
48225	11907	11/10/1977	IRR	317.768	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016	118411.8060	0.8126	258.2195
73899		11/21/1977	IRR	508.776	DENNIS L WEST & KIM KENNEDY WEST,DENNIS L. WEST & KIM KENNEDY WEST	118920.5820	0.8115	412.8463
78358		11/21/1977	IRR	122.400	DENNIS L WEST AND KIM KENNEDY WEST	119042.9820	0.8115	99.3215
34939	11044	2/3/1978	IRR	520.000	MARK MOYLE FARMS, LLC	119562.9820	0.8105	421.4751
44610	12434	2/3/1978	IRR	0.000	BURNHAM FARMS, LLC	119562.9820	0.8105	0.0000

35009	10225	2/16/1978	IRR	487.560	BENSON, KENNETH F., BENSON, PATTI E.	120050.5420	0.8084	394.1201
35012	12453	2/16/1978	IRR	511.600	ETCHEVERRY, JAMES F., MULFORD, DENNY S. & DELLA C.	120562.1420	0.8084	413.5528
35013	11623	2/16/1978	IRR	546.640	MICHEL & MARGARET ETHCEVERRY FAMILY LP	121108.7820	0.8084	441.8775
39554	11806	2/16/1978	IRR	0.000	BENSON, CRAIG AND KATHRYN	121108.7820	0.8084	0.0000
42020	11845	2/16/1978	IRR	0.000	BENSON, CRAIG AND KATHRYN	121108.7820	0.8084	0.0000
85133		2/16/1978	IRR	128.400	RENNER, IRA R. AND MONTIRA	121237.1820	0.8084	103.7924
86033		2/16/1978	IRR	144.440	BENSON, KENNETH F. AND PATTI E.	121381.6220	0.8084	116.7583
46461	12213	3/17/1978	IRR	576.000	MOYLE, DUSTY L.	121957.6220	0.8059	464.2182
49188	12674	3/17/1978	IRR	502.720	MOYLE, DUSTY L.	122460.3420	0.8059	405.1593
50095	13310	3/17/1978	IRR	508.800	MOYLE, DUSTY L.	122969.1420	0.8059	410.0594
35374	12193	5/2/1978	IRR	108.440	DUBRAY, FERNO L. & CARRIE M.	123077.5820	0.8044	87.2323
35375	12194	5/2/1978	IRR	387.040	DUBRAY, FERNO L. AND CARRIE M., ROUSE, W.E. & BARBARA J.	123464.6220	0.8044	311.3462
49853	12206	5/2/1978	IRR	59.260	DUBRAY, FERNO L. & CARRIE M.	123523.8820	0.8044	47.6705
49854	12207	5/2/1978	IRR	59.260	DUBRAY, FERNO L. & CARRIE M.	123583.1420	0.8044	47.6705
47518	11614	5/12/1978	IRR	463.200	ANDERSON, EDWARD B.	124046.3420	0.8034	372.1461
78773		8/7/1978	IRR	398.400	J.W.L. PROPERTIES, LLC	124444.7420	0.8027	319.8049
78775		8/7/1978	IRR	88.000	J.W.L. PROPERTIES, LLC	124532.7420	0.8027	70.6396
47519	11615	9/13/1978	IRR	0.000	ANDERSON, EDWARD B.	124532.7420	0.8027	0.0000
41883	10476	9/20/1978	IRR	78.400	MILLER, OWEN J. AND CHERYL	124611.1420	0.8025	62.9134
41884	10477	9/20/1978	IRR	78.400	MILLER, OWEN J. AND CHERYL	124689.5420	0.8025	62.9134
36070	10135	10/20/1978	IRR	0.000	MOYLE, JAMES L., MOYLE, NANCY JANE	124689.5420	0.8010	0.0000
40013	10595	10/20/1978	IRR	44.000	THE LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST DATED DEC.9,2013	124733.5420	0.8010	35.2455
40014	10596	10/20/1978	IRR	393.000	BURNHAM FARMS, LLC	125126.5420	0.8010	314.8065
77695	19848	10/20/1978	IRR	469.920	WILLIAM H NORTON	125596.4620	0.8010	376.4221
77696	19849	10/20/1978	IRR	295.120	WILLIAM H NORTON	125891.5820	0.8010	236.4013
80717	19852	10/20/1978	IRR	136.000	NORTON, WILLIAM H JR AND PATRICIA A	126027.5820	0.8010	108.9407
80718	19850	10/20/1978	IRR	135.600	NORTON, WILLIAM H JR	126163.1820	0.8010	108.6203
80881	19855	10/20/1978	IRR	44.000	NORTON, WILLIAM H JR AND PATRICIA A	126207.1820	0.8010	35.2455
44607	12432	12/29/1978	IRR	0.000	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST	126207.1820	0.8000	0.0000
48437	11947	12/29/1978	IRR	0.000	MARK MOYLE FARMS, LLC	126207.1820	0.8000	0.0000
					Total Shares	113513.6415		

Appendix G – Groundwater Allocation and Pumping Reduction Table

Year of GMP	Benchmark Groundwater Pumping (Acre-Feet)	Benchmark Cumulative Pumping Reduction (%)	Benchmark Water Allocation (AF/Share)		Most Aggressive Cumulative Reduction (%)	Most Aggressive Reductions Groundwater Pumping (Acre-Feet)	Most Aggressive Reductions Water Allocation (AF/Share)
1	76000	0	0.670		0	76000	0.670
2	73720	3	0.649		3	73720	0.649
3	71440	6	0.629		6	71440	0.629
4	68400	10	0.603		10	68400	0.603
5	64600	15	0.569		15	64600	0.569
6	60800	20	0.536		20	60800	0.536
7	58520	23	0.516		23	58520	0.516
8	56240	26	0.495		26	56240	0.495
9	54720	28	0.482		28	54720	0.482
10	53200	30	0.469		30	53200	0.469
11	52440	31	0.462		32	51680	0.455
12	51680	32	0.455		34	50160	0.442
13	50920	33	0.449		36	48640	0.428
14	50160	34	0.442		38	47120	0.415
15	49400	35	0.435		40	45600	0.402
16	48640	36	0.428		42	44080	0.388
17	47880	37	0.422		44	42560	0.375
18	47120	38	0.415		46	41040	0.362
19	46360	39	0.408		48	39520	0.348
20	45600	40	0.402		50	38000	0.335
21	44840	41	0.395		52	36480	0.321
22	44080	42	0.388		54	34960	0.308
23	43320	43	0.382		56	33440	0.295
24	42560	44	0.375				
25	41800	45	0.368				
26	41040	46	0.362				
27	40280	47	0.355				
28	39520	48	0.348				
29	38760	49	0.341				
30	38000	50	0.335				
31	37240	51	0.328				
32	36480	52	0.321				
33	35720	53	0.315				
34	34960	54	0.308				
35	34200	55	0.301				



Note: Annual Allocations are calculated by taking the total pumping allowed in any given year under the GMP and dividing by the total number of Shares, being 113,513.641.

Testimony for the Hearing on a Petition to Approve a GMP in Diamond Valley, 10-30-18

Hello, my name is Russell Conley and I am an irrigator in Diamond Valley and am also a member of the Advisory Board that helped develop this Groundwater Management Plan. As you know, Diamond Valley is mostly comprised of family farming operations. We enjoy a rural way of life, good schools, strong community, and the ability to make a modest living on the ground we own. Our local climate enables us to produce very high quality hay and forage, and good farmers have a chance to make a decent living for their families.

My family's operation is similar to many others in the valley. We currently raise hay, cattle, and 3 children. The farming portion of our operation is completely reliant upon groundwater, and our water rights have been in effect since early 1961. Even though these rights have been active over the last 57 years, they are still considered to be "junior" and would be amongst those curtailed if the State Engineer was forced to curtail based on priority.

As we have heard, not all people agree with the development of a local groundwater management plan. Some believe that the prior appropriation doctrine should be strictly adhered to. I believe that it was the failure to follow this doctrine from the beginning that allowed the over allocation of this precious resource by over 3 times the perennial yield. Now we are in this situation where people have worked hard to develop their land, raise their families, and have established roots here. The people in this basin have created a great agricultural area that has grown to be a large part of the community.

Many of the irrigators in the basin have come together to develop this groundwater management plan. While the plan may not be perfect in everyone's eyes, most of the irrigators agree that it is a workable solution that would bring our basin back into balance. In addition, it would enable most of the agricultural community to stay intact. I believe approving this Groundwater Management Plan would be the best solution for the resource as well as the community that relies so much upon it.

Here are the talking points I want you to discuss. Make clear you got them from me.

I have served on numerous boards and committees in my lifetime. When we are elected to a position we have a fiduciary and ethical responsibility to represent all the constituents, most importantly the silent minority. This entails reaching out to them and hearing their voice. Simply because someone doesn't come to the general meetings nor seem to participate does not negate our responsibility to represent them.

The important material that the GMP committee is working on falls directly under the executive branch of state government. Whatever decisions are made require the blessing of the Nevada State Engineer. However, I believe the people in the county do not fully realize that the final authority in the GMP is not the executive branch of the government but rather the judicial branch. If all the people are not brought into the discussion, voices heard and accommodated through careful negotiation then there will be litigation against the proposal.

Litigation will result in a judge ultimately protecting and providing relief for the most vulnerable parties. If the junior right holders and/or a majority vote for the GMP without sufficient dialogue and accommodation for the minority, a judge, or ultimately the state supreme court will find for the minority because our system in the US will ultimately always protect the "injured" party.

The defendant in the litigation will be the State Engineer. Trust me, they will not sign onto a plan that they cannot defend. They will allow the people who craft the GMP to create the document but ultimately it will reflect the state engineer's interests because they will be paying for the litigation defense. The State Engineer is required to follow statute. When the statute is murky the courts will be the final authority in interpretation. The people in diamond valley are working in new territory. This will be litigated.

If the people try to ramrod a document against the wishes of some parties the outcome of the litigation will not be favorable.

The time to resolve these issues is now. Every stakeholder in this GMP should agree to the plan to avoid litigation. Now you might say that is impossible, but shrewd negotiation including back channel conversations almost always can lead to compromise.

Our country does not work on a majority rules concept. If a "majority" vote for the GMP and a court decides the minority interests were not protected the plan will be struck down and the judge, who does not know the needs and dynamics of the people in the county, will decide the parameters of the plan. This is almost never good. Judges will rule on the admissible evidence and the outcomes are often determined by the most prepared and articulate attorney.

If the people who write this plan think they can "buy time" to continue to maintain the status quo they will find out that the end result could be adjudicated quicker than expected and end up decreasing the value of their personal farm. Then, the only remaining answer will be for the Juniors to litigate against the State Engineer for allowing an overallocation of shares over the years. I doubt there are many in the valley with sufficient funds to see such litigation through the entire legal process of appeals and they could lose everything.

A supreme court justice of Utah, Dallin H Oaks once reiterated a French proverb that says, "a bad agreement is better than a good lawsuit".

Perhaps the boat has left its mooring and seems too far out to sea to make the necessary adjustments to accommodate all parties; but in my years of experience it is best to pull in the sails, look about, and change trajectory because there is a light ahead and it is not lighting the way forward but rather warning of the rocky shore.

Ty B Erickson, MD FACOG FPMRS

October 25, 2018

Dear Jason King

My name is William Norton and I am a second generation farmer here in Diamond Valley. My family has lived here for over 40 years since 1978. Eureka County is a wonderful place to live and raise up a family.

I would like to start off letting you know that I am in favor of the GMP presented to your office. Under the plan I have an opportunity to manage to the reduction of water usage. If the GMP is not approved and curtailment were to take place I would lose everything that I have worked for these past 40 years.

One of my main reasons for working on the GMP for the past 3 years is to help make decisions for the entire community. Once again if curtailment were to take place many farmers and their families would be out of business and this would affect the community in a negative way. Property values would diminish greatly affecting the community as a whole.

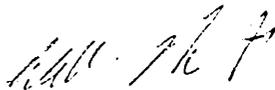
Under the plan I believe that most farmers would be able to still make a living and contribute to the community.

When my family purchased the property 40 years ago we were under the understanding that as long as we used our water rights we would not lose them. Had I have known that there was a good chance that I could lose everything that I have built I would never have settled here in Eureka.

I would like to say that I appreciate all of the input and help in developing the plan from the Division of Water Resources. I believe this plan will be a great benefit to the town of Eureka and the entire community and other farmers like myself.

Thank you again for your help and support,

William Norton

A handwritten signature in black ink, appearing to read "William Norton", written in a cursive style.

Nevada Division of Water Resources
Diamond Valley Ground Water Management Plan Hearing, October 30th, 2018.

Written Statement:

I Marty Plaskett, a life long farmer in Diamond Valley, support the implementation of the Ground water Management Plan (GMP or Plan) 100 percent because of the following reasons:

- The plan was created and accepted by a majority of those it will affect, through many years of deliberation and design input from the regulatory side of plan management. A local solution, by locals, with the State Engineer's oversight to bring the basin into balance and remove the critical management area designation.
- The pumping reduction schedule is based on water right seniority, favors ultimate water use efficiency. better management practices and rewards water conservation with banking credits. I have proven to myself, on my own farm in the last two years, that the plan will not affect my yields and ability to produce a quality product. Better efficiency and better management along with advances in farming in the coming years will offset the pumping reductions in my operation.
- The Plan was purposely designed to keep the community whole, allowing all users access to water and balancing the basin for ultimate health of the aquifer. The tax base is maintained, and all the social economic units involved with a community are not disrupted by a dwindling population that would occur with our alternative option, curtailment of pumping.
- The Plan is flexible in that it has set benchmark reductions, with yearly allocations adjusted through well monitoring data, annual precipitation values, and conservation relief. Until a better solution rises, it is the most logical path toward basin water balance.

In closing it is important to recognize and appreciate all the hours in meetings, time traveling, arguing and refining a solution to a problem that has been festering for 50 years:

Thank you;

State Engineer and staff for your involvement in Plan structure and management.

Eureka County for allowing our resource manager to keep the ball rolling, "uphill", which is a gross understatement.

Eureka County Hydrology expert for arming us with the data to quantify our efforts.

DNRPCA members.

GMP committee.

Conservation District support.

There is no "I" in this "Team" dedicated to making Diamond Valley sustainable.

Marty Plaskett



1 management area designation.

2 The pumping reduction schedule is based on water
3 right seniority, favors ultimate water use efficiency, better
4 management practices, and rewards water conservation with
5 credits.

6 I have proven to myself on my own farm in the
7 last two years that it will not affect my yields and ability
8 to produce a quality product. Better efficiency and better
9 management, along with advances in farming in the coming
10 years, will offset the pumping reductions in my operation.

11 The plan was purposely designed to keep the
12 community whole, allowing all users access to water and
13 balancing the basin for ultimate health of the aquifer. The
14 tax base is maintained and all the social economic units
15 involved in the community are not disrupted by dwindling
16 population that will occur with our alternative options,
17 curtailment of pumping.

18 The plan is flexible in that it has set benchmark
19 reductions with yearly allocations adjusted through well
20 monitoring data, annual precipitation values, and
21 conservation relief.

22 Until a better solution rises, it is the most
23 logical path toward basin water balance.

24 In closing, it is important to recognize and

1 Diamond Valley is mostly comprised of family farming
2 operations. We enjoy a rural way of life, good schools,
3 strong community, and the ability to make a modest living on
4 the ground we own. Our local climate enables us to produce
5 very high quality hay and forage and good farmers have a
6 chance to make a decent living for their families.

7 My family's operation, similar to others in the
8 valley, we currently raise hay, cattle, and three children.
9 The farming portion of our operation is completely reliant
10 upon groundwater. And our water rights have been in effect
11 since early 1961.

12 Even though these rights have been active over
13 the last 57 years, they are still considered to be junior and
14 would be amongst those curtailed if the State Engineer was
15 forced to curtail based on priority.

16 As we avert, not all people agree with the
17 development of the local Groundwater Management Plan. Some
18 believe that the prior appropriation doctrine should be
19 strictly adhered to. I believe that it is the failure to
20 follow the documents from the beginning to allow allocation
21 of this precious resource by over three times the perennial
22 yield.

23 Now we are in a situation where people work hard
24 to develop their land, raise their families, and establish

1 with what has been developed for this unique area by the
2 people who live here.

3 We do welcome outside constructive criticism and
4 input as long as its intention is for making the plan better
5 for its intended purpose here.

6 There have been hundreds of hours of meetings and
7 discussions as well as intense debates that have gone in to
8 the development of this plan. There have been a lot of
9 compromises and consideration given to the many issues that
10 this plan needs to address. The goal has always been to get
11 consensus on the issues at hand. We did not always get
12 consensus, but we did get the majority to agree before we
13 moved on.

14 The goal and development of the groundwater --
15 The goal in the development of the Groundwater Management
16 Plan is to reduce groundwater pumping in a manner that will
17 do the least damage to the water users directly, the local
18 economy, the environment in regards to weed and rodent
19 problems and return the groundwater resource back to a
20 sustainable level.

21 The Diamond Valley Groundwater Management Plan is
22 not perfect in every way. It comes at cost to all irrigators
23 who will cut their pumping by 30 percent in the first ten
24 years that this plan is implemented. The irrigators that

1 support this plan understand that and we all need to
2 sacrifice for the long-term benefit of the community and the
3 long-term continued success of the farming industry in
4 Diamond Valley.

5 Diamond Valley is the heart of the southern
6 Eureka County's economy. Few irrigators who are not in favor
7 of this plan are not so concerned about the whole economy.
8 They're only concerned about themselves.

9 The implementation will come at a cost to so
10 many, that it is understandable that there will be people who
11 will not support it. Strong, willing, giving people who
12 understand that it takes community effort to sustain and
13 survive built Diamond Valley. It took a huge group effort to
14 get the electric power that everybody enjoys in Diamond
15 Valley right now, even those that aren't in favor. It took a
16 huge group effort to work on the power cost to increase
17 challenges that occurred in the eighties. It took a group
18 effort to develop weed and gopher control to deal with those
19 problems. It took a group effort to get the roads paved in
20 Diamond Valley. It took the same group effort to develop the
21 Diamond Valley Groundwater Management Plan.

22 The purpose of the Groundwater Management Plan is
23 to continue the ongoing success of the entire southern Eureka
24 County area and all of the enterprises that exist there.

1 The long-term residents of Diamond Valley have
2 endured a lot of challenges in the past and have worked
3 together to solve it. I am confident in the resilience of
4 the people who have made a living here. I would encourage
5 them to be aware of some residents who have demonstrated by
6 their actions or intent to only take from this community.

7 There are only two options: Strict curtailment
8 by priority or adopting the Groundwater Management Plan. The
9 Groundwater Management Plan is the best solution to an
10 extremely difficult situation that was created by actions and
11 conditions in the past. It is an extremely proactive
12 solution created by the people who are the most impacted.
13 The Diamond Valley Groundwater Management Plan has been
14 developed with input and participation from the agency
15 responsible for its implementation, the Nevada Division of
16 Water Resources.

17 I'm extremely grateful for all of those who have
18 worked and participated in developing this plan. It is now
19 time to put the plan in to effect so we can ensure that the
20 water resource that we all depend on will be preserved in the
21 future.

22 That's what I have written. I want to add a few
23 other things based on a few other statements if that's all
24 right.

1 Ranch in a century and a half of continuous operation. This
2 represents a century prior to the farms considered for
3 management under the GMP plan. The Bailey family also owns
4 farms in Diamond Valley and we recognize the need for and do
5 not oppose implementation of a GMP plan that would protect
6 agriculture for future generations. The Bailey Ranch asks
7 for the State Engineer to revise the GMP or consider
8 alternatives.

9 HEARING OFFICER WILSON: Thank you. And we did
10 receive the written copies you were speaking to just now.

11 Patrick Rogers.

12 MR. ROGERS: My name is Patrick Rogers. I'm the
13 vice president of permitted and environmental compliance for
14 General Moly. I've been working in this community to develop
15 the world class Mount Hope Mine for going on 12 years. Hope
16 to continue that and continue to support the community in
17 addressing important issues such as the sustainability of the
18 Diamond Valley aquifer.

19 I represent General Moly and Hobie Valley
20 Ranches. We support the Diamond Valley Groundwater
21 Management Plan and we support its acceptance by the State
22 Engineer.

23 HEARING OFFICER WILSON: Thank you, Mr. Rogers.

24 Vicki Buchanan.

1 MS. BUCHANAN: My name is Vicki Buchanan for the
2 record, B-u-c-h-a-n-a-n. First of all, I would like to thank
3 our current State Engineer and his staff for all the
4 headaches and input that they had putting in -- coming in to
5 this.

6 The whole problem, there's not a person in this
7 room that has a water right that's doing anything illegal.
8 Every single water right that's issued, whether you're junior
9 or senior or anything else, they're not pumping any more
10 water than they're allowed to by law currently. And my
11 family -- I guess I should go back. My family is one of only
12 two or three original desert land proprietors left in the
13 valley. And water law -- water law is not set in stone. It
14 is for right now. But when we originally filed on the water
15 rights in Diamond Valley, we had to prove beneficial use on
16 those water rights. And it was our understanding at that
17 time that if we proved beneficial use on that water right
18 that that was our water right. And I'm not positive of the
19 year that it happened.

20 But Roland Westergard, one of the prior State
21 Engineers, came out here to a Conservation District meeting.
22 And it's when the, we'll just call it the use or lose it
23 clause came in to effect. And he sat there and Chuck was
24 here, Birdie was probably here. My mom was here. And he

1 you state your name and spell your name, please.

2 MR. MORRISON: Okay. My name is Matt Morrison,
3 M-a-t-t M-o-r-r-i-s-o-n. And first I would like to thank
4 people so I get that out of the way. I would like to thank
5 the water engineer's office and those people that came out
6 and helped us. Especially I want to thank all the people
7 that were on boards both on the water organizations. And I
8 especially wanted to thank Dale, who has been out measuring
9 wells. And most of all I want to thank Jake, who has really
10 sacrificed for us.

11 I'm kind of like one of the first people here in
12 this valley. My mom and my dad, Birdie Morrison and Don
13 Morrison, filed desert planting trees, and we first came out
14 here in '59 and went back to Seattle. My dad used to work
15 for Boyd Airplane Company in Seattle, Washington, without a
16 college education or a high school diploma. He was quite a
17 person and quite admired.

18 I remember coming out in this valley and it was
19 sagebrush. I sat in that tractor with my mom going around in
20 a square beating the brush out here to be a farmer, to raise
21 our crop is what my dad always wanted to do.

22 And we never thought we would not be senior. But
23 come to find out, we were one of the first ones here and we
24 cleared the land, and she's, like, two weeks from being a

1 senior.

2 I kind of left and went to college and joined the
3 Navy and came back in 1970 because I loved this area and I
4 wanted to be a part of it. And so I brought my wife out here
5 in 1980 and bought a piece of ground and helped my dad farm
6 and become a part of this community, which I love, and worked
7 hard.

8 And now I find out that she's two weeks from
9 being a senior. That on the place that I bought I'm a month
10 away. And another place that I have that I bought first
11 initially is pretty junior, but there is a little bit of
12 rights on there that is a little older, but nothing senior.

13 So we have worked hard. We didn't have any
14 money. We were poor. And we worked our way up. And my dad
15 enabled me to buy property and enabled my brother also to buy
16 property here in this valley. And the human side of it is
17 that we have been here since the very beginning just about,
18 and we're not senior. And we have our families and we have
19 everything invested in this valley.

20 Now, if you'll go back that far, the junior
21 rights, then you're going to see a tremendous amount of
22 people leave this place. You're going to see a lot of pivots
23 out there shut off. You're going to see -- You might see a
24 lot of crescent weed planted. You might see -- You'll see

1 struggled for years. We came in 1960 and have lived here
2 continually ever since.

3 My husband, while he was alive, had his farm.
4 Actually we developed some of the farms around us that do
5 have senior rights, but because we didn't have many behind
6 us, we had to do that work to earn money to prove up on our
7 land, which we did. But that caused us to be in two weeks
8 behind others that where the cut-off line is. But actually
9 on some of these lands around us that have senior rights I
10 drove the tractor to clean the land.

11 We struggled for years having no one to back us.
12 We came as pioneers, to have it being the land. In fact, my
13 husband worked for others in order for us to survive. We
14 scraped and saved every way that we could. We were going by
15 what the water engineer told us. And our water rights were
16 secured and we farmed as carefully as we could all of these
17 years.

18 Now, I don't know how this is going to come out.
19 We were always trying to save the water to conserve water,
20 where many others who continue to have senior rights were
21 watering the highway, which was against the rules, and things
22 like that.

23 Also, at that time, we were told that we had two
24 years to develop our water and we could only have two -- I'm

EXHIBIT 2

EXHIBIT 2

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RELEVANT PROCEDURAL HISTORY

On January 11, 2019, Jason King, P.E., Nevada State Engineer¹ (“State Engineer”), entered Order #1302 (“Order 1302”). On February 11, 2019, Timothy Lee Bailey and Constance Marie Bailey, husband and wife, and Fred Bailey and Carolyn Bailey, husband and wife (“Bailey” or “Baileys” or “petitioners” where referenced collectively with the Sadler Ranch and Renner petitioners) filed a notice of appeal and petition for review of Nevada State Engineer Order no. 1302 in case no. CV-1902-350. On February 11, 2019, Sadler Ranch, LLC, a Nevada limited liability company, and Daniel S. Venturacci,² an individual (“Sadler Ranch” or “petitioners” when used collectively with the Bailey and Renner petitioners) filed a petition for judicial review in case no. CV-1902-349. On February 11, 2019, Ira R. Renner, an individual, and Montira Renner, an individual, (“Renner” or “Renners” or “petitioners” when used collectively with Sadler Ranch and Bailey petitioners) filed a petition for judicial review in case no. CV-1902-348. On February 25, 2019, the State Engineer filed a notice of appearance in the three cases. On March 27, 2019, petitioners and respondent, Tim Wilson, P.E., acting State Engineer, Division of Water Resources, Department of Conservation and Natural Resources (“State Engineer”) filed a stipulation and order to consolidate cases whereby case no. CV-1902-348 (Renner) was consolidated with case no. CV-1902-349 (Sadler Ranch) and with case no. CV-1902-350 (Bailey). On June 7, 2019, the State Engineer filed a summary of record on appeal (“SE ROA”). On September 16, 2019, Sadler Ranch and Renners filed opening brief of petitioners’ Sadler Ranch, LLC and Ira R. and Montira Renner (“Sadler Ranch opening brief”). On September 4, 2019, the court entered an order granting motion in limine limiting

¹Subsequent to issuing order no. 1302, Mr. King retired from this position, and Timothy Wilson, P.E. became the acting Nevada State Engineer and the State Engineer.

²Daniel S. Venturacci filed a notice of withdrawal of petition on June 14, 2019.

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





1 the record on appeal in the district court to the State Engineer's record on appeal filed June
2 7, 2019. On September 16, 2019, the Baileys filed opening brief of Bailey petitioners
3 ("Bailey opening brief"). On October 23, 2019, the State Engineer filed respondent State
4 Engineer's answering brief ("State Engineer's answering brief"). On October 23, 2019,
5 Diamond Natural Resource Protection and Conservation Association ("DNRPCA") filed
6 DNRPCA intervenors' answering brief ("DNRPCA answering brief") and DNRCPA
7 intervenors' addendum to answering brief ("DNRPCA addendum"). Intervenor, Eureka
8 County filed answering brief of Eureka County ("Eureka County's answering brief") on
9 October 23, 2019.³ DNRPCA and Eureka County are collectively referred to a
10 "intervenors". On November 29, 2019, Sadler Ranch filed reply brief of petitioners' Sadler
11 Ranch, LLC and Ira R. and Montira Renner ("Sadler Ranch reply brief") and Sadler Ranch,
12 LLC and Ira R. and Montira Renner's addendum to reply brief ("Sadler Ranch reply
13 addendum"). On November 26, 2019, the Baileys filed reply brief of Bailey petitioners,
14 ("Bailey reply brief").

15 On December 10-11, 2019, oral arguments were held at the Eureka Opera House,
16 Eureka, Nevada. Sadler Ranch and the Renners were represented by David H. Rigdon,
17 Esq., the Baileys were represented by Christopher W. Mixon, Esq., the State Engineer was
18 represented by Deputy Attorney General, James Bolotin, Esq., Eureka County was
19 represented by Karen Peterson, Esq., and the DNRPCA intervenors were represented by
20 Debbie Leonard, Esq. The court has reviewed the SEROA, the parties' briefs, all papers
21 and pleadings on file in these consolidated cases, the applicable law and facts, and makes

22 ³On September 6, 2019, the court entered an order granting motion to intervene to
23 Diamond Valley Ranch, LLC, a Nevada limited liability company, American First
24 Federal, Inc., a Nevada Corporation, Berg Properties California, LLC, a Nevada limited
25 liability company, and Blanco Ranch, LLC., a Nevada limited liability company. On July
26 3, 2019, Beth Mills, trustee of the Marshall Family Trust, filed a motion to intervene.
The court never entered an order egranting her motion to intervene. The motion was
timely filed without opposition. The court thus grants Beth Mills' motion to intervene.
None of these intervenors filed briefs in this case.

1 the following findings of fact and conclusions of law.

2 II

3 FACTUAL HISTORY

4 It is a matter of accepted knowledge that Nevada currently has and at all relevant
5 times has always had an arid climate. Its also undisputed that the Diamond Valley aquifer
6 has been severely depleted through over appropriation of underground water for irrigation
7 which the State Engineer has allowed to occur for over 40 years without any cessation or
8 reduction. The State Engineer has issued permits and certificates that have allowed
9 irrigators the right to pump approximately 126,000 acre feet ("af") of water per year from
10 the Diamond Valley aquifer in Eureka County and Elko County which has an estimated
11 perennial yield of only 30,000 af of water that can be safely pumped each year.⁴ The
12 126,000 af exclude other groundwater rights such as domestic use, stock water, and
13 mining.⁵ The total duty of ground water rights that impact the aquifer is close to 130,265
14 af.⁶ Of the 126,000 af approved for irrigation pumping, the State Engineer estimates
15 approximately 76,000 af were pumped in 2016, with the annual Diamond Valley pumping
16 exceeding 30,000 af for over of 40 years.⁷

17 The unbridled pumping in Diamond Valley has caused the groundwater level to
18 decline approximately 2 feet annually since 1960.⁸ The over pumping by junior irrigators
19 has caused senior claimed vested water rights holders' naturally flowing springs to dry up
20 in northern DiamondValley. Big Shipley Springs, to which Sadler Ranch has a claim of

21 _____
22 ⁴SEROA 3.

23 ⁵*Id.*

24 ⁶*Id.*

25 ⁷*Id.*; State Engineer's answering brief 4-5.

26 ⁸SEROA 59, Water Resource Bulletin no. 35 at 26.





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vested rights, Thompson Springs and other springs in northern Diamond Valley have either ceased flowing, as is the case of the Bailey Ranch Spring, or have suffered greatly diminished flow.⁹ In Ruling 6290, State Engineer King extensively discussed diminished spring flow in Diamond Valley concluding that “ground water pumping in southern Diamond Valley is the main cause of stress on groundwater levels in the valley.”¹⁰

To address statewide over appropriation issues, the Nevada Legislature passed Assembly Bill (“AB”) 419 in 2011, which established a critical management area (“CMA”) designation process. Changes to NRS 534.110 allowed the State Engineer to designate CMA basins where withdrawals of groundwater had consistently exceeded the perennial yield of the basin.¹¹ The Legislature also enacted NRS 534.037 in 2011, establishing a procedure for the holders of permits and certificates in a basin to create a groundwater management plan (“GMP”) setting forth the necessary steps to resolve the conditions causing the groundwater basin’s CMA designation and remove the basin as a CMA.¹² On August 25, 2015, the State Engineer issued Order no. 1264 designating the Diamond Valley hydrologic basin (“Diamond Valley”) as the Nevada’s first CMA.¹³ As a result of the CMA designation, if Diamond Valley remains a CMA for 10 consecutive years, the State Engineer shall order that withdrawals of water, “including, without limitation, withdrawals from domestic wells,¹⁴ be restricted in that basin to conform to priority rights, unless a

⁹SEROA 328.

¹⁰State Engineer ruling 6290, 23-31.

¹¹NRS 534.110(7).

¹²NRS 534.037.

¹³SEROA 3, 134-138, 226.

¹⁴The 2019 Nevada Legislature granted relief to domestic wells to withdraw up to 0.5 af of water annually where withdrawals are restricted to conform to priority rights by either court order or the State Engineer. Assembly Bill, 95; NRS 534.110(9).



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groundwater management plan has been approved for the basin pursuant to NRS 534.037.”¹⁵ This process is curtailment.

Groundwater right holders and vested water right holders began to meet in March, 2014, regarding the creation of a Diamond Valley GMP (“DVGMP”).¹⁶ The intent of the meetings and any plan was to reduce pumping and stabilize groundwater levels in Diamond Valley to avoid curtailment of water by priority.¹⁷ Although many options were considered, ultimately the DVGMP was in large part “influenced significantly by a water allocation system using a market based approach similar to that authored by professor Michael Young.”¹⁸ Professor Young’s report, *Unbundling Water Rights: A Blueprint for Development of Robust Allocation Systems in the Western United States* (2015) was described by Young as “a blueprint ready for pilot testing in Nevada’s Diamond Valley and Humboldt Basins.”¹⁹ The Young report was “developed in consultation with water users, administrators, and community leaders in Diamond Valley and Humboldt Basin.”²⁰ The Young report describes itself as a “blueprint ready for testing in Diamond Valley” and “if implemented, the blueprint’s reforms would convert prior appropriation water rights into systems that stabilize water withdrawals to sustainable limits, allow rapid adjustment to changing water supply conditions, generate diverse income systems, and improve environmental outcomes.”²¹ “If implemented properly, no taking of property rights

¹⁵NRS 534.110(7), SEROA 225.

¹⁶SEROA 226.

¹⁷SEROA 226, 277-475.

¹⁸SEROA 227 N8, 294.

¹⁹Bailey reply addendum 2, SEROA 294.

²⁰Bailey reply addendum 3.

²¹*Id.* at 1.



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occurs."²²

The DVGMP, a hybrid²³ of Professor Young's blueprint, excludes and does not apply to vested water rights, including spring vested rights, that have been mitigated with groundwater rights by the State Engineer, court order, ruling or decree.²⁴ Also excluded from the DVGMP are domestic wells, stock water, municipal, commercial groundwater rights and mining groundwater rights without an irrigation source permit.²⁵ The DVGMP applies to permit or certificated underground irrigation permits and underground irrigation rights that have an agricultural base right in Diamond Valley.²⁶

The DVGMP water share formula factors a priority to the permit/certificate underground irrigation rights and converts the rights into a fixed number of shares.²⁷ The spread between the most senior and junior groundwater rights is 20 %.²⁸ The shares are used on a year-to-year basis and groundwater is allocated to each share annually in a measurement of acre-feet per share. Existing shares for each water right are fixed and water rights users may continue to use water in proportion to their water rights and seniority.²⁹ The conversion of water rights to shares under the DVGMP formula does not provide for each acre-foot of water under a permit/certificate to be converted to one

²² *Id.*

²³ SEROA 313.

²⁴ SEROA 5, 220, 229, 240-241.

²⁵ SEROA 240-241.

²⁶ SEROA 11-12, 218, 220, 228-229.

²⁷ SEROA 5, 218, 232.

²⁸ SEROA 232.

²⁹ SEROA 218, 234-235.



1 share.³⁰ Using a “priority factor” applied to each acre foot of a water right in a permit or
2 certificate, the most senior water right receives a priority factor of 1.0 and the most junior
3 right receives a priority factor of 0.80. This formula results in a reduction in the ultimate
4 shares allocated based on an arbitrary range of a 1% reduction for the most senior water
5 right to a 20% reduction for the most junior water right.³¹ With the “priority factor” always
6 being less than 1, the share conversion always results in less than 1 share for each former
7 acre foot of water as illustrated in Appendix F to the DVGMP.³² The priority factor causes
8 junior water rights to be converted to fewer shares per acre-foot than senior water rights’
9 holders. Significantly, the formula of taking priority as a basis to reduce the shares
10 awarded to senior rights’ holders by using a designated percentage less than the shares
11 granted to the junior rights’ holders does not give the senior rights’ holders all of the water
12 to which their priority permit/certificate entitles the holders to use for irrigation purposes.
13 The result of the DVGMP formula is that senior water rights’ holders receive fewer shares
14 than one per acre foot. Thus, senior water rights’ holders cannot beneficially use all of the
15 water which their permit/certificate entitles them to use. The DVGMP reduces the senior
16 water rights by annually reducing their allocation of water for each share.³³ Ultimately, for
17 the most senior user, the acre-feet per share allocations are reduced from 67 acre-feet per
18 share in year 1 to 30 acre feet per share in year 35 of the DVGMP³⁴ and for the most junior
19 user, allocations are reduced from 54 acre feet in year 1 to 24 acre feet in year 35 of the

20 ³⁰SEROA 232.

21 ³¹*Id.*; The DVGMP formula is: total volume of water right X priority factor = total
22 groundwater shares.

23 ³²SEROA 499-509.

24 ³³SEROA 234-236, 510 (appendix G to DVGMP).

25 ³⁴*Id.* For example, in the Bailey’s case, their 5 senior groundwater rights entitle them to
26 use 1,934.116 af. In the first year of the DVGMP they are reduced to 1,250.4969 af,
and by year 35, the Baileys are reduced to 467.7960 af.



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DVGMP.³⁵ The DVGMP proposes a gradual reduction in pumping to a level of 34,200 af at the end of 35 years. For 35 years the pumping in Diamond Valley will exceed the 30,000 af perennial yield.³⁶

The DVGMP provides that all annual allocations of water be placed in to an account for each water user and allows the “banking” of unused water in future years, subject to the annual Evapotranspiration “(ET)” depreciation of the banked water which accounts for natural losses of water while the water is stored in an underground aquifer.³⁷ The DVGMP allows the current water allocations and the banked allocations of the water shares to be used, sold, or traded among the water share holders in Diamond Valley for purposes other than irrigation so long as the base right is tied to irrigation.³⁸ The DVGMP authorizes the State Engineer to review a share transfer among holders or an allocation to a new well or place or manner of use if the transfer would cause the new well to exceed the pumping volume of the original water right permitted for the well or if the excess of water pumped beyond the original amount of volume allowed for the well conflicted with existing rights.³⁹

Sadler Ranch claims pre-statutory vested rights to the waters flowing from springs that are senior in priority to all permits/certificates issued by the State Engineer.⁴⁰ It is undisputed by the State Engineer that Sadler Ranch’s spring flows have diminished as a

³⁵*Id.*, SEROA 5, 218.

³⁶SEROA 510. See State Engineer’s oral argument hearing transcript pg. 152.

³⁷*Id.*

³⁸SEROA 5, 218, 234-235.

³⁹*Id.*

⁴⁰Sadler Ranch opening brief 4, Order of Determination at 164-175, In the Matter of the Determination of the Relative Rights in and to all Waters of Diamond Valley, Hydrographic Basin no. 10-153, Elko and Eureka Counties, Nevada (January 31, 2020).



1 result of over-pumping by junior irrigators in southern Diamond Valley. The Renners, who
2 also have a senior priority date, are experiencing impacts to their springs due to continual
3 groundwater declines.⁴¹ The Baileys hold senior irrigation groundwater rights consisting of
4 Permit no. 22194 (cert. 6182) for 537.04 afa with a March 7, 1960 priority; Permit 22194
5 (cert. 6183) for 622.0 afa with a March 7, 1960 priority; Permit 55727 (cert. 15957) for
6 20.556 afa with a March 7, 1960 priority; Permit 28036 (cert. 8415) for 244.0 afa with a
7 May 3, 1960 priority; Permit 48948 (cert. 13361) for 478.56 afa with a May 3, 1960 priority;
8 and Permit 28035 (cert. 8414) for 201.56 afa with a January 23, 1974 priority.⁴² The
9 Baileys also claim vested and/or permitted water rights and stock water rights.⁴³

10 All permits/certificates issued by the State Engineer have the cautionary language,
11 "this permit is issued subject to all existing rights on the source."⁴⁴ In Nevada, all
12 appropriations of groundwater are "subject to existing rights to the use thereof."⁴⁵

13 After a public hearing held on October 30, 2018, the State Engineer issued Order
14 1302. Order 1302 states, "while it is acknowledged that the GMP does deviate from the
15 strict application of the prior appropriation doctrine with respect to 'first in time, first in right,'
16 the following analysis demonstrates that the legislature's enactment of NRS 534.037
17 demonstrates legislative intent to permit action in the alternative to strict priority
18 regulation."⁴⁶ The State Engineer and all intervenors who filed briefs and orally argued this
19

20 _____
21 ⁴¹Sadler Ranch opening brief 4, *Id.* 152-164; SEROA 593.

22 ⁴²Bailey opening brief 4, SEROA 500,506.

23 ⁴³Bailey opening brief 4, SEROA 536-538.

24 ⁴⁴Sadler Ranch opening brief 4; see certificates/permits listed in SEROA 499-509.

25 ⁴⁵NRS 534.020.

26 ⁴⁶SEROA 6.



1 case agree that the DVGMP deviates from the prior appropriation doctrine.⁴⁷

2 III

3 DISCUSSION

4 STANDARD OF REVIEW

5 A party aggrieved by any order or decision of the State Engineer may have
6 the order or decision reviewed in a proceeding for that purpose in the nature of an
7 appeal.⁴⁸ The proceedings must be informal and summary.⁴⁹ On appeal, the State
8 Engineer's decision or ruling is prima facie correct, and the burden of proof is upon the
9 person challenging the decision.⁵⁰ The court will not pass upon the credibility of witnesses
10 or reweigh the evidence, nor substitute its judgment for that of the State Engineer.⁵¹ With
11 respect to questions of fact, the reviewing court must limit its determination to whether
12 substantial evidence in the record supports the State Engineer's decision.⁵² When
13 reviewing the State Engineer's findings, factual determinations will not be disturbed on
14 appeal if supported by substantial evidence.⁵³ Substantial evidence has been defined as
15 "that which a reasonable mind might accept as adequate to support a conclusion."⁵⁴ With

16 _____
17 ⁴⁷State Engineer's answering brief 26, DNRPCA intervenors' answering brief 11-13,
Eureka County's answering brief 5, 11.

18 ⁴⁸ NRS 533.450(1).

19 ⁴⁹ NRS 533.450(2).

20 ⁵⁰ NRS 533.450(10).

21 ⁵¹ *Revert v. Ray*, 95 Nev. 782, 786, 603 P.2d 262, 264 (1974) (citing *N. Las Vegas v.*
22 *Pub. Serv. Comm'n*, 83 Nev. 279, 429 P.2d 66 (1967)).

23 ⁵² *Town of Eureka v. State Engineer*, 108 Nev. 163, 165, 826 P.2d 948, 949 (1997)
(citing *Revert* at 786).

24 ⁵³ *State Engineer v. Morris*, 107 Nev. 694, 701, 819 P.2d 203, 205 (1991).

25 ⁵⁴ *Bacher v. State Engineer*, 122, Nev. 1110, 1121, 146 P.3d 793, 800 (2006). (internal
26 citations omitted).



1 regard to purely legal questions, the standard of review is de novo.⁵⁵ Findings of an
2 administrative agency will not be set aside unless they are arbitrary and capricious.⁵⁶ The
3 court must review the evidence in order to determine whether the agency's decision was
4 arbitrary or capricious and was thus an abuse of the agency's discretion.⁵⁷ A finding is
5 arbitrary if "it is made without consideration of or regard for facts, circumstances fixed by
6 rules or procedure."⁵⁸ A decision is capricious if it is "contrary to the evidence or
7 established rules of law."⁵⁹

8 "The State Engineer's ruling on questions of law is persuasive, but not entitled to
9 deference."⁶⁰ The presumption of correctness accorded to a State Engineer's decision
10 "does not extend to 'purely legal questions, such as 'the construction of a statute, as to
11 which the reviewing court may undertake independent review."⁶¹

12 A. THE STATE ENGINEER'S PUBLIC HEARING AFFORDED PETITIONERS DUE
13 PROCESS

14 On October 30, 2018, the State Engineer, after giving notice required by statute,⁶²
15 held a public hearing in Eureka, Nevada. The public hearing was followed by a written
16 public comment period ending November 2, 2018. On June 11, 2019, the State Engineer
17 filed a motion in limine which was briefed by all parties. Sadler Ranch, the Renners, and

18 ⁵⁵ *In re Nevada State Engineer Ruling No. 5823*, 128 Nev. 232, 238, 277 P.3d 449
(2012.)

19 ⁵⁶ *Pyramid Lake Paiute Tribe v. Washoe County*, 112 Nev. 743, 751, 918 P.2d 697, 702
20 (1991).

21 ⁵⁷ *Shetakis v. State, Dep't Taxation*, 108 Nev. 901, 903, 839 P.2d 1315, 1317 (1992).

22 ⁵⁸ Black's Law Dictionary, Arbitrary (10th ed. 2014).

23 ⁵⁹ Black's Law Dictionary, Capricious (10th ed 2014).

24 ⁶⁰ *Sierra Pac. Indus. v. Wilson*, 135 Nev. Adv. Op. 13, 440 P.3d 37, 40 (2019)

25 ⁶¹ *In Re State Engineer Ruling no. 5823 at 239*, (internal citations omitted).

26 ⁶²NRS 534.037(3).



1 the Baileys argued that their due process rights were violated, alleging the State Engineer
2 failed to hold a proper evidentiary hearing where witnesses could be subject to cross-
3 examination and evidence challenged.⁶³ This Court entered an order granting motion in
4 limine on September 4, 2019. In its order, the court specifically found that “the public
5 hearing process to consider the GMP under NRS 534.035 provided notice and the
6 opportunity for anyone to be heard and to offer evidence, thus satisfying due process
7 standards.”⁶⁴ The court’s position has not changed. The court incorporates the entirety
8 of the order granting motion in limine in these findings of fact and conclusions of law. The
9 court finds that petitioners were afforded due process in the public hearing held on October
10 18, 2018, pursuant to NRS 534.037(3).

11 B. THE STATE ENGINEER CONSIDERED APPLICABLE NRS 534.037(2) FACTORS
12 PRIOR TO APPROVING THE DVGMP

13 In determining whether to approve a GMP, NRS 534.037(2) requires the State
14 Engineer to consider: (a) the hydrology of the basin; (b) the physical characteristics of the
15 basin; (c) the geographic spacing and location of the withdrawals of groundwater in the
16 basin; (d) the quality of the water in the basin; (e) the wells located in the basin, including
17 domestic wells; (f) whether a groundwater management plan already exists to the basin;
18 (g) any other factors deemed relevant by the State Engineer. The State Engineer must
19 ultimately decide whether a proposed GMP “sets forth the necessary steps for removal of
20 the basin’s designation as a CMA.⁶⁵ Petitioners argue that (1) the State Engineer failed to
21 consider the NRS 534.037(2) factors, and (2) that the DVGMP failed to demonstrate that
22 decreased pumping over the 35 year life of the plan will result in “stabilized groundwater

23 ⁶³Sadler Ranch opening brief 34; Sadler Ranch opposition to motion in limine filed June
24 24, 2019; Bailey opposition to motion in limine filed June 24, 2019.

25 ⁶⁴Order granting motion in limine 10.

26 ⁶⁵NRS 534.037(1).



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levels⁶⁶ based on the evidence presented at and after the public hearing. Petitioners submit that the DVGMP fails to bring the Diamond Valley basin into equilibrium within 10 years and over pumping will continue even at the 35th year of the plan.⁶⁷ Order 1302, describes the State Engineer's review of the NRS 534.037(2) factors in relation to the DVGMP.⁶⁸ The DVGMP's review of the factors is in Appendices D-I.

The State Engineer specifically rejected petitioners' arguments that the DVGMP failed to reach an equilibrium, that groundwater modeling and hydro geologic analysis must be the basis for the DVGMP's determination of pumping reduction rates and pumping totals at the plan's end date, and that the DVGMP pumping reductions would not bring withdrawals to the perennial yield.⁶⁹ The record shows that the State Engineer considered evidence of the NRS 534.037(2) factors as set forth in appendix D to the DVGMP.⁷⁰ Sadler Ranch's assertion that their expert, David Hillis' report questioning DVGMP's viability should be accepted by the State Engineer does not require the State Engineer to accept Mr. Hillis' findings and conclusions. The State Engineer was satisfied that the DVGMP would cause the Diamond Valley basin to be removed as a CMA at the end of 35 years. The State Engineer is not required to undertake an extensive factor analysis in his order if he is otherwise satisfied that sufficient facts and analysis are presented in the petition and the proposed DVGMP from which he could make a determination whether to approve or reject the DVGMP.

⁶⁶Sadler Ranch opening brief 9-18, Bailey opening brief 30-33, Sadler Ranch reply brief 15-20.

⁶⁷*Id.*

⁶⁸SEROA 14-17.

⁶⁹SEROA 17-18.

⁷⁰SEROA 17-18, 223, 227-28, 476-496.



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Petitioners' contention that "the Legislature determined that a GMP should accomplish its goals within ten years, not thirty-five" is misplaced.⁷¹ First, NRS 534.110(7) states that if a basin has been designated as a CMA for 10 consecutive years, the State Engineer shall order withdrawals based on priority, **unless** a GMP has been approved pursuant to NRS 534.037 (emphasis added). NRS 534.110(7) does not state a GMP must accomplish the goal of equilibrium in a CMA basin within 10 years from the GMP approval. An undertaking as immense as bringing a depleted aquifer into balance could easily surpass 10 years depending on the extent of harm to the aquifer. Sadler Ranch misconstrues Assemblyman Goicoechea's statement to the Legislature that, "[again] you have ten years to accomplish your road to recovery."⁷² The court views Assemblyman Goicoechea's words as meaning that once a basin is designated as a CMA, a 10 year clock starts wherein a GMP must be approved within the 10 year period, and if not, curtailment by priority must be initiated by the State Engineer. A GMP "must set forth the necessary steps for removal of the basin's designation as a critical management area"⁷³ not that equilibrium in the CMA basin must be accomplished within 10 years. If the State Engineer finds, which he did here, that the DVGMP sets forth the necessary steps for removal of the basin as a CMA, he may approve a GMP even if the DVGMP exceeds a 10 year period.

Petitioners claim the DVGMP will allow for continued depletion of the Diamond Valley aquifer.⁷⁴ The court agrees with petitioners. However, the State Engineer, using his knowledge and experience, and based on the evidence presented at the public hearing,

⁷¹Sadler Ranch opening brief 13.

⁷²Minutes of Assmb. Comm. on Gov't Affairs, 69 (March 30, 2011).

⁷³NRS 534.037(1).

⁷⁴Sadler Ranch opening brief 9-18, Bailey opening brief 30-33, Sadler Ranch reply brief 15-20.



1 including the DVGMP and appendices, rejected petitioners' arguments that the DVGMP
2 would not enable the basin to be removed as a CMA. Again, this Court will not reweigh
3 the evidence presented nor substitute its judgment for that of the State Engineer. The
4 court finds that there is substantial evidence in the record to support the State Engineer's
5 approval of the DVGMP as achieving the goal of removing the Diamond Valley basin from
6 CMA status. The court finds that there is substantial evidence in the record to support the
7 State Engineer's findings that the DVGMP contained the necessary relevant factors in NRS
8 534.037(2) to approve the DVGMP.⁷⁵

9 C. THE STATE ENGINEER RETAINS HIS AUTHORITY TO MANAGE THE DIAMOND
10 VALLEY BASIN

11 Notwithstanding his approval of the DVGMP, the State Engineer is not precluded
12 from taking any necessary steps in his discretion to protect the Diamond Valley aquifer,
13 including, ordering curtailment by priority, at any time during the life of the DVGMP if he
14 finds that the aquifer is being further damaged. NRS 534.120(1) gives the State Engineer
15 discretion to "make such rules, regulations and orders as are deemed essential for the
16 welfare of the area involved." Order 1302 specifically found the DVGMP did not waive "any
17 authority of the State Engineer to enforce Nevada water law."⁷⁶ It would be ludicrous to
18 find that the State Engineer was prohibited from taking whatever action was necessary to
19 prevent a catastrophic result in Diamond Valley during the life of the DVGMP, including
20 curtailment, regardless of the provisions built into the DVGMP that otherwise trigger his
21 plan review.⁷⁷ The court finds the DVGMP does not limit the State Engineer's authority to

22 ⁷⁵This finding is narrowly limited to the State Engineer's fact finding only in relation to
23 the NRS 534.037(2) factors and that he found the DVGMP would allow the basin to be
24 removed as a CMA after 35 years, not whether the DVGMP and Order 1302 violates
25 Nevada law in other respects..

26 ⁷⁶SEROA 18.

⁷⁷See SEROA 235, sec. 13.13; 246, sec. 26.

1 manage the Diamond Valley basin pursuant to NRS 534.120(1).

2 D. ORDER 1302 DOES NOT VIOLATE NEVADA'S AQUIFER STORAGE RECOVERY
3 ("ASR") STATUTE

4 An ASR project under Nevada law contemplates the recharge, storage, and
5 recovery of water for future use for which a permit is required.⁷⁸ The DVGMP does not
6 include a proposed source of water for recharge into the Diamond Valley aquifer, the
7 quantity of water proposed to be recharged into the aquifer, nor any stated purpose for
8 the storage of water for future use.⁷⁹ The DVGMP uses the term "banking" as meaning
9 unused shares of water in a year may be carried forward or "banked" for use in the
10 following year if appropriate. The State Engineer held that the DVGMP provision to carry
11 over water shares for use in a subsequent year was outside the scope of NRS 534.260 to
12 534.350 as not being a project involving the recharge, storage and recovery of water
13 subject to statutory regulations,⁸⁰ but "to allow flexibility by users to determine when to use
14 their limited allocation and to encourage water conservative practices."⁸¹ The State
15 Engineer's finding is supported by substantial evidence in the record. The court finds the
16 term "banked" when used in the manner as stated in the DVGMP to mean water shares
17 that are not used but saved for use in a subsequent year.⁸² The court finds the DVGMP is
18 not required to comply with and does not violate NRS 534.250 to NRS 534.340.

19
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21 _____
22 ⁷⁸NRS 534.250-534.340.

23 ⁷⁹*Id.*

24 ⁸⁰SEROA 8, 9.

25 ⁸¹*Id.*

26 ⁸²SEROA 234, sec. 13.9.





1 E. PETITIONERS FAILED TO SHOW THAT A VIOLATION OF NRS 534.037(1)
2 WHEN SEEKING PETITION APPROVAL AFFECTED THE VOTE RESULT

3 A GMP petition submitted to the State Engineer for approval “. . . must be signed
4 by a majority of the holders of permits or certificates to appropriate water in the basin that
5 are on file in the Office of the State Engineer . . .”⁸³ The DVGMP petition was thus required
6 to be signed by a majority of the holders of permits or certificates for surface rights, stock
7 water rights, and underground rights in the Diamond Valley basin.

8 Order 1302 found there were 419 water right permits or certificates in the Diamond
9 Valley basin at the time the DVGMP petition was filed.⁸⁴ By limiting the computation to
10 those signatures from a confirmed owner of record, the State Engineer found 223 of 419
11 permits or certificates,⁸⁵ or 53.2 percent, was a majority of the permits or certificates in the
12 basin.⁸⁶ The DVGMP petition was only sent to groundwater permit holders to be
13 considered and voted upon.⁸⁷ The State Engineer argues that since the procedure for
14 approving a GMP is found in Chapter 534 related to underground water that only
15 permit/certificate holders for underground irrigation were required to vote.⁸⁸ This position
16 misconstrues the clear language of NRS 534.037(1) . The Baileys assert that the DVGMP
17 petition should have been submitted to all vested and surface right or other permit and
18 certificate holders for consideration and vote.⁸⁹ The court agrees that all certificate and

19 _____
⁸³NRS 534.037(1).

20 ⁸⁴SEROA 3.

21 ⁸⁵Those signatures by a confirmed owner of record. *Id.*

22 ⁸⁶SEROA 3.

23 ⁸⁷SEROA 148.

24 ⁸⁸State Engineer’s answering brief 25, “. . . surface water rights and vested rights were
25 properly omitted from the State Engineer’s calculation for majority approval under NRS
26 534.037(1) . . .”

⁸⁹Bailey opening brief 33-34, Bailey reply brief 17-19.



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permit holders should have had the petition submitted to them. However, NRS 534.037(1) does not require a petition to be submitted to vested right holders. NRS 534.037(1) does not restrict petition approval to only underground permit or certificate holders. The exclusion of all surface permit and certificate holders or other certificate holders from considering whether to approve the DVGMP or not was incorrect and violated NRS 534.037(1). The court so finds. But, petitioners have not shown that they or other holders of permits or certificates to appropriate water in the basin were not included in the State Engineer's count of 419 water right permits or certificates in the Diamond Valley basin.⁹⁰ There is no evidence in the ROA that the State Engineer excluded any holders of permits or certificates in the 419 count. Although petitioners and others similarly situated may not have been presented with the petition to approve the DVGMP, the fact that they would not have signed the petition is irrelevant as a majority of the holders of permits or certificates in the basin did sign the petition. The court finds substantial evidence in the record to support the State Engineer's determination that the petition was signed by a majority of the permit or certificate holders in the Diamond Valley basin.

At the oral argument hearing, Sadler Ranch and the Renners untimely challenged the accuracy of the vote approving the DVGMP petition. First, they contend that NRS 534.037(1) requires that votes be counted by the number of people who own the permits/certificates, not the number of permits. The statute's focus is counting by the permit/certificates. The State Engineer limited his count to the permits and certificates, and compared petition signatures with the confirmed owner of record in his office files.⁹¹ Under petitioners' interpretation,⁹² if one permit or certificate was owned by 25 owners, there

⁹⁰SEROA 3.

⁹¹SEROA 3.

⁹²Sadler Ranch's example was that the Moyle Family has 5 people who own 50 permits thereafter the State Engineer should have only counted 5 votes instead of 50.



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should be 25 votes counted. This method of assigning votes improperly places the vote calculation on the number of owners of certificates or permits rather than the number of permits or certificates in the Diamond Valley basin. The court rejects Sadler Ranch's and the Renner's interpretation of the method by which votes must be counted under NRS 534.037(1). Second, they contend the record fails to support how the State Engineer verified petition signatures or what rights were counted as eligible to vote. The court is satisfied that the State Engineer reviewed his office's records, confirmed the owner(s) of record with the signatures on the petition as representing the owner(s) of record in his office, and then counted the permits or certificates, not the owners of the certificates or permits.⁹³ Third, Sadler Ranch and the Renners state some signatures were not by the owner of record. There is no requirement under the NRS 534.037(1) that an individual representing a permit or certificate holder could not sign the petition for the holder. No challenges exist in the record by any permit or certificate holders claiming that their vote was fraudulently cast by someone not authorized to vote on their behalf. Fourth, Sadler Ranch and the Renners suggest that the permit or certificate should not have been counted if only signed by 1 of the owners of record. Again, nothing in the statute requires the petition be signed by each owner of a permit or certificate. Again, there are no challenges in record from any co-owners alleging the vote of their certificate or permit was invalid because not all of the record owners signed the petition. Last, they cite that the DVGMP tally sheet had double and triple counted votes. This may be so, but the State Engineer's method of calculation represented the true count of votes. Sadler Ranch's and the Renner's objections are rejected. The court finds substantial evidence in the record to support the State Engineer.

⁹³SEROA 3-4.



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F. ORDER 1302 VIOLATES THE BENEFICIAL USE STATUTE

In Nevada, “beneficial use shall be the basis, the measure and the limit of the right to the use of the water”⁹⁴ “Beneficial use depends on a party actually using the water.”⁹⁵ The DVGMP does not require prior beneficial use of water in order for a permit holder to receive shares under the DVGMP formula.⁹⁶ Petitioners contend that any permits or certificates that are in abandonment status should not be allowed water shares. The State Engineer found that because “. . . time is of the essence for rights holders to get a GMP approved” . . . “it would be a lengthy process to pursue abandonment.”⁹⁷ The State Engineer also cites the notice of non-use provisions required by NRS 534.090 as potentially causing owners of unused water rights to resume beneficial use, and exacerbate the water conditions in Diamond Valley.⁹⁸ The court agrees such a situation could occur, however, the State Engineer’s analysis fails to address that permit holders who have done nothing to beneficially use water will receive just as many, if not more, shares of water will as holders of water rights who have placed water to beneficial use. The GMP gifts to permit holders, who have done nothing to place their water to beneficial use, valuable water shares to trade, lease, or sell to others in Diamond Valley.

Of the 126,000 af of water rights in Diamond Valley, currently there is only 76,000 af of actual beneficial use.⁹⁹ Under the DVGMP those permit holders who have never proved up their water by placing it to beneficial use could potentially receive more water

⁹⁴NRS 533.035.

⁹⁵*Bacher v. State Engineer*, 122 Nev. 1110, 1116, 146 P.3d 793 (2006).

⁹⁶SEROA 232-236, sec. 12,13

⁹⁷SEROA 9.

⁹⁸*Id.*

⁹⁹SEROA 2.



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than those holders who have placed their water to beneficial use. The DVGMP allocates the total amount of 76,000 af actually being pumped to 126,000 af of irrigation ground water rights in good standing in Diamond Valley all of which will receive shares under the DVGMP formula.¹⁰⁰ By example, a farmer with a center pivot on a 160 acre parcel at 4 af per acre would be permitted for 640 af. Upon prove up, if he actually watered less than the 160 acre parcel because watering by using a center pivot does not water the 4 corners of a parcel, he may only prove up the water right for 512 af and receives a certificate for this amount. Another farmer in Diamond Valley, who has a 160 acre parcel at 4 af per acre but who has never proved up the beneficial use of the water and stands in a forfeiture status, receives the full 640 af of water. In the 1st year of the DVGMP, the farmer who has a permit for 640 af, but never has proved it up through beneficial use, actually received 85 af more water than the farmer who proved up beneficial use on the same size parcel. When transferred into shares under the DVGMP, the farmer who has not proved up his permit receives windfall of water shares to sell or trade. The DVGMP acknowledges that some water rights in good standing have not been used and tied to corners of irrigation circles and that most, but not all, "paper water" is tied to currently used certificates or permits.¹⁰¹ Even though the DVGMP caps the amount of water the first year of the plan at the "ceiling of actual pumping (76,000 afa)",¹⁰² it remains that the 76,000 afa will be allocated to some permits who have not proved up beneficial use.

Under Nevada water law, a certificate, vested, or perfected water right holder enjoys the right to and must beneficially use all of the water it has proved up. The DVGMP rewards permit holders who have not placed water to beneficial use, of which there are

¹⁰⁰SEROA 218, 219, 221, 232-33 3m 461, 465.

¹⁰¹SEROA 467.

¹⁰²SEROA 12.



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approximately 50,000 af in Diamond Valley.¹⁰³ The DVGMP also allows the banking of unperfected paper water rights for future use which can be sold, traded or leased.¹⁰⁴ The court finds that Order 1302 violates the NRS 533.035. The court finds Order 1302 is arbitrary and capricious.

G. THE DVGMP IMPAIRS VESTED RIGHTS IN VIOLATION OF NRS 533.085(1)

It is undisputed that the Baileys and Renners have senior vested surface water rights that have been adversely impacted by the 40 years plus of overpumping¹⁰⁵. Respondent and intervenors agree that the DVGMP was not developed for mitigation purposes, but to reduce pumping, bring equilibrium to the Diamond Valley aquifer in 35 years, and cause the CMA designation to be removed.¹⁰⁶ The State Engineer's position is that the GMP "is not a mitigation plan, and NRS 534.037 does not require the proponents of a groundwater management plan or the State Engineer to consider the alleged effects on surface water rights or mitigate those alleged effects."¹⁰⁷ The State Engineer is wrong. A GMP must consider the effect it will have on surface water rights. In *Pyramid Lake Paiute Tribe v. Ricci* 126 Nev. 531.524 (2010), the Nevada Supreme Court acknowledged the State Engineer's ruling that "[t]he perennial yield of a hydrological basin is the equilibrium amount or maximum amount of water that can be safely used without depleting the source." Moreover, [t]he maximum amount of natural discharge that can be feasibly captured . . . [is the] perennial yield . . . the maximum amount of withdrawal

¹⁰³SEROA 2, 9, 10.

¹⁰⁴SEROA 234; see sec. 13.2

¹⁰⁵Sadler Ranch had impacted senior vested rights that have been mitigated by certificate.

¹⁰⁶State Engineer's answering brief, 36.

¹⁰⁷*Id.*. This position is also shared by the DNRPCA intervenors. DNRPCA answering brief, 24; and Eureka County, Eureka County answering brief, 22.



1 above which over appropriation occurs.” *State Engineer v. Morris*, 107 Nev. 699 703
2 (1991).The DVGMP on its face fails to reduce the harm caused by overpumping and
3 aggravates the depleted water basin.

4 A GMP developed under NRS 534.037 is not required to mitigate adversely affected
5 surface water rights, but it cannot impair those rights.NRS 533.085(1) provides, “nothing
6 contained in this chapter shall impair the vested right of any person to the use of water, nor
7 shall the right of any person to take and use water be impaired or affected by any of the
8 provisions of this chapter where appropriations have been initiated in accordance with law
9 prior to March 22, 2013.” NRS 534.100 reads, “Existing water rights to the use of
10 underground water are hereby recognized. For the purpose of this chapter a vested right
11 is a water right on underground water acquired from an artesian or definable aquifer prior
12 to March 22, 1913.”

13 The DVGMP authorizes continuous pumping beginning with 76,000 af in year one,
14 reducing pumping to 34,200 af at the end of 35 years,¹⁰⁸ clearly in excess of the 30,000 af
15 perennial yield in the Diamond Valley aquifer.¹⁰⁹ The DVGMP and Order 1302
16 acknowledge that there will be ongoing additional withdrawals of water from the basin of
17 approximately 5,000 af annually of non-irrigation permits.¹¹⁰ Venturacci, Sadler Ranch and
18 the Bailey’s are entitled to withdraw an approximate 6,400 af annually.¹¹¹ The State
19 Engineer admits that neither groundwater modeling nor hydro geologic analysis were the
20 basis for the DVGMP’s “determination of pumping reduction rates and target pumping at
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22 _____
23 ¹⁰⁸SEROA 510.

24 ¹⁰⁹SEROA 3.

25 ¹¹⁰*Id.*

26 ¹¹¹Permits 82268, 81270, 63497, 81825, 82572, 87661.



1 the end of the plan”¹¹² but that “the pumping reduction rate was selected by agreement of
2 the GMP authors, . . .”¹¹³ The State Engineer’s reasoning that NRS 534.037 does not
3 require a GMP “to consider alleged effects on surface water rights” is a misunderstanding
4 of Nevada’s water law. The DVGMP’s annual pumping allocation will certainly cause the
5 aquifer groundwater level to decline with continuing adverse effects on vested surface
6 rights. The court finds that the DVGMP and Order 1302 impair senior vested rights. The
7 court finds that Order 1302 is arbitrary and capricious.

8 **ESTOPPEL ISSUE**

9 Contrary to the position of Eureka County, petitioners are not estopped from making
10 claims that the DVGMP impacts their vested rights.¹¹⁴ No facts are present in the ROA that
11 any respondent relied to their detriment upon representations or any petitioners or that any
12 other estoppel elements are present in the ROA.¹¹⁵

13 I. **ORDER 1302 VIOLATES NEVADA’S DOCTRINE OF PRIOR APPROPRIATION**

14 The history of prior appropriation in the Western states dates to the mid-1800’s and
15 has been well chronicled in case law. Notably, In *Re Water of Hallett Creek Stream*
16 *System*,¹¹⁶ discusses at length the development, ¹¹⁶ of the doctrine of prior appropriation, “first
17 in time, first in right”, with its genesis linked to the early California gold miners’ use of water
18 and a local rule of priority as to the use of water. Nevada has long recognized the law of
19 prior appropriation.¹¹⁷ The priority of a water right is the most important feature.¹¹⁸ Court’s

20 ¹¹²SEROA 16.

21 ¹¹³*Id.*

22 ¹¹⁴Eureka County answering brief 22-23.

23 ¹¹⁵*Torres v. Nev. Direct Ins. Co.*, 131 Nev. 531, 539, 353 P.3d 1203 (2015). (internal
24 citations omitted).

25 ¹¹⁶749 P.2d 324, 330-34 (Cal 1988) cert. denied 488 U.S. 834 (1988).

26 ¹¹⁷*Steptoe Livestock Co. v. Gulley*, 53 Nev 163, 171-173, 205 P.772 (1931); *Jones v. Adams* 19 Nev. 78, 87, (1885).

¹¹⁸See *Gregory J. Hobbs, Jr., Priority: The Most Misunderstood Stick in the Bundle*, 32
Envtl .L. 37(2002).



1 have stated, “priority in a water right [as] property in itself.”¹¹⁹ Although, “. . . those holding
2 certificates, vested, or perfected water rights do not own or acquire title to the water, they
3 merely enjoy the right to beneficial use,”¹²⁰ the Nevada Supreme Court has stated, “a water
4 right ‘is regarded and protected as real property.’”¹²¹ The Nevada Supreme Court
5 recognized as well established precedent “that a loss of priority that renders rights useless
6 ‘certainly affects the rights’ value and ‘can amount to a defacto loss of rights.’”¹²² The prior
7 appropriation doctrine ensures that the senior appropriator who has put its water to
8 beneficial use has a right to put all of the water under its permit/certificate to use and that
9 right is senior to all water rights holders who are junior. This doctrine becomes critically
10 important during times of water scarcity, whether temporary, or as a result of prolonged
11 drought. This is certainly the case in Diamond Valley. With the security attached to a
12 senior priority right to beneficially use all of the water associated with the right also comes
13 obvious financial value not only to the current water right holder, but to any future owner
14 of that senior right. The loss or reduction of any water associated with the senior right can
15 significantly harm the holder.

16 The State Engineer found that, “the GMP still honors prior appropriation by
17 allocating senior rights a higher priority than junior rights.”¹²³ The court disagrees. The
18 DVGMP reduces the amount of water it allocates to senior rights’ holders in the formula
19 for shares effectively ignoring 150 years of the principle of “first in time, first in right”¹²⁴
20 which has allowed a senior right holder to beneficially use all of water allocated in its right

21 ¹¹⁹*Colo. Water Conservation Bd. v. City of Central*, 125 P.3d 424, 434 (Colo. 2005).

22 ¹²⁰*Sierra Pac. v. Wilson*, 135 Nev. Adv. Op. 13, 440 P.3d 37, 40, (2019), citing *Desert*
23 *Irrigation, Ltd. v. State*, 113. Nev. 1049, 1059, 994 P.2d 835, 842 (1997).

24 ¹²¹*Town of Eureka*, 167.

25 ¹²²*Wilson v. Happy Creek*, 135 Nev. Adv. Op. 41, 448 P.3d 1106, 1115 (2019) (internal
26 citations omitted).

¹²³SEROA 8.

¹²⁴*Ormsby County v. Kearny*, 37 Nev. 314, 142 P. 803, 820 (1914).

1 before any junior right holder can use its water right. The DVGMP allows the senior right
2 holder a higher priority to use less water.

3 The court finds that the DVGMP formula for water shares that reduces the amount
4 of water to which a senior water rights' holder is entitled to use violates the doctrine of prior
5 appropriation in Nevada. The court finds that Order 1302 violates the doctrine of prior
6 appropriation in Nevada. The court thus finds that Order 1302 is arbitrary and capricious.

7 H. THE LEGISLATIVE HISTORY OF NRS 534.037 and 534.110(7) DOES NOT
8 DEMONSTRATE AN INTENT TO MODIFY THE DOCTRINE OF PRIOR
9 APPROPRIATION IN NEVADA

10 As stated above, the doctrine of prior appropriation has existed in Nevada water law
11 for in excess of 150 years. The DVGMP reduces the annual allocation of water rights to
12 both junior and senior rights holders.¹²⁵ Relying on a New Mexico Supreme Court case,
13 *State Engineer v. Lewis*,¹²⁶ Order 1302 held that NRS 534.037 “demonstrates legislative
14 intent to permit action in the alternative to strict priority regulation.”¹²⁷ Order 1302 states
15 that, “. . . in enacting NRS 534.037, the Nevada legislature expressly authorized a
16 procedure to resolve a shortage problem . And, likewise, the State Engineer assumes that
17 the Legislature was aware of prior appropriation when it enacted NRS 534.037, and the
18 State Engineer interprets the statute as intending to create a solution other than a priority
19 call as the first and only response.”¹²⁸ The State Engineer further found that, “Nothing in
20 the legislative history of A.B. 419 or the text of NRS 534.037 suggests that reductions in
21 pumping have to be borne by the junior rights holders alone – if that were the case, the
22 State Engineer could simply curtail junior rights – a power already granted by pre-existing

23 _____
24 ¹²⁵SEROA 499-526, appendix F is the preliminary table of all rights subject to the
25 DVGMP and the share calculation for each right.

26 ¹²⁶150 P.3d 375 (N.M. 2006).

¹²⁷SEROA 5.

¹²⁸SEROA 6.





1 water law in NRS 534.110(6).¹²⁹ The State Engineer argues the plain language of NRS
2 534.037 and NRS 534.110(7) “shows the legislature’s intent to allow local communities to
3 come together and agree upon a solution for groundwater management other than strict
4 application of prior appropriation, such as the Diamond Valley GMP.”¹³⁰ His reasoning is
5 that since NRS 534.110(7) requires junior priority rights to be curtailed in favor of senior
6 priority rights where a basin has been designated a CMA for at least 10 years, the
7 legislature provided an exception to the curtailment requirement and the application of the
8 prior appropriation doctrine where “ a groundwater management plan has been approved
9 for the basin pursuant to NRS 534.037.”¹³¹ Order 1302 held that “NRS 534.037 illustrates
10 the unambiguous intent of the Legislature to allow a community to find its own solution to
11 water shortage, including “out-of-the-box solutions,” “to resolve conditions leading to a
12 CMA designation.”¹³²

13 The community based solution approved by the State Engineer allows junior rights’
14 holders who, by over pumping for more than 40 years have created the water shortage in
15 Diamond Valley, to be able to approve a GMP that dictates to senior rights’ holders that
16 they can no longer use the full amount of their senior rights. This is unreasonable. Taking
17 it a step further, using the State Engineer’s analysis, a majority vote of water
18 permits/certificates in Diamond Valley could approve a GMP whereby the senior rights
19 holders are subject to a formula reducing their water rights by an even greater percentage
20 of water than in the current DVGMP.

21 The State Engineer’s position is shared by the intervenors. Eureka County asserts
22 (1) NRS 534.110(6) and (7) are not ambiguous; (2)that subsection (7) is a specific, special
23 statute authorizing CMA’s which controls over subsection (6), a general subsection for

24 ¹²⁹SEROA 6-7.

25 ¹³⁰State Engineer’s answering brief 25.

26 ¹³¹*Id.* 25-26.

¹³²*Id.* 26.



1 CMA designated basins; and (3) thus regulation by priority is not required for at least 10
2 consecutive years for a CMA designated basin “unless a groundwater management plan
3 has been approved for the basin in that time frame.”¹³³ Eureka County maintains that
4 subsection NRS 534.110(7) “is a plain and clear ‘exception’ to the general discretionary
5 curtailment provision in subsection 6,”¹³⁴ concluding that “NRS 534.110(7) does not require
6 the State Engineer to order senior rights be fulfilled before junior rights in the critical
7 management area for at least 10 consecutive years after the designation.”¹³⁵ DNRPCA
8 intervenors advocate that a community based GMP deviating from water right regulation
9 contrary to the prior appropriation doctrine is authorized by NRS 534.110(7),¹³⁶ stating, “.
10 .. the Legislature deliberately enacted legislation that created **an exception** to the seniority
11 system in exactly the circumstances that exist here.”¹³⁷ (Emphasis added). The State
12 Engineer and intervenors further agree that if a GMP has been approved, that the State
13 Engineer cannot order any curtailment by priority for at least 10 years from the date the
14 basin was designated a CMA. The foregoing interpretations, if sustained, would turn 150
15 years of Nevada water law into chaos.

16 The State Engineer and intervenors have misinterpreted NRS 534.037 by using the
17 *Lewis* case as either authority for or as being “instructive” as to the legislative intent behind
18 NRS 534.037.¹³⁸ Now conceded by the State Engineer, the *Lewis* facts and holding are
19 clearly distinguishable from the present case.¹³⁹ In *Lewis*, a U.S. Supreme Court mandated
20 settlement agreement was litigated. The *Lewis* plan was presented to, and expressly

21 ¹³³Eureka County’s answering brief 12-13.

22 ¹³⁴*Id.*

23 ¹³⁵*Id.* 12.

24 ¹³⁶DNRPCA answering brief 11-12.

25 ¹³⁷*Id.* 11.

26 ¹³⁸State Engineer’s answering brief 29-3..

¹³⁹*Id.*



1 ratified by the New Mexico Legislature.¹⁴⁰ The DVGMP has never been presented to or
2 ratified by the Nevada Legislature. The State Engineer now claims the *Lewis* case is an
3 example “that shows another state has utilized an innovative solution in order to resolve
4 water shortages.” The State Engineer analyzes that, “NRS 534.037 was expressly ratified
5 by the Nevada Legislature, and has a clear intent to allow local water users to agree to a
6 solution other than curtailment by priority.”¹⁴¹ Critically, there is no language, either express
7 or implied in NRS 534.037, that allows for a GMP to be approved by a majority of right
8 holders in a CMA that reduces the amount of water to which a senior right holder is entitled
9 to beneficially use. The State Engineer amazingly argues that “Baileys, Sadler Ranch, and
10 the Renners provide no authority for someone in the minority (*i.e. someone who did not*
11 *want the GMP approved*) in a basin where a groundwater management plan is approved
12 to act outside of the plan that was agreed to, per statute, by a majority of the holders of
13 water permits and certificates, nor do they legitimately challenge the language of the
14 statute providing for a simple majority to create a basin-wide groundwater management
15 plan.”¹⁴² By the State Engineer’s analysis of the legislative intent of NRS 534.037, a
16 majority of junior right holders, who, by their collective knowing over appropriation of a
17 water basin, combined with the State Engineer’s neglectful acquiescence, can vote to
18 deprive a senior right holder’s use of all of its water, thus enabling the junior holders who
19 created the crisis to continue to irrigate by using water which they were never entitled to
20 use.¹⁴³ This is simply wrong.

21 The Nevada Supreme court has noted, “our adherence to long-statutory precedent
22 provides stability on which those subject to this State’s law are entitled to rely.”¹⁴⁴ Every

23 ¹⁴⁰*Lewis*, 376.

24 ¹⁴¹State Engineer’s answering brief 29.

25 ¹⁴²*Id.* 30.

26 ¹⁴³53.2percent of the senior priority water right owners did not support the DVGMP.

¹⁴⁴*Happy Creek*, 1116.



1 water right holder under Nevada law was, and is, entitled to rely on the priority date of a
2 valid water right they own to place all of the water under its right to beneficial use. Neither
3 Nevada Supreme Court nor the Legislature have ever waived from this legal precedent.
4 Nevada ranchers and farmers have always valued and defended their water right priority.
5 Every rancher and farmer, until Order 1302, have relied on Nevada's stone etched security
6 that their water right priority date entitled them to beneficially use the full amount of a valid
7 water right prior to all those junior. Every Nevada rancher and farmer has known and
8 presumably understood that if their water right was junior to others, that the senior right
9 holder was entitled to satisfy the full amount of the senior right before the junior holder
10 would be satisfied, even if it meant the junior holder had less water or no water at all to
11 place to beneficial use.¹⁴⁵

12 Clearly, there is no express language in either NRS 534.037 or NRS 534.110(7)
13 stating a GMP can violate the doctrine of prior appropriation or that the doctrine is
14 somehow abrogated. Knowing the long standing legislative and judicial adherence to
15 Nevada's prior appropriation doctrine, the drafters could have easily inserted provisions in
16 the CMA and/or GMP legislation giving the State Engineer the unequivocal authority to
17 deviate from Nevada's "first-in-time, first-in-right" prior appropriation law if that was their
18 intent.

19 "The legislature is 'presumed not to intend to overturn long-established principles
20 of law' when enacting a statute"¹⁴⁶ When the language of a statute is unambiguous, courts
21 are not to look beyond the statute itself when determining meaning.¹⁴⁷ The court finds that
22 NRS 534.037 is not ambiguous. The court finds that the express language of NRS 534.037
23 and NRS 534.110(7) do not allow a GMP to violate the doctrine of prior appropriation by

24 ¹⁴⁵Sadler Ranch opening brief 4; see certificates/permits in SEROA 499-509; NRS
25 534.020(1).

26 ¹⁴⁶*Happy Creek*, 1111, citing *Shadow Wood Homeowners Ass'n. v. N.Y. Cmty. Bancorp. Inc.*, 132 Nev. 49, 59, 366 P.3d 1105, 1112 (2016).

¹⁴⁷*In re Orpheaus Trust*, 124 Nev. 170, 174, 179 P.3d 562 (2008)

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

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

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

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

25 ¹⁴⁹SEROA 244-245.

26 ¹⁵⁰*Orpheas Trust*. 174, 175.

¹⁵¹*Id.* 175.





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

3 Assuming arguendo, that NRS 534.037 and NRS 534.110(7) are ambiguous, the
4 only reasonable interpretation is that the Nevada Legislature did not intend for the two
5 statutes to allow a GMP to be implemented in that would violate Nevada’s doctrine of prior
6 appropriation. As stated earlier, a GMP may employ any number of remedies to address
7 a water crisis depending on the cause of a water basin’s decline, its hydrology, number of
8 affected rights’ holders, together with any other of factors which may be specific to a
9 particular CMA designated basin. These remedies could yield to the doctrine of prior
10 appropriation, yet be effective given the particular circumstances of a CMA basin. But in
11 some CMA basins, curtailment may be a necessary element of a GMP. Respondents
12 assert that “NRS 534.037 illustrates the unambiguous intent of the Legislature to provide
13 water users in a particular basin with the ability to come up with a community based
14 solution to address a water shortage problem.”¹⁵⁴ The court agrees. Order 1302 observes
15 that “the legislative history contains scarce direction concerning how a plan must be
16 created or what the confines of any plan must be.”¹⁵⁵ Again, the court agrees. Yet, there
17 is nothing in NRS 534.037’s legislative history that lends to an interpretation that a GMP
18 can provide for senior water rights to be abrogated by junior permit and certificate holders
19 whose conduct caused the CMA to be designated. The State Engineer’s finding that, “. . .
20 NRS 534.037(1) does not require a GMP to impose reductions solely against junior
21 rights . . .”¹⁵⁶ is a misinterpretation of the statute, not only facially, but in light of the
22 legislative history as discussed below.

23 ¹⁵²*Id.*

24 ¹⁵³*Id.*

25 ¹⁵⁴State Engineer’s answering brief 26.

26 ¹⁵⁵SEROA 7.

¹⁵⁶SEROA 8.



1 The State Engineer found that the legislative enactment of NRS 537.037, “expressly
2 authorized a procedure to resolve a shortage problem,” “the State Engineer assumes that
3 the Legislature was aware of Nevada’s prior appropriation doctrine when it enacted NRS
4 534.037, and . . . interprets the statute as intending to create a solution other than a priority
5 call as the first and only response.”¹⁵⁷ It is clear that the Legislature was aware of the prior
6 appropriation doctrine before enacting NRS 534.037 and that the statute allows for a GMP
7 in a particular basin that may not involve curtailment by priority as a workable solution. Yet,
8 nowhere in the Legislative history of AB 419¹⁵⁸ is one word spoken that the proposed
9 legislation will allow for a GMP whereby senior water right holder will have its right to use
10 the full amount of its permit/certificate reduced or that the amount of water that shall be
11 allocated will be on a basis other than by priority. In fact, just the opposite is true. At a
12 Senate Committee on Government Affairs hearing held May 23, 2011, Assemblyman Pete
13 Goicoechea stated:

14 “That junior users would bear the burden to develop a ‘conservation plan that
15 actually brings that water basin back into some compliance.’”¹⁵⁹

16 Assemblyman Goicoechea further stated:

17 “This bill allows people in overappropriated basins ten years to implement a
18 water management plan to get basins in balance. People with junior rights
19 will try to figure out how to conserve enough water under these plans. Water
20 management plans will also limit litigation that occurs before the State
21 Engineer regulates by priority. When the State Engineer regulates by
22 priority, it starts a water war and finger – pointing occurs. This bill gives
23 water right owners ten years to work through those issues.”¹⁶⁰

24 Earlier, at the same committee hearing, Assemblyman Goicoechea gave examples
25 of ways an over appropriated basin could be brought back in to balance through “planting
26

24 ¹⁵⁷SEROA 7.

25 ¹⁵⁸See DNRPCA intervenors’ addendum to answering brief 0079-0092.

26 ¹⁵⁹Minutes of Sen. Committee on Government Affairs, May 23, 2011, at 16.

¹⁶⁰*Id.*



alternative crops, water conservation, or using different irrigation methods.”¹⁶¹

1 Assemblyman Goicoechea went on to say:

2 “water rights in Nevada are first in time; first in right. The older the water
3 right the higher the priority. We would address the newest permits and work
4 backwards to get basins back into balance. The more aggressive people
might be the newer right holders.”¹⁶²

5 No one at any Legislative subcommittee hearings stated or implied that the
6 proposed GMP legislation was “an exception to or otherwise abrogated Nevada’s doctrine
7 of prior appropriation.” The court finds persuasive the steadfast commitment of Nevada’s
8 courts and legislation upholding the doctrine of prior appropriation and the absence of any
9 legislative history to the contrary for AB419.

10 There is a presumption against an intention to impliedly repeal where express terms
11 to repeal are not used.¹⁶³ “When a subsequent statute entirely revises the subject matter
12 contained in a prior statute, and the legislature intended the prior statute to be repealed,
13 the prior statute is considered to be repealed by implication. This practice is heavily
14 disfavored, and we will not consider a statute to be repealed by implication unless there
15 is no other reasonable construction of the two statutes.¹⁶⁴ Not only did NRS 534.034 and
16 NRS 534.110(7) not revise the doctrine of prior appropriation, the Legislature did not even
17 mention the subject.

18 “When construing statutes and rules together, this court will, if possible, interpret a
19 rule or statute in harmony with other rules and statutes.”¹⁶⁵ The doctrine of prior
20 appropriation can logically exist in harmony with NRS 534.037 and 534.110(7) and allow

21 _____
22 ¹⁶¹ *Id.*

23 ¹⁶² *Id.* at 13.

24 ¹⁶³ *W. Realty Co. V City of Reno*, 63 Nev. 330, 344 (1946). citing *Ronnan v. City of Las Vegas*, 57, Nev, 332, 364-65 (1937)

25 ¹⁶⁴ *Washington v. State*, 117 Nev. 735, 739, 30 P.3d 1134 (2001) (internal citations
26 omitted).

¹⁶⁵ *Hefetz v. Beavor*, 133 Nev. Adv. Op. 46, 197 P.3d 472, 475 (2017) citing *Albios v. Horizon Communities, Inc.*, 122 Nev. 409, 418, 132 P.3d 1022, 1028 (2006).



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for GMP's to address the water issues present in a particular CMA basin. The court finds that neither NRS 534.037 nor NRS 534.110(7) are in conflict with the prior appropriation doctrine.

More compelling evidence exists that the State Engineer knew that NRS 534.037 and NRS 534.110(7) did not abrogate or repeal the doctrine of prior appropriation. On November 16, 2016, Legislative Bill S.B 73 was introduced on behalf of the State Engineer.¹⁶⁶ The proposed legislation sought to modify NRS 534.037 by giving authority to the State Engineer to consider a GMP, "limiting the quantity of water that may be withdrawn under any permit or certificate or from a domestic well on a basis other than priority, . . ." ¹⁶⁷ Although SB 73 was never passed by the Legislature, the fact that the State Engineer specifically sought 2017 legislation authorizing a GMP to be approved that allowed for water to be withdrawn from a CMA basin on a basis other than priority, demonstrates the State Engineer's knowledge that NRS 534.037 and NRS 534.110(7) as enacted did not either expressly or impliedly allow for a GMP to violate Nevada's prior appropriation law.¹⁶⁸ The court finds that the AB 419's Legislative history did not intend to allow either NRS 534.037 or NRS 534.110(7) to repeal, modify, or abrogate Nevada's doctrine of prior appropriation.

I. THE DVGMP VIOLATES NRS 533.325 and NRS 533.345

NRS 533.325 states in pertinent part ". . . any person who wishes to appropriate any of the public waters, or to change the place of diversion, manner of use, or place of use of water already appropriated, shall before performing any work in connection with such appropriation, change in place of diversion or change in matter or place of use, apply to the State Engineer for a permit to do so." This is so because permits are tied to a single point

¹⁶⁶Sadler Ranch addendum to reply brief, 001

¹⁶⁷*Id.* 003.

¹⁶⁸The State Engineer's knowledge that the DVGMP violated the doctrine of prior appropriation was also evidenced by his presentation at the 2016 Western States Engineer's Annual Conference. See Sadler Ranch opening brief, ex. 1, slide 21.



1 of diversion.¹⁶⁹ "Every application for a permit to change the place of diversion, manner of
2 use or place of use of water already appropriated must contain such information as may be
3 necessary to a full understanding of the proposed change, as may be required by the State
4 Engineer."¹⁷⁰ The State Engineer can approve a temporary change if, among other
5 requirements, "the temporary change does not impair the water rights held by other
6 persons."¹⁷¹ The filing of an application under NRS 533.325 allows the State Engineer to
7 determine what, if any, potential adverse impact is created by the proposed change in well
8 location, location of the use of the water or manner of the proposed use. The State
9 Engineer is required to review a temporary change application regardless of the intended
10 use of the water to determine if it is in the public interest and does not impact the water
11 rights used by others.¹⁷² If a potential negative impact is found, the application could be
12 rejected.¹⁷³ Other rights' holders who may be affected by the temporary change could
13 protest the application if notice were given by the State Engineer.¹⁷⁴ No protest and notice
14 provisions at the administrative level exist in the DVGMP for a temporary change of use, or
15 place of use, or manner of use for less than one year.¹⁷⁵

16 Under the DVGMP, the State Engineer is not required to investigate a proposed
17 change in the place or manner of use and the transfer becomes automatic after 14 days
18 from submission.¹⁷⁶ The DVGMP provides that the groundwater withdrawn from Diamond
19

20 ¹⁶⁹NRS 533.330

21 ¹⁷⁰NRS 533.345(1).

22 ¹⁷¹NRS 533.345(2).

23 ¹⁷²NRS 533.345(2)(3).

24 ¹⁷³See NRS 533.370(2).

25 ¹⁷⁴NRS 533.360.

26 ¹⁷⁵ The only remedy is a petition for judicial review under NRS 534.450.

¹⁷⁶SEROA 237, sec. 14.7.



1 Valley can be used “for any beneficial purpose under Nevada law . . .”¹⁷⁷ Under NRS
2 533.330, “No application shall be for the water of more than one source to be used for more
3 than one purpose.” The only Diamond Valley water subject to the DVGMP is that which is
4 subject to permits or certificates issued for irrigation purposes.¹⁷⁸ The DVGMP allows for
5 the irrigation sourced shares to be used for “any other beneficial purpose under Nevada
6 water law”.¹⁷⁹ The DVGMP fails to take into consideration that the transferee of the shares
7 could use the water for other beneficial uses that may consume the entirety of the water
8 being transferred under the shares without any return water or recharge to the Diamond
9 Valley basin.¹⁸⁰ Water placed to beneficial use for irrigation results in some return or
10 recharge to the aquifer. There is no State Engineer oversight on the impact of the transfer
11 of water shares for the proposed new well or place or manner of use unless the new well
12 or additional withdrawals from an existing well exceeds the volume or flow rate initially
13 approved for the base permit.¹⁸¹

14 The DVGMP and Order 1302 state the DVGMP was modeled after NRS
15 533.345(2)(4).¹⁸² The State Engineer is incorrect. Under the DVGMP, the State Engineer
16 does not review a different use of the water shares transferred because the DVGMP allows
17 water shares to be used for any beneficial purpose under Nevada law, not solely for
18 irrigation purposes.¹⁸³ Under the DVGMP the State Engineer cannot deny the transfer of
19 shares to an existing well, unless the transfer would exceed the well’s flow rate and conflicts
20

21 ¹⁷⁷SEROA 234, sec. 13.8.

22 ¹⁷⁸SEROA 228, sec. 8.1

23 ¹⁷⁹SEROA 234, see 13.8.

24 ¹⁸⁰Such beneficial uses could include mining and municipal uses; see NRS 533.030.

25 ¹⁸¹SEROA 237, sec. 14.7, 14.8.

26 ¹⁸²SEROA 237, n.20; SEROA 009.

¹⁸³SEROA 237, sec. 14.7.

1 with existing rights.¹⁸⁴ The State Engineer's vital statutory oversight authority to ensure the
2 temporary change is in the public interest or that the change does not impair water rights
3 held by other persons is otherwise lost. The court finds that the DVGMP and Order 1302.
4 violate NRS 533.325 and NRS 533.345, The court finds Order 1302 is arbitrary and
5 capricious.

6 CONCLUSION

7 The court has empathy for the plight of the ranchers and farmers in Diamond Valley
8 given the distressed state of the basin's aquifer. It is unfortunate that the State Engineer
9 and/or the Nevada Legislature did not vigorously intervene 40 years ago when effects of
10 over appropriation were first readily apparent.¹⁸⁵ That being said, the DVGMP is contrary
11 to Nevada water laws, laws that this Court will not change. The court is not bound by the
12 State Engineer's interpretation of Nevada water law.

13 Order 1302 is arbitrary and capricious.

14 Good cause appearing,

15 IT IS HEREBY ORDERED that the petition for review of Nevada State Engineer's
16 Order No. 1302 filed by Timothy Lee Bailey and Constance Marie Bailey and Fred Bailey
17 and Carolyn Bailey in case No. CV-1902-350, is GRANTED.

18 IT IS HEREBY FURTHER ORDERED that the petition for judicial review filed by
19 Sadler Ranch in case no. CV-1902-349, is GRANTED.

20 IT IS HEREBY FURTHER ORDERED that the petition for judicial review filed by Ira
21 R. Renner and Montira Renner in Case No. CV-1902-348, is GRANTED.

22

¹⁸⁴SEROA 237, sec. 14.9.

23 ¹⁸⁵As noted by Sadler Ranch, in 1982, State Engineer Peter Morros recognized that
24 "what is happening right now in Diamond Valley [declining groundwater levels affecting
25 spring flows] was predicted . . . It was predicted in 1968 . . . almost to the 'T'".
26 Transcript of proceedings at 42; 17-22, In the Matter of Evidence and Testimony
Concerning Possible Curtailment of Pumpage of Groundwater in Diamond Valley,
Eureka, Nevada (May 24, 1982). Morros also stated "there was a tremendous amount
of pressure put on the State Engineer's Office to issue permits, far in excess of what we
had identified at the time was their perennial yield." *Id.* at 41, 1.6-10. Sadler Ranch
opening brief, 2-3.



DATED this 23rd day of April, 2020.


DISTRICT JUDGE

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

