

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; DARLA BAUMAN; TIM WILSON, P.E., NEVADA STATE ENGINEER, DIVISION OF WATER RESOURCES, DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES; AND EUREKA COUNTY;

Appellants,

v.

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.

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

DNRPCA APPELLANTS' OPENING BRIEF

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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:

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Date: September 23, 2020

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JURISDICTIONAL STATEMENT

This is an appeal from the district court’s order granting the petitions for judicial review filed by Respondents Timothy Lee and Constance Marie Bailey, Fred and Carolyn Bailey (“the Baileys”), Ira R. and Montira Renner (“Renner”), and Sadler Ranch (“Sadler”) challenging Order #1302 issued by the Nevada State Engineer, which approved the Diamond Valley Groundwater Management Plan (“GMP”).¹ The district court entered its Findings of Fact, Conclusions of Law, Order Granting Petitions for Judicial Review (“PJR Order”) on April 27, 2020. XI(2381-2420).² Notices of entry of that order were filed on April 30, 2020. XII(2421-2507).

Diamond Natural Resources Protection and Conservation Association (“DNRPCA”); 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 (collectively, “the DNRPCA Appellants”) filed their notice of appeal on May 14,

¹ The other Respondents in the caption intervened in the district court case but did not participate in the proceedings below. They have been identified by the Court as “Respondents”; however, they did not challenge the GMP.

² All citations to the joint appendix are in the form volume number(page numbers). Where a specific line number is referenced, it is preceded by a colon (:).

2020. XII(2508-2554). The State Engineer filed a notice of appeal on May 15, 2020, and Eureka County filed a notice of appeal on May 21, 2020. XIII(2704-2797); XIV(2808-2811). Under NRAP 4(a)(1), these appeals were timely. Because the PJR Order was a final judgment, appellate jurisdiction exists under NRAP 3A(b)(1) and NRS 533.450(9).

ROUTING STATEMENT

This is an administrative agency case involving water and therefore should be retained by the Supreme Court. NRAP 17(a)(8). It also involves the Court's first opportunity to interpret NRS 534.110(7) and NRS 534.037, which were enacted by the Legislature in 2011 to address overpumping in the State's groundwater basins. These provisions authorized stakeholders in a basin that the State Engineer designates a Critical Management Area ("CMA") to develop a groundwater management plan to prevent the State Engineer from enforcing water right priorities and forcing the shut-off of junior rights. Because there are numerous groundwater basins in Nevada where groundwater pumping exceeds the sustainable yield of the aquifer, this case presents an issue of statewide importance that warrants retention by the Supreme Court. *See* NRAP 17(a)(12).

STATEMENT OF THE ISSUES

Should the district court have affirmed the State Engineer's Order #1302 approving the Diamond Valley Groundwater Management Plan because Order

#1302 was supported by substantial evidence in the record, constituted a proper exercise of the State Engineer's discretion and complied with the NRS 534.037?

INTRODUCTION

In places like Eureka County, individuals' livelihoods and the local economy depend 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 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 strict application of the prior appropriation doctrine, in times of shortage, more "junior" water users cannot exercise their rights. For surface water, the prior appropriation doctrine evolved as common law. As to groundwater, however, the prior appropriation doctrine applies by statute. To use groundwater, a would-be appropriator must apply for a permit from the State Engineer, with the priority date being the date of the application. Once the groundwater permit holder proves beneficial use, the State Engineer issues a certificate.

In simplest terms, a groundwater basin is essentially a bathtub, in which a shortage exists when the 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 State Engineer has estimated the perennial yield as 30,000 acre-feet (af) annually, making May 12, 1960 the cut-off between "senior" and "junior" appropriators because that is the date on which the State Engineer had cumulatively issued 30,000 af of groundwater permits. II(316-317).

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 by priority. In Diamond Valley, anyone with rights that were appropriated after May 12, 1960 could be curtailed completely if the prior appropriation doctrine were strictly enforced. II(316-317, 319 n.15); IV(812-814). More than 80% of the permits and certificates in Diamond Valley have priority dates more recent than May 12, 1960. IV(812-822). Understandably, the State Engineer has been hesitant to enforce priorities and cut off more "junior" appropriators in Diamond Valley and elsewhere because doing so would result in devastating economic and social impacts throughout Nevada, which would not be in the best interests of the public.

In light of these draconian effects, the Legislature has created certain exceptions to the prior appropriation doctrine. It did so again in 2011 by enacting 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. A CMA designation allows stakeholders to develop a groundwater management plan to avoid curtailment by priority:

[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. It was supported by a majority of groundwater permit and certificate holders, including senior rights that, under the prior appropriation rules, would not be subject to curtailment. They made an individual sacrifice for the common good.

Out of all the senior groundwater rights holders who are subject to the GMP, only the Baileys mounted a legal challenge to it. Renner and Sadler's challenges are based on their claims of vested rights to springs whose flows have decreased over time, even though, at Renner and Sadler's request, those rights have been, or can be, mitigated with groundwater. Nothing in the record supports the district court's conclusion that implementation of the GMP will impair vested rights.

The district court concluded that the GMP complies with the statutory requirements, the State Engineer properly considered the factors in NRS 534.037(2) when approving the GMP, and substantial evidence supported his decision. Yet, notwithstanding its acknowledgement that the GMP satisfied the legislative mandates, the district court struck down the GMP. To reach that result, the district court relied on matters outside the administrative record, made unsupported “findings,” issued inconsistent legal conclusions, and failed to effectuate the Legislature’s intent. If the district court’s rationale were accepted, no groundwater management plan would be acceptable unless it requires immediate curtailment of all junior rights. This renders NRS 534.110(7) meaningless. For these reasons, reversal of the PJR Order and reinstatement of the GMP is warranted.

STATEMENT OF THE CASE

On January 11, 2019, the State Engineer issued Order #1302 approving the GMP. II(315-332). The Baileys, Renner and Sadler (collectively, “the GMP Opponents”) filed petitions for judicial review of Order #1302. I(001-0144). On April 27, 2020, the district court issued the PJR Order granting their petitions. XI(2381-2420). The DNRPCA Appellants, Eureka County and the State Engineer appeal.

STATEMENT OF FACTS

A. Overview of the Diamond Valley Community

Diamond Valley is a groundwater-dependent farming community in the Diamond Valley Hydrographic Basin, located in southern Eureka County, Nevada. III(538). There are approximately 26,000 acres of irrigated land, which primarily produce premium-quality alfalfa and grass hay. II(315); III(538). Based on a 2013 estimate, approximately 110,000 tons of hay are produced annually for a total farming income of approximately \$22.4 million. II(315); III(538).

Many of the Diamond Valley farmers are from families who settled the area and started to work the land in the 1950's and early 1960's. II(346, 396); IV(853, 854, 904); V(1050-1051). During that time, the drilling and pumping of wells greatly expanded. II(346, 396). Hundreds of applications to appropriate groundwater were filed in that time period, most within weeks or months of one another. IV(812-819). The difference between a "junior" and "senior" in Diamond Valley can be a matter of just a few days. IV(814).

On paper, about 126,000 acre-feet of irrigation groundwater rights are appropriated in Diamond Valley. II(316); III(538). As of 2016, however, groundwater pumping was approximately 76,000 acre-feet per year. II(316); III(538). The discrepancy between the permitted rights and the actual pumpage is

largely due to farmers having installed more efficient center pivots that irrigate in a circle so that corners of the farm are no longer irrigated.³ IV(778, 799).

Based upon available hydrologic information, the State Engineer has established the perennial yield for every groundwater basin in the State. The perennial yield is the maximum amount of groundwater that can be extracted each year over the long term without depleting the aquifer. The State Engineer currently estimates 30,000 acre-feet per year as the perennial yield of the Diamond Valley Basin.⁴ II(316, 448); III(538). Nevertheless, annual groundwater pumping has exceeded the perennial yield of Diamond Valley for over 40 years, and prior to implementation of the GMP, groundwater levels had declined on average two feet per year since 1960. II(316, 451); III(538).

If the State Engineer were to limit pumping in Diamond Valley to 30,000 acre-feet per year, any appropriations for any use with priority dates more recent than May 12, 1960 would need to cease, a process known as “curtailment by priority.” II(316-317, 319, 328); III(531). That amounts to nearly 300 permits, many of which have priority dates within days, weeks or months of this cut-off date. IV(812-822). Any groundwater rights that have a priority date on or before

³ In this respect, the district court’s statement that 130,265 acre feet annually “impact the aquifer [*sic*]” is inaccurate. XI(2384:12-13).

⁴ A recent study by the U.S. Geological Survey posits that the perennial yield is 35,000 acre-feet per year. II(330); III(538); V(1143).

the May 12, 1960 cut-off are deemed “senior” and any groundwater rights that have a priority date more recent than May 12, 1960 are deemed “junior.” II(317).

As an example, for the last 60 years, both Appellant J&T Farms, LLC and Respondents Fred and Carolyn Bailey and their predecessors have been farming their land using duly issued groundwater permits. IV(814). The Baileys have permits with a May 3, 1960 priority date while J&T Farms has a permit with a May 16, 1960 priority date. IV(814). Long after the State Engineer authorized their respective appropriations, he established a 30,000 acre-foot perennial yield for Diamond Valley that sorted these long-time water users into “seniors” and “juniors.” II(448-451). Now, even though the Bailey applications were filed just 13 *days* before the J&T Farms application, the Bailey permits are “senior” while the J&T Farms permit is “junior.” IV(814). As a result, under strict curtailment by priority, the Baileys would be able to pump the entire duty under these permitted rights, whether or not they were using that water efficiently, while J&T Farms would be cut off entirely. IV(814).

While the primary groundwater usage is irrigation, nearly two-thirds of Eureka County’s residents receive their domestic water needs from groundwater, including most of the water needed by the town of Eureka to serve numerous businesses and the Eureka County schools, two General Improvement Districts, and domestic wells. III(538). Curtailment would severely restrict withdrawals from

domestic wells. *See* NRS 534.110(8)-(9). Groundwater also supplies water needs for mines and other commercial and industrial uses in Diamond Valley. III(538). In addition, there are multiple stockwatering wells that supply the water for many livestock operations. III(538).

B. The Diamond Valley Community Engaged in a Multi-Year Effort to Develop a Management Plan to Reduce Pumping and Stabilize the Groundwater Level

Recognizing the need to stabilize the groundwater level and reduce pumping, water users in Diamond Valley came together in 2010 to form DNRPCA to, among other things, protect, conserve and promote the harmonious use of groundwater in Diamond Valley. I(213). The State Engineer held workshops in March 2009 and again in February 2014 to engage in discussions with Diamond Valley irrigators regarding potential solutions to the overdraft conditions. III(539, 601). The GMP evolved out of the State Engineer's efforts to get stakeholder involvement in the Diamond Valley groundwater management process. III(539, 628).

Starting in March 2014, many groundwater rights holders, primarily irrigators, started discussions related to a GMP. III(539). The group held a meeting and decided to request that the Eureka Conservation District ("ECD"), a locally elected, third-party government entity, take the lead role in facilitating the process, which ECD accepted. III(539). DNRPCA and its members worked extensively

with Eureka County, ECD, the Eureka Producers Cooperative and individual irrigators (collectively, “Planning Process Participants”) on a GMP to address overdraft conditions in Diamond Valley. II(315, 327); III(530)-IV(840).

The Planning Process Participants explored various means to reduce water demands. III(569, 601-602, 604, 628, 680, 711). For example, in June 2013, ECD engaged Hansford Economic Consulting to conduct a study to assess the financial feasibility of developing a General Improvement District that would assess fees on farmers to purchase and retire water rights. III(601, 628). In May 2014, ECD again engaged Hansford Economic Consulting to conduct a study of potential water use set-aside programs for Diamond Valley, in which, rather than retire water rights entirely, farmers would be paid not to farm for a limited time. III(601).

Additionally, ECD contracted with Walker & Associates (“Walker”) in May 2014 to assist in scoping the GMP. III(539). 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 identify the issues, hurdles, and opportunities that stakeholders believed were relevant to development of a GMP, including potential strategies to reduce pumping. III(539). Walker held many facilitated public workshops and private meetings, collecting comments and ideas for what a successful GMP would look like. III(539, 562-589); III(590)-IV(788).

Also in 2014, various Planning Process Participants researched water plans, agreements, and programs that had been employed in other areas where overappropriation was an issue. III(565-566, 569, 607). These were also discussed in the scoping process. III(565-566, 569, 572, 578). In 2015, Steve Lewis of the University of Nevada Cooperative Extension began to facilitate sessions with stakeholders to develop a GMP. III(539); III(590)-IV(788). At that time, the Planning Process Participants established a goal to have a draft GMP completed within 18 months. III(590). The Planning Process Participants formed a committee to keep the process moving forward and to communicate with stakeholders. III(540, 629).

Under the authority of AB 419 (2011) codified in NRS 534.110(7), on August 25, 2015, the State Engineer designated Diamond Valley as the State's first CMA. II(447-451). According to the statutory mandate, this designation started a ten-year time period for groundwater rights holders to develop a GMP. III(538), *citing* NRS 534.110(7). The Planning Process Participants met regularly from spring 2015, working to ensure the GMP included provisions for, among other things, governance, pumping reductions, recognition of vested rights, overdraft conditions, metering, efficiency, funding and compliance. III(539-541); III(590)-IV(788).

In February 2016, the Planning Process Participants elected a Groundwater Management Plan Advisory Board (“AB”) by nomination and majority vote. III(540, 543, 590). Thereafter, the AB took over much of the responsibility for facilitating the GMP process from the professional facilitators. III(540). The AB made recommendations to groundwater rights holders for their consideration. III(540). From February 2016 until submittal of the GMP to the State Engineer in August 2018, there were an additional twenty-three formal AB meetings and twenty formal full-group meetings. III(540); III(590)-IV(788).

During this process, the groundwater rights holders entertained various possible solutions to the overdraft problem and received presentations on the potential development and implementation of a water market-based system meant to provide flexibility in using water, while incentivizing conservation and allowing willing participants to quickly sell, lease, and move water when needed. III(540). Using a consensus-based approach to the extent possible, the Planning Process Participants developed the GMP to adapt these concepts to local needs, desires, and constraints. II(331-332); III(539-540, 576); III(590)-IV(788); IV(901).

As this history shows, the GMP process was initiated by the local community years before the State Engineer declared the basin a CMA in 2015, and then continued for an additional three years after the designation. II(327); III(539); III(590)-IV(788). It was a grass-roots effort, involving hundreds of hours of

meetings and intense efforts over many years, that sought to solve a community-wide problem. II(315, 327-328); III(590)-IV(788); V(1026-1028).

C. A Majority of Groundwater Permit and Certificate Holders, Including Those Who Hold Senior Rights, Petitioned for Approval of the GMP

As required by NRS 534.037, a majority of groundwater permit and certificate holders petitioned the State Engineer to approve the GMP on August 20, 2018. II(461)-III(529); III(530)-IV(840). Importantly, significant portions of both senior and junior rights were represented in the petition. II(316-317); II(461)-III(529). Of the 77 senior permits or certificates, 46.8%, were represented by at least one signature on the petition. II(317); II(461)-III(529). The remaining 342 water right permits or certificates were junior, 64.6% of which were represented by at least one signature on the petition. II(317); II(461)-III(529). Of the 29,325 acre-feet that are deemed senior rights, 18,700 acre feet, or about 64%, were represented by signatories on the petition. II(317); II(461)-III(529). In other words, the proponents of the GMP include numerous seniors whose water rights, under the prior appropriation doctrine, would be unaffected by future curtailment actions. Indeed, a number of the Appellants who are now urging this Court to uphold the GMP hold senior rights. *Compare* IV(812-814) to caption.

On January 11, 2019, after receiving written public comments and conducting a public hearing pursuant to NRS 534.037, the State Engineer approved

the GMP. II(315-332). In doing so, the State Engineer noted the extensive efforts that went into the GMP that was submitted for consideration:

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.

II(315), *discussing* III(590)-IV(788).

D. Key Components of the GMP

The GMP was designed to stabilize the groundwater level, ensure the continued health of the Eureka County economy, maintain the tax base and avoid disruption to the Diamond Valley community. II(318); III(541); IV(905); V(1019). It provides all users with access to water while balancing the basin for long-term aquifer health. III(530-560); V(1019). It provides flexibility through benchmark reductions in basin-wide water use, with yearly allocations to each water user adjusted through well monitoring data, annual precipitation values, and conservation relief. III(530-560); IV(823); V(1019).

The core goals of the GMP are to: (1) Remove the basin's CMA designation within 35 years by stabilizing groundwater levels; (2) Reduce consumptive use to not exceed the perennial yield; (3) Increase groundwater supply; (4) Maximize the

number of groundwater users committed to achieving GMP goals; (5) Preserve economic outputs from Diamond Valley; (6) Maximize viable land uses of private land; (7) Avoid impairment of vested groundwater rights; and (8) Preserve the socio-economic structure of Diamond Valley and southern Eureka County. III(541).

The GMP applies to groundwater rights that serve an irrigation purpose and mining or milling rights that have an irrigation base water right. III(531). The GMP does not apply to water rights that vested prior to the enactment of Nevada's water statute (including groundwater rights issued to vested rights holders to mitigate reduced flows from springs), municipal, industrial, stockwater, or existing domestic wells. III(531). Under the GMP, water users may continue to use water in proportion to their rights and seniority. III(531).

Priority is factored into the GMP using a formula that converts the rights to a set amount of shares, as follows:

$$WR * PF = SA$$

Where:

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

PF = Priority Factor based on seniority (which contains a 20% spread)

SA = Total groundwater Shares

III(531). Using this formula, shares are set for each water right and do not change over time. III(531). The shares are used on a year-to-year basis to calculate the volume of water (the annual allocation in acre-feet per share) allowed to be used, sold, traded and banked in that year. III(531). Annual allocations are reduced each year to satisfy basin-wide benchmark pumping reductions. III(531); IV(823).

There is already an extensive network of monitoring wells in Diamond Valley, including those of the State, Eureka County, and DNRPCA. IV(790-791, 804). A key component of the GMP is to create an even more robust system for data collection and reporting to monitor water use and groundwater levels. III(550-552). To that end, the GMP requires that “[a]ll groundwater pumped from Diamond Valley that is subject to this GMP shall be metered using an approved Smart-capable flow meter...before any groundwater subject to the GMP may be put to use.” II(329-330); III(550-552). This requirement promotes uniformity and standardization, ensures accurate and reliable data reporting, and provides nearly real-time knowledge of groundwater use, creating even more data to monitor the effects of the GMP over time. II(330); III(550-552).

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E. The GMP Incorporated Some Elements of Approaches Used Elsewhere and Rejected Others

During the multi-year process to develop the GMP, the Planning Process Participants researched various plans, programs and efforts employed in other locations that struggle with overappropriation. III(565-566, 569, 607). Based on extra-record materials, the district court incorrectly found that the GMP “was in large part ‘influenced significantly by a water allocation system using a market based approach similar to that authored by professor Michael Young.’” XI(2386:7-8), *citing* III(540) n.8 and III(607). The record does not support that contention. The portion of the GMP cited by the district court simply states that the Planning Process Participants “received presentations on the potential development and implementation of a water market-based system,” citing a paper by Professor Young, not that the final GMP was “influenced significantly” by it. III(540 n.8).

The district court also cited an “outline/working model” of Professor Young’s June 11, 2015 presentation drafted by one of the Planning Process Participants to summarize its points. III(607-609); *see* III(610) (email thanking Denise Moyle for “putting this [summary] together”). This “outline/working model” document does not reflect the thinking of the Planning Process Participants as a whole nor the contents of the ultimate GMP that was presented to the State Engineer for approval three years later. *Compare* III(607-609) to III(530-561); *see*

also XI(2285). It simply summarizes one person's thoughts about the presentation. III(607-609).

It is notable that, when describing the purported "significant influence" on the GMP, the district court references Appendix C to the GMP rather than the GMP itself. XI(2385, n.9; 2387, n.23). Appendix C contains every draft version of the GMP, planning meeting agenda, and notes from the planning process, which demonstrate that participants considered many ideas that were not necessarily adopted in the final GMP document. III(590)-IV(788). The district court should not have picked one individual's notes from a discrete point in the multi-year planning process as representative of what is stated in the final GMP. III(590)-IV(788).

At the urging of the GMP Opponents, the district court incorrectly assumed the GMP mimicked the concepts presented by Professor Young and then looked outside the record to bolster this erroneous assumption. XI(2386:9-2387:1 and notes 19-22). During oral argument, Eureka County's attorney explained the distinction between the approach presented by Professor Young on June 11, 2015 and what was ultimately incorporated into the approved GMP. XI(2285-2286); *see also* X(2135) ("[T]he reason the Young blueprint wasn't in the record on appeal, the reason the State Engineer didn't consider it ... was because the Young blueprint wasn't part of the GMP plan.").

To the extent it was not clear from the GMP itself, Eureka County's presentation clarified, among other things, that the GMP does not "unbundle" shares from their base water rights. Instead, the shares remain appurtenant to the permitted place of use while allowing all or a portion of annual allocations to be sold or traded. XI(2285-2286). Although the GMP incorporates a water marketing system, it is adapted to local "constraints" (i.e. not only practical limitations but also the legal framework created by AB 419). III(540). The district court erroneously relied on Professor Young's extra-record and irrelevant report as a proxy for what the GMP actually says and does. *Compare* XI(2386:6-2387:2) to III(530-560); *see also* X(2134-2138); XI(2285-2286).

F. In the Event of Seniority-Based Curtailment, Severe Hardship Will Befall the Diamond Valley Community

Absent an approved GMP, the State Engineer is mandated by NRS 534.110(7)(b) to regulate the basin by strict priority, prohibiting or severely restricting the pumping of junior rights and domestic wells appropriated after May 12, 1960 (over 80% of permits, representing approximately two-thirds of water rights users). III(531, 538). The consequences of such an approach would be devastating to Diamond Valley and the town of Eureka, severely impacting schools, businesses, individuals, family farming operations, and the agricultural

livelihood of the community. II(324-325, 327-328); IV(860-861, 901-905, 907-908); V(1017-1019, 1047, 1052-1053).

Public comment provided in support of the GMP underscored the tremendous negative impact on the community if curtailment by strict priority were enforced, including financial hardship, bankruptcy, diminished population and economic decline. IV(849-965).

“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 in the community are *not disrupted by dwindling population that will occur with our alternative options, curtailment of pumping.*” Marty Plaskett, Public Comment, IV(905); V(1019).

“[I]f we’re forced to turn our water off...a lot of us are indebted to banks to a certain extent on the properties. A lot of us have to get loans. And so...all of a sudden *you see bankruptcy coming possibly for a lot of people.*” Matt Morrison, Public Comment, V(1047).

“*The downside and the thing that seems to concern us is that what’s the impact on the community, the greater community, of not only the irrigators of which would be impacted but by the people who invest in Raine’s Market or for some of the other businesses here in place that if you see an impact of two-thirds of your water rights users disappear what is the ultimate impact on the greater community of Eureka. We’re willing to take the hit as a senior water rights holder in order to support the greater good of the community.*” D’Mark Mick (Senior Water Rights Holder), Public Comment, V(1017-1018).

“*If we have to stop farming, we’re going to have to leave our houses empty and stuff there, people won’t be able to carefully transition from what we’re doing to something else...Not everyone is debt-free. It would be very bad on this community. So bankruptcies, that will*

happen...[O]ur domestic water rights are connected with other rights. You would have no water. You couldn't retire on your farm because you've got to have water for everything." Alberta Morrison, Public Comment, V(1052-1053).

"If the GMP isn't made law and we end up being curtailed by priority, *over half of the farms in Diamond Valley would dry up and many people would be forced to leave. This would devastate the community* that I moved back to. It would also *leave Diamond Valley as a dust, weed, and rodent bowl* which would change what the remaining farmers would have to deal with." James Travis Gallagher, Written Public Comment. IV(860).

"Strict curtailment by priority, as I see it, *will leave the Eureka socioeconomic areas, including the Diamond Valley farming community, a bleak shell of its former self after just a few short years.*" Andrew Goettle, Written Public Comment. IV(861).

"If the choice is curtailment, what will happen? *Our power rates will increase. County revenue will decrease*; consequently, leaving roads to be poorly maintained. *Farms with junior water rights will be overrun with rodents and weeds...I am very willing to share some water as outlined in the Diamond Valley Ground Water Management Plan. I applaud all of the senior water rights holders who are willing to share water in order for Diamond Valley to continue to prosper.* Donald Frank Palmore (Senior Water Rights Holder), Written Public Comment. IV(904).

"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.*" William Norton, Written Public Comment, IV(903).

The public comments centered on a common theme: The "determination of the community to work together to solve issues, both past and present, which challenged their continued existence" and the "desire to preserve the established way of life" in Diamond Valley. II(327); V(966-1055).

G. The State Engineer Approved the GMP in Compliance With NRS 534.037 Following Public Comment and a Public Hearing

The State Engineer's review and approval process followed the statutory requirements by providing proper notice, holding a public hearing in Eureka on October 30, 2018, and taking testimony. II(316-318); V(966-1055). During the hearing and public comment period, twenty (20) individuals, groups or entities comprising water rights holders and interested parties provided public comment on the proposed GMP. IV(848-965); V(966-1055). Notably, both junior and senior water rights holders provided public comment in favor of the GMP, acknowledging that implementation was essential for the greater good of the community. IV(853-854, 859-861, 901-905, 907-908); V(993-995, 1016-1034, 1039-1053). In addition to public comment at the hearing, interested parties and water rights holders submitted approximately 120 pages of written comments to the State Engineer. IV(848-965); V(966-1055). The State Engineer then held open the period for additional written public comment through November 2, 2018, during which time additional public comments were received. II(317-318).

Following the public hearing, the State Engineer conducted a detailed analysis of the factors set forth in NRS 534.037(2), ultimately issuing Order #1302 approving the GMP on January 11, 2019. II(315-332). The 18-page order analyzes the legal sufficiency of the plan, speaks to its scientific soundness, and addresses public comments for and against the plan. II(315-332).

H. The District Court Struck Down the GMP Based on Extra-Record Materials and Unsupported Findings After Entering an Order in Limine That Informed the Parties the Scope of Review Would be Limited to the Record

Of all of the water users in Diamond Valley, only the Baileys, Sadler and Renner petitioned for judicial review of Order #1302. The Baileys, Sadler and Renner have ranches in the northern part of Diamond Valley, which they irrigate using wells. IV(812-822, 837-838); V(1130); VI(1228, 1233-1239). Their wells are in close proximity to one another and to springs from which they claim vested rights. II(444-445, 452-453, 458-459); V(1072); VI(1228, 1233-1239). Although the Baileys have senior groundwater rights that are subject to the GMP, Sadler and Renner do not. IV(812-814).

Early in the district court proceedings, a dispute arose regarding what should be included in the administrative record. II(236-307); VI(1272-1317, 1331-1353). To resolve this dispute, the State Engineer filed a motion in limine that urged the district court to limit the scope of review to the State Engineer's record. II(236-307). The GMP Opponents opposed this motion, arguing that the district court should consider a host of materials not in the record. VI(1276-1314). The district court granted the State Engineer's motion in limine, stating that since its role is to determine whether there is substantial evidence in the record to support the State Engineer's decision, "all evidence in this matter shall be limited to the State

Engineer’s record on appeal, as filed by the State Engineer on June 7, 2019.” VI(1369-1378). The district court informed the parties it would not consider any other “publications, information, and records,” even if they exist in the office of the State Engineer. VI(1369-1378).

Notwithstanding this order, in their briefs below, the Baileys, Renner and Sadler relied heavily on, and attached as exhibits, the very extra-record materials the district court’s order in limine indicated were off limits. VII(1383-1450); IX(1819-1945). They also included the extra-record materials in their presentations made at oral argument. X(2155-2184; XI(2185-2278). The district court then relied on those and other matters outside the record in its PJR Order. Although the PJR Order paid lip service to the district court’s order in limine, the findings of fact and conclusions of law are based on extra-record material.⁵

The PJR Order held that the GMP’s approval met all the requirements of NRS 534.037, was supported by substantial evidence, and afforded the GMP Opponents adequate due process. The PJR Order further held that the GMP did not limit the State Engineer’s authority to manage the Diamond Valley Basin, enforce Nevada water law, or “make such rules, regulations and orders as are deemed

⁵ The following footnotes in the PJR Order cite to matters outside the record: XI(2385, notes 10, 14; 2386, notes 19, 20, 21; 2389, note 40; 2390, note 41; 2416, notes 166, 167, 168; 2419, note 185).

essential for the welfare of the area involved.” XI(2396:8-2397:1), *citing* NRS 534.120(1).

Yet the district court struck down the GMP, contending that it violated other aspects of Nevada water law; namely, the prior appropriation doctrine, impairment of vested rights, the beneficial use requirement and certain statutory provisions related to permit applications. Although the second irrigation season of the GMP’s implementation was already underway, and the monitoring data indicated positive trends in the groundwater level as a result of actions taken to reduce pumping, the district court declined to allow the GMP to remain in place for the duration of this appeal. XIII(2588-2594); XIV(3009-3013).

SUMMARY OF THE ARGUMENT

By enacting NRS 534.110(7) and NRS 534.037, the Legislature authorized and contemplated a groundwater management plan with exactly the characteristics of the Diamond Valley GMP. The GMP was developed by local stakeholders and approved by a majority of groundwater permit and certificate holders, just as the Legislature required. It is a flexible solution to state-wide problem, which the district court acknowledged complied with every aspect of NRS 534.037. In striking down the GMP, the district court misconstrued the plain statutory language, failed to effectuate the legislative intent and substituted its judgment for that of the State Engineer.

There are many instances in which the Legislature has parted ways with the prior appropriation doctrine in order to promote the public interest. By authorizing the State Engineer to not enforce priorities when a GMP has addressed the enumerated criteria in NRS 534.037(2), the Legislature did so again here. By concluding otherwise, the district court second guessed the Legislature's policy decision, which is outside a court's purview.

Contrary to the district court's assertion, there is no evidence in the record that makes a causal connection between the GMP's implementation and interference with vested rights. By reducing groundwater pumping, the GMP will have a positive influence on the water table and any springs from which groundwater surfaces. Particularly because the GMP Opponents' wells are drilled within and in close proximity to their own and one another's springs, the district court incorrectly blamed the GMP for the alleged impacts to vested rights that they assert.

The other faults the district court finds with the GMP lack any foundation in fact or law. The district court looked outside the record, disregarded basic principles of statutory construction and made contradictory legal conclusions to invalidate the GMP. Reversal of the PJR Order and reinstatement of the GMP is therefore warranted.

ARGUMENT

A. Standard of Review

The State Engineer's approval of the GMP is subject to judicial review pursuant to NRS 533.450. *See* NRS 534.037(4). Such review is "in the nature of an appeal" and limited to the record before the State Engineer. NRS 533.450(1); *Revert v. Ray*, 95 Nev. 782, 786, 603 P.2d 262, 264 (1979). "The decision of the State Engineer is prima facie correct, and the burden of proof is upon the party attacking the same." NRS 533.450(10).

In reviewing the State Engineer's decision, the Court's role is limited. The Court determines only whether the State Engineer's decision is supported by substantial evidence in the record. *Revert*, 95 Nev. at 786, 603 P.2d at 264. Substantial evidence is "that which a reasonable mind might accept as adequate to support a conclusion." *Bacher v. State Engineer*, 122 Nev. 1110, 1121, 146 P.3d 793, 800 (2006). The Court may not substitute its judgment for that of the State Engineer, "pass upon the credibility of the witness or reweigh the evidence." *Id.* The State Engineer's factual findings and interpretation of the statutes he is tasked with implementing are entitled to deference. *State v. State Engineer*, 104 Nev. 709, 713, 766 P.2d 263, 266 (1988) (citing *Clark Co. Sc. Dist. v. Local Gov't*, 90 Nev. 332, 446, 530 P.2d 114, 117 (1974)). However, "[q]uestions of statutory

interpretation ... receive de novo review.” *In re Nevada State Eng’r Ruling No. 5823*, 128 Nev. 232, 238, 277 P.3d 449, 453 (2012).

B. NRS 534.110(7) Authorized the State Engineer to Adopt a Groundwater Management Plan That Departs From the Prior Appropriation Doctrine

1. The Plain Statutory Language and the Legislative Intent Specifically Sought to Avoid the Harsh Consequences of Prior Appropriation

The State Engineer correctly interpreted NRS 534.110(7) to authorize his approval of a groundwater management plan that deviated from regulation by strict priority. That statute, enacted in 2011, embodies the Legislature’s policy decision to *not* enforce the prior appropriation system in basins where, as here, the community has developed a groundwater management plan that complies with NRS 534.037:

[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). In other words, the Legislature deliberately created *an exception* to the seniority system by expressly authorizing the State Engineer to not “conform to priority rights” as long as all factors set forth in NRS 534.037 are considered. *Id.*

To the extent this is not clear from the plain language of the statute, the legislative history evinces the intent to deviate from the confines of prior appropriation. The bill that is codified in NRS 534.110(7), AB 419, was enacted in 2011 to address the fact that neither the Legislature, nor the State Engineer, wished to see curtailment by priority in overappropriated basins. The bill’s sponsor, Assemblyman Pete Goicoechea, noted that the bill was designed to address a growing “number of groundwater basins in the state that are overappropriated” and to avoid the devastating effects of curtailment by priority, which in addition to other rights, could also cut off domestic wells:

The State Engineer does not want to be heavy-handed and have to go into these basins and regulate by priority, which means junior permits, where the pumping is curtailed or suspended.

* * *

Technically, within NRS Chapter 534, and I want to make sure the Committee understands, when he moves into a groundwater basin, he is required to regulate by priority. We do have priority numbers assigned to domestic wells. They also will be regulated with the language in this bill [that requires curtailment if no GMP is approved]. I want to make sure everyone understands that. I know that will be a big issue in some areas.

Excerpts from Minutes of March 30, 2011 Assembly Committee on Government Affairs, VII (1604, 1606).

The State Engineer correctly interpreted the statute to authorize a GMP that did not strictly adhere to prior appropriation because the consequences of

curtailment are precisely what the statute sought to avoid. *See* NRS 534.110(7). The Legislature could have maintained the status quo in overappropriated basins, which would have kept the prior appropriation doctrine intact and left the State Engineer no choice but to curtail by priority. *See id.* It made a policy decision, however, to not do so, instead establishing a whole new statutory structure regarding CMA designation and groundwater management plan approval. *See id.*

2. For Critical Management Areas, the Legislature Deemed the List of Factors Specified in NRS 534.037(2) an Adequate Substitute for Enforcement of Priorities

Contrary to the district court's contention, this interpretation of NRS 534.110(7) does not "turn 150 years of Nevada water law into chaos." XI(2409:13-14). Rather, NRS 534.037 ensures orderly basin management by requiring the State Engineer to consider a non-exhaustive list of seven criteria before approving a GMP in lieu of enforcing priorities. These are:

- (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.

NRS 534.037(2). As this language shows, the Legislature created sturdy guard rails to prevent a CMA-designated basin from devolving into “chaos” simply because a groundwater management plan is implemented.

The district court specifically found that “there is substantial evidence in the record to support the State Engineer’s findings that the DVGMP contained the necessary relevant factors in NRS 534.037(2) to approve the DVGMP.” XI(2396). That conclusion alone required the district court to affirm Order #1302. *See Revert*, 95 Nev. at 786, 603 P.2d at 264. Yet the district court substituted its judgment for the State Engineer’s by limiting this conclusion to just two aspects of Order #1302: (a) that the State Engineer addressed the NRS 534.037(2) factors; and (b) that the GMP would allow the CMA designation to be lifted after 35 years. XI(2396, n. 75). This limitation disregards the express legislative authorization to *not* enforce priorities as long as the GMP addressed the criteria listed in NRS 534.037(2).

The district court offered up suggestions for what a purportedly acceptable GMP should employ. XI(2381-2420). Setting aside that the Legislature directed stakeholders, not a court, to develop a GMP to meet local needs, the district court fails to recognize that, absent some concessions by seniors, the only way for the

juniors to bring pumping down to the perennial yield is to pump nothing, which is no different than curtailment by priority. IV(812-822). Moreover, many of the “juniors” for whom the district court displayed so much disdain also hold senior rights. IV(812-822).

The priority factor that is incorporated into the shares calculation accounts for seniority, and a majority of water users approved it. II(321); III(531-532, 545). In this respect, the district court’s label of the priority factor as “arbitrary” is misplaced. XI(2388:4). The standard for any particular provision of the GMP is whether it was acceptable to a majority of groundwater permit and certificate holders in the basin. NRS 534.037(1). The priority factor was a matter of great debate during the planning process, with the 20% spread that exists in the approved GMP being the ultimate number a majority could agree to in light of the priority dates of the underlying permits. II(321); III(531-532, 545); IV(812-822). The district court cannot substitute its judgment for the majority of water rights holders who petitioned for approval of the GMP *See* NRS 534.110(7).

3. The District Court’s Interpretation of NRS 534.110(7) Violates Basic Principles of Statutory Construction

a. The District Court Undermined the Legislative Purpose and Rendered the Statute Meaningless

The Legislature intended NRS 534.110(7) to improve the condition of overpumped aquifers without destroying the social and economic fabric of

groundwater-dependent communities. The district court's interpretation of NRS 534.110(7) defeats this legislative purpose. Statutes should be "construed with a view to promoting, rather than defeating, legislative policy behind them." *Dep't of Motor Vehicles & Pub. Safety v. Lovett*, 110 Nev. 473, 477, 874 P.2d 1247, 1250 (1994). "The existence of facts which would support the legislative judgment is presumed." *Allen v. State*, 100 Nev. 130, 134, 676 P.2d 792, 795 (1984). Water belongs to the public, and the Legislature has directed the State Engineer to institute water management policies that promote the general welfare. *See* NRS 533.025; NRS 534.120(1)-(2).

Here, the record contains numerous examples of the negative impacts on the public welfare should strict enforcement of priorities occur. II(324-325, 327-328); IV(860-861, 901-905, 907-908); V(1017-1019, 1047, 1052-1053). If the State Engineer were to curtail all rights that cumulatively exceed 30,000 acre feet, approximately 81% of groundwater permits in the basin could not be exercised. IV(812-822). Those permits represent the livelihoods of many people and would have a devastating impact on the community. II(324-325, 327-328); IV(860-861, 901-905, 907-908); V(1017-1019, 1047, 1052-1053). Bankruptcies and loan defaults would likely ensue. II(325); V(1047, 1051-1053). Many people would likely leave Eureka County, and those who could stay would place significant burdens on social services. II(324-325, 327-328); IV(860-861, 901-905, 907-908);

V(1017-1019, 1047, 1052-1053). Because the agriculture industry is the major driver in Eureka County, the local economy could collapse, with destructive effects on the Eureka County tax base. III(538, 601); IV(860-861, 901-905, 907-908); V(1017-1019, 1047, 1051-1053). The abandoned fields would create rodent and weed problems for those senior water users who are able to keep exercising their water rights. III(557); IV(772, 860, 904).

To avoid these adverse consequences, the Legislature created an opportunity for communities to come together to develop a GMP. NRS 534.110(7). But in so doing, it recognized that not everyone would be on board, which is why it required that only 51% of permit and certificate holders approve a GMP. NRS 534.037(1). In this respect, the district court is mistaken when declaring that “there is no language, either express or implied in NRS 534.037, that allows for a GMP to be approved by a majority of right holders in a CMA that reduces the amount of water to which a senior right holder is entitled to beneficially use.” XI(2410). The Legislature set the buy-in level at a “majority” of permit and certificate holders; that is precisely the authorizing language. NRS 534.037(1).

The Legislature could have – but did not – set this number at 100% to ensure that all water rights holders who would be affected by a GMP must approve it. Instead, it chose to elevate the general welfare over the desires of a few. Because “[i]t is ... a well-known rule that the courts have nothing to do with the general

policy of the law,” the district court could not second guess that policy decision. *Vineyard Land & Stock Co. v. Fourth Jud. Dist. Ct.*, 42 Nev. 1, 171 P. 166, 168 (1918).

The district court’s interpretation is also unreasonable and rendered the statutes meaningless. It would make no sense for the Legislature to have passed legislation that allowed the State Engineer to avoid curtailment by priority only to limit the State Engineer’s approval of a GMP to one that strictly enforced priorities. If that were the case, no new groundwater management legislation would have been necessary. Rather than analyze what the Legislature intended when enacting this new legislation, as was the district court’s responsibility on judicial review, the PJR Order discussed only what, according to the district court, the Legislature *did not* intend. XI(2407-2416). That was insufficient. *See Cty. of Clark, ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 753, 961 P.2d 754, 757 (1998) (“The intent of the legislature *is the controlling factor* in statutory interpretation.”) (emphasis added).

b. The District Court Treated Seniority as Sacrosanct Without Acknowledging Multiple Instances in Which the Legislature Has Deviated From Prior Appropriation Principles

The district court could only reach this unreasonable result by failing to address the Legislature’s previous policy decisions to depart from certain aspects of prior appropriation in favor of the public welfare. “Water rights are subject to

regulation under the police power as is necessary for the general welfare.” *Town of Eureka v. Office of State Eng'r of State of Nev., Div. of Water Res.*, 108 Nev. 163, 167, 826 P.2d 948, 950 (1992), *citing V.L. & S. Co. v. Dist. Ct.*, 42 Nev. 1, 171 P. 166 (1918). “As the owner of all water in Nevada, the State has the right to prescribe how water may be used.” *Id.*, *citing In re Waters of Manse Spring*, 60 Nev. 280, 287, 108 P.2d 311, 315 (1940). While the Legislature cannot enact laws that impair rights that vested prior to enactment of Nevada’s water code, “it can properly ... set up other methods of control.” *Application of Filippini*, 66 Nev. 17, 30, 202 P.2d 535, 541 (1949). “Water law seeks to balance a water rights holder’s property rights with the State’s police power to regulate water rights, and the State may therefore prescribe how water may be used.” *Mountain Falls Acquisition Corp. v. State*, No. 74130, 441 P.3d 548, 2019 WL 2305720 at *3 (Nev. 2019) (unpublished disposition), *citing Town of Eureka*, 108 Nev. at 167, 826 P.2d at 950. “Statutes, if enacted in the exercise of police power, are presumed to promote the public welfare....” *Koscot Interplanetary, Inc. v. Draney*, 90 Nev. 450, 456, 530 P.2d 108, 112 (1974).

AB 419 was not the first time the Legislature passed a law that altered the prior appropriation doctrine to meet policy objectives. For example, in 1999, the Legislature completely eliminated forfeiture for surface water rights and drastically altered the principle of abandonment. *See* Act of June 8, 1999, 1999 Nev. Stat.

515; NRS 533.060(2) (2000). Specifically, the Legislature modified NRS 533.060 by deleting subsection (2) and substituting a new section, which provided: “Rights to the use of surface water shall not be deemed to be lost or otherwise forfeited for the failure to use the water therefrom for a beneficial purpose.” *See id.* Similarly, discarding a century-old aspect of prior appropriation, the Legislature also severely restricted the conditions under which a surface right could be deemed abandoned. *See* NRS 533.060(3) and (4) (2000). Both of these changes were a radical departure from the prior appropriation doctrine and gave water users unprecedented latitude that did not previously exist in the law. *Compare id.* to *In re Waters of Manse Spring*, 60 Nev. 280, 108 P.2d at 315.

The 1999 Legislature did not hide its purpose. The bill’s sponsor expressly stated that “the intent of the measure was to take forfeiture out of Nevada’s state surface water law,” a change that she considered to be “very important to the people of Nevada.” March 10, 1999 Minutes of the Assembly Committee on Natural Resources, Agriculture, and Mining, VII(1531). One speaker at the hearing expressed, “It was difficult to promote agriculture as a viable industry when concerns about forfeiture and abandonment of surface water rights continued to appear.” VI(1535).

In another example of elevating the public welfare over prior appropriation, in 1955, the Legislature added language to what is now NRS 534.120 to afford the

State Engineer wide discretion in managing groundwater basins that the State Engineer designates for special management. “In the interest of public welfare, the State Engineer is authorized and directed to designate preferred uses of water within the respective areas so designated by the State Engineer and from which the groundwater is being depleted...” NRS 534.120(2). This means, for example, that the State Engineer may, in his discretion, deem uses other than irrigation to be preferred uses and deny irrigation applications, *even when they have an earlier priority date*. See Div. Water Res. Designated Basin Map, http://water.nv.gov/mapping/maps/designated_basinmap.pdf.

In light of these examples, a groundwater right is not entitled to “stone-etched security” in the prior appropriation doctrine, as the district court contends (XI(2411)), because the Legislature can change it at any time. See *Koscot Interplanetary*, 90 Nev. at 456, 530 P.2d at 112 (noting that Legislature “is free to enact any law” that is not constitutionally prohibited). As these examples show, the Legislature can make (and has made) exceptions to prior appropriation to promote the general welfare. The district court did not even address them.⁶

⁶ The district court noted 2019 legislation that partially exempted domestic wells from the prior appropriation doctrine so they would not be entirely shut off in the event of curtailment yet failed to recognize it as yet another instance of the Legislature advancing the public welfare over prior appropriation. XI(2385, n.14), *citing* 2019 Nev. Stat. 1790, codified in NRS 534.110(9).

c. The District Court’s Interpretation Divested the State Engineer of the Implied Powers Conferred by the Legislature

By confining the State Engineer to the strict enforcement of priorities, the district court deprived him of the implied powers granted by statute to regulate water for the common good. “It is the universal rule of statutory construction that wherever a power is conferred by statute, everything necessary to carry out the power and make it effectual and complete will be implied.” *Checker, Inc. v. Pub. Serv. Comm’n*, 84 Nev. 623, 629–30, 446 P.2d 981, 985 (1968).

Long before enacting AB 419, the Legislature authorized the State Engineer in any designated basin to, “in his or her administrative capacity ... make such rules, regulations and orders as are deemed essential *for the welfare of the area involved*.” NRS 534.120(1)-(2) (emphasis added); see *Mineral County, et al. v. Lyon County, et al.*, 136 Nev. Adv. Op. 58, p.18 (2020). The district court cited this statute to confirm that, with the GMP in place, “the State Engineer retain[ed] his authority to manage the Diamond Valley Basin” XI(2396). In fact, the district court emphatically stated: “It would be ludicrous to find that the State Engineer was prohibited from taking whatever action was necessary to prevent a catastrophic result in Diamond Valley during the life of the DVGMP, including curtailment, regardless of the provisions built into the DVGMP that otherwise trigger his plan review.” XI(2396).

Yet the district court failed to acknowledge that NRS 534.037, like NRS 534.120(1), broadly authorizes the State Engineer to manage groundwater basins for the public welfare, as long as the statutory criteria are considered. If, as the district court concluded, the GMP complied with NRS 534.037 and did nothing to abrogate the State Engineer's authority to manage the Diamond Valley basin, then striking down the GMP deprived the State Engineer of his implied powers to do so.

d. When Purporting to Interpret the GMP Statutes, the District Court Improperly Looked to Events That Post-Dated Their Enactment

The district court looked outside the record at events from 2016 and 2017 to reach the unsupported and extraordinary conclusion that the State Engineer allegedly knew his 2019 approval of the GMP was unlawful. XI(2416). To bolster this assertion, the district court first cited to unsuccessful legislation from the 2017 legislative session, six years *after* AB 419 was enacted. Failed legislative efforts in 2017, however, cannot be considered when interpreting the Legislature's intent in 2011 because "the use of a legislator's [subsequent] statement of opinion as a means of divining legislative intent" is prohibited. *A-NLV-Cab Co. v. State, Taxicab Auth.*, 108 Nev. 92, 95, 825 P.2d 585, 587 (1992), *citing Cal. Teachers Ass'n v. San Diego Com. Coll. Dist.*, 621 P.2d 856 (Cal. 1981).

This rule of statutory interpretation is well established. *See Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 187 (1994)

(“Congressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such inaction, including the inference that the existing legislation already incorporated the offered change.”); *United States v. Wise*, 370 U.S. 405, 411 (1962) (“Statutes are construed by the courts with reference to the circumstances existing at the time of the passage. The interpretation placed upon an existing statute by a subsequent group of Congressmen who are promoting legislation and who are unsuccessful has no persuasive significance here.”). Even assuming *arguendo* that the district court could look at legislative proceedings that post-date the enactment of AB 419, the record is clear that the GMP that was presented to the State Engineer in late 2018 had substantial changes from the working concept that existed during the 2017 legislative session. X(2134, 2138-2139); XI(2285). What the 2017 bill may or may not have sought is therefore immaterial.

Second, the district court looked at a presentation made by the State Engineer at a 2016 conference as evidence that the GMP he approved three years later was purportedly unlawful. XI(2416, n.168). In addition to being outside the record, this presentation was neither relevant, binding, nor a reliable statement of the law. The petition to adopt the GMP was not even presented to the State Engineer until August 20, 2018, some two years after the 2016 presentation. II(315). The State Engineer could not have made a definitive legal assessment of a

document that had not yet been submitted, particularly where the record demonstrates that the Planning Process Participants engaged in significant work on the GMP from 2016 to 2018 before submitting the final product to the State Engineer. II(315, 327-328); III(590)-IV(788); V(1026-1028). The final GMP differed from previous iterations. *Compare* III(530-560) to III(600-728); IV(731-788).

Moreover, the State Engineer is not a lawyer, and the presentation was not made in a legal or administrative proceeding to which judicial estoppel would apply. The State Engineer is not bound by *stare decisis*, much less by an informal statement made at a conference. *Desert Irr., Ltd. v. State*, 113 Nev. 1049, 1058, 944 P.2d 835, 841 (1997).

4. The State Engineer Appropriately Pointed To Persuasive Authority From New Mexico

The New Mexico case cited in Order #1302 lends further support for the notion that state legislatures do not deem the prior appropriation doctrine as fortified as the district court contends. II(320), *citing State ex rel. Office of State Engineer v. Lewis*, 150 P.3d 375 (N.M. 2006). There, the New Mexico Supreme Court found that the New Mexico legislature's support and funding for a settlement agreement that provided some relief from strict priorities was consistent with the doctrine of prior appropriation embedded in the state's constitution. *Id.* at 385-89. The court saw "no reason to read" the constitutional and compact

provision at issue “to require a priority call as the first and only, and thus exclusive, response to water shortage concerns. Rather, we think it reasonable to construe these provisions to permit a certain flexibility within the prior appropriation doctrine in attempting to resolve the longstanding Pecos River water issues.” *Id.* at 386.

Since the legal framework that NRS 534.110(7) modified is statutory, not constitutional, the State Engineer’s interpretation of what the Legislature authorized for a GMP is even more compelling here than the New Mexico case. Nevada did not fully embrace the prior appropriation doctrine for surface water until 1885, some twenty-one years after enactment of its Constitution. *See Reno Smelting, Milling and Reduction Works v. Stevenson*, 20 Nev. 269, 21 P. 317 (1889), as acknowledged in *Application of Filippini*, 66 Nev. 17 at 30, 202 P.2d 535 at 541. As to groundwater, prior appropriation did not exist until created by statute in 1915 (now codified in 534.080(3)). Act of Mar. 24, 1915, ch. 210, 1915 Nev. Stat. 323 (repealed 1939); *see generally* Harrison, THE HISTORICAL DEVELOPMENT OF NEVADA WATER LAW, 5 Univ. of Denver Water L. Rev. 148, 171-72 (2001). Although rights that vested before enactment of the water code must be recognized, prior appropriation is not a constitutional requirement in Nevada. *See* NRS 533.085. The State Engineer’s reference to the *Lewis* case from

New Mexico as another state's creative solution to a water shortage problem was therefore appropriate.

C. The GMP Does Not Impair Vested Rights

The district court's conclusion that the GMP violates NRS 533.085(1) by impairing vested rights is factually unsupported and legally infirm.

1. Nothing in the Record Supports the District Court's Conclusion That "Junior Irrigators" Alone Depleted Spring Flows

Multiple times in the PJR Order, the district court makes the assertion – unsubstantiated by any evidence in the record – that “over pumping by junior irrigators has caused senior claimed vested water rights holders’ naturally flowing springs to dry up in northern Diamond Valley.” XI(2384:28-2385:4; 2405:4-6). To support this proposition, the district court cites to either: (a) nothing⁷; (b) documents in the record that do not state what the district court says they do⁸; or (c) matters outside the record.⁹

There is no causal connection in the record establishing interference by any particular well with the exercise of any particular vested spring right. Rather, localized groundwater declines are attributable to multiple factors, including geology, geography, hydrology, well location, the quantity and rate of pumping in relation to natural discharge, and the aquifer's transmissivity and storage. II(402).

⁷ For example, XI(2384:18-19, 2389:17-2390:1, 2405:3-5).

⁸ For example, XI(2385, n.9).

⁹ For example, XI(2385, n.10; 2389, n.40; 2404, n.111).

The record simply establishes that *cumulative* pumping in the basin has contributed, at least in part, to the decline in spring flows. IV(802-814); V(1084, 1131).

For example, in describing the hydrologic setting of Diamond Valley, Appendix D of the GMP states, “Groundwater exploitation *in the basin* has caused the discharge from many springs to decline or cease to flow altogether” and specifically identifies Thompson Springs and Big Shipley Hot Springs as examples. IV(806) (emphasis added). The district court cited a previous draft of this language to attribute the cause of such diminished flows to “junior irrigators.” XI(2384:18-2385:3), *citing* III(641).

Yet neither the cited reference nor anything else in the record causally links pumping from any particular junior priority well to spring losses, and Sadler, Renner and the Baileys all have agricultural production wells located within or in close proximity to their own and one another’s springs, suggesting their spring losses are self-inflicted. II(452-453, 458-459); IV(837-839); VI(1258-1265); XIV(2906-2908). Additionally, the USGS report in the record states it is “unknown” whether the reduced springs flows are “in part related to a decrease in precipitation.” V(1141). The district court did not address these points.

Had the DNRPCA Appellants known that the district court was going to look outside the record of the GMP to point the finger exclusively at “junior”

permit holders as the alleged cause of impacts to vested rights, they would have presented evidence in the GMP approval process that: (a) the alleged harm to the GMP Opponents' vested claims is self-inflicted because their wells have the closest proximity to the springs and are pumping the water that would otherwise discharge from the springs; and (b) even if pumping were reduced to the perennial yield, the spring flows would not be restored.¹⁰ Should the Court consider the district court's extra-record references, the DNRPCA Appellants respectfully ask the Court to allow them to supplement the record at this time to demonstrate that the district court's findings and conclusions are simply wrong.

2. Implementation of the GMP Will Improve Aquifer Health, Not Harm Vested Rights

The district court's conclusion that implementation of the GMP will harm vested rights is likewise unsupported by the record. The GMP expressly exempts vested rights from its mandates and does not alter the ability of vested claimants to fully exercise their vested rights from springs or through mitigation groundwater permits. III(542, 553). The GMP also reduces pumping with the goal of stabilizing the water table to benefit all water users in Diamond Valley, including those who

¹⁰ The DNRPCA Appellants provided some evidence of this in support of their motion to stay, which shows, among other things, that: (a) the Baileys admitted they were responsible, in part, for drying up their own spring and that their farm is more productive with the mitigation well than it was with the spring; and (b) Sadler's representative testified that the Bailey's and other nearby wells were causing their spring discharge to decline. XIII(2555-2703); XIV(2865-2929).

hold vested rights. III(548). It is illogical for the district court to have concluded that the GMP's mandated cutbacks in groundwater withdrawals will harm vested rights because, absence interference by the GMP Opponents' own wells, a higher local groundwater table would make spring discharge more likely. II(374).

3. The GMP's 35-Year Timetable Does Not Impair Vested Rights

According to the district court, the GMP also impairs vested rights because it allows continued pumping in excess of the perennial yield for the next 35 years. XI(2405:1-6). Yet when analyzing the GMP for compliance with NRS 534.037, the district court specifically upheld the State Engineer's approval of the GMP with a 35-year window of time to remove the basin's CMA designation: "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." XI(2395:15-17, 2396:6-8 and n.75). Indeed, the district court expressly held that NRS 534.110(7) and NRS 534.037 authorize annual pumping to continue to exceed the perennial yield while the GMP is in place because "[a]n undertaking as immense as bringing a depleted aquifer [*sic*] into balance could easily surpass 10 years depending on the extent of harm to the aquifer [*sic*]." XI(2395:6-7).

Nevertheless, precisely *because* the GMP's benchmark reduction timetable contemplates a 35-year period to reduce pumping to the perennial yield and

authorizes the continued pumping in excess of the perennial yield in the interim, the district court struck down the GMP as impairing vested rights. XI(2404:4-2405:6). The district court's conclusion is founded on the following faulty syllogism:

- Groundwater pumping in excess of the perennial yield causes reduced spring flows.
- Reduced spring flows impair vested rights.
- The GMP allows continued groundwater pumping in excess of the perennial yield for 35 years.
- Therefore, the GMP impairs vested rights.

This flawed analysis erroneously assumes that if basin-wide pumping were immediately reduced to the perennial yield, the spring flows would be restored. That assumption is wrong because the GMP Opponents have wells located in and near their own and one another's springs. II(452-453, 458-459); IV(837-839); VI(1258-1265). If they continue to pump those wells, water might never flow from the springs because the springs are just a surface expression of the groundwater. II(374). Also, the effect of decreased precipitation on the springs is unknown. V(1141). As a result, the district court's conclusion that implementation of the GMP will impair vested rights lacks evidentiary support.

Notably, the Legislature did not require the State Engineer to look at effects on vested rights as part of a GMP approval process, even though it understood that groundwater pumping in over-appropriated basins was affecting surface resources:

Typically, that is a problem we are seeing out there with overappropriated basins. We are seeing declining surface water resources available... Unfortunately, in many [overappropriated basins], we have exceeded [the perennial yield] and we have declining water tables, which ultimately will impact both surface and groundwater levels.

VII(1605-06). Yet, nowhere in the language of AB 419 or the legislative history did the Legislature indicate that a GMP must mitigate vested rights. II(325, n.42) (noting AB 419, as originally proposed, would have required the State Engineer “to consider the relationship between surface water and groundwater in the basin,” but that language was amended out of the bill after the First Reprint). Nothing about the GMP prevents a vested claimant from seeking or exercising a mitigation groundwater permit while the GMP is in effect. III(542, 553).

4. The District Court’s Conclusion That the GMP Impairs Vested Rights is an Attack on the Legality of the Statute, Not the State Engineer’s Implementation of the Statute

The PJR Order is marred by contradictory legal conclusions because nearly every basin in Nevada in which pumping exceeds the perennial yield has surface water sources with claimed vested rights. If, as the district court held, NRS 534.037(2) authorizes pumping in excess of the perennial yield during the GMP’s 35-year implementation time frame, yet according to the district court, doing so

impairs vested rights, the statute itself – not the State Engineer’s implementation of it – violates NRS 533.085(1). Yet none of the GMP Opponents mounted a facial attack on NRS 534.037(2), and the district court failed to reconcile this analytical inconsistency.

When approving AB 419, the Legislature knew that over pumping in groundwater basins throughout the State was affecting surface water sources such as the springs for which the GMP Opponents claim vested rights. VII(1605-1606). Had the Legislature wanted to put an immediate stop to such pumping, it could simply have directed the State Engineer to immediately commence curtailment. Instead, the Legislature took the opposite tack; it created a new statutory structure that allows continued over-pumping for at least another 10 years after a CMA designation and longer if a GMP is approved. NRS 534.110(7).

The district court’s conclusion that *any* pumping in excess of the perennial yield for *any* period of time impairs vested rights cannot be reconciled with the minimum 10-year reprieve from curtailment in NRS 534.110(7). The Legislature cannot constitutionally enact laws that impair rights that vested prior to enactment of the State’s water statutes, and neither the district court nor the GMP Opponents claim it did with NRS 534.110(7). *See Application of Filippini*, 66 Nev. 17 at 30, 202 P.2d 535 at 541; *see also Sheriff, Washoe Cty. v. Wu*, 101 Nev. 687, 689–90, 708 P.2d 305, 306 (1985) (“Where a statute may be given conflicting

interpretations, one rendering it constitutional, and the other unconstitutional, the constitutional interpretation is favored.”) Where no one disputes that NRS 534.110(7) allows for continued pumping in excess of the perennial yield, the GMP cannot be deemed to violate NRS 533.085(1) for doing the same thing.

D. The GMP Does Not Violate the Beneficial Use Statute

In that the GMP encourages the most efficient use of the State’s scarce water resources, the district court’s conclusion that the GMP violates the beneficial use statute is puzzling. According to the district court, the GMP violates the beneficial use statute by purportedly granting shares to permit holders “who have done nothing to place their water to beneficial use.” XI(2401:15-16). There is no support for this statement in the record, and it is simply untrue, yet the district court repeats it multiple times to support the PJR Order’s faulty legal analysis. XI(2401:12-2403:3).

To appropriate groundwater in Nevada, or change the point of diversion, place of use or manner of use of an existing water right, a person must apply to the State Engineer for a permit. NRS 533.325. If the application meets the statutory requirements, the State Engineer issues a permit, which gives the appropriator a set amount of time to complete the diversion works and place the water to beneficial use. NRS 533.370; NRS 533.380(1). This can be up to five years, and the State Engineer may grant “any number of extensions” as long as the permit holder

demonstrates “good faith and reasonable diligence to perfect the application.” NRS 533.380(1)-(3). Once the permit holder files its proof of beneficial use, the State Engineer issues a certificate of appropriation. NRS 533.425. Prior to issuance of the certificate, however, the appropriator necessarily had to take the steps needed to construct the diversion works, prepare the fields and irrigate the land according to the terms of the permit (i.e., “perfecting” the right). *See id.* Otherwise, the permit holder could not get a certificate or obtain extensions to do so. NRS 533.380(1)-(3); NRS 533.425.

Once a water right is certificated, if an appropriator wishes to change the location of a well, the place of use or the manner of use, it must again apply to the State Engineer for a permit, at which point the process starts over. NRS 533.325. The State Engineer would again issue a permit for the proposed change if the statutory requirements are met. *And even though the water previously was certificated,* its status changes to “permitted” until the permit holder constructs the new diversion works and proves up beneficial use at the new location or with the new manner of use. NRS 533.370; NRS 533.380. The permit holder again has up to five years to do so but may receive “any number of extensions” so long as it demonstrates “good faith and reasonable diligence to perfect the application.” NRS 533.380. The original certificate is referred to as the “base right.” III(533).

This means that even when a right has “permit” status, the appropriator could already be placing the water to beneficial use (but may not yet have filed its proof), or may still be in the process of constructing the works to do so. *See* NRS 533.380. It could also mean that the base right of the permit was “certificated” at some point, but the appropriator decided to make a change to the place or manner of diversion or use. *See* NRS 533.325. If the latter is true, even though a proof of beneficial use was already filed under the base right, the right is now a permit until a new proof of beneficial use is filed. NRS 533.380.

Under either circumstance, the district court’s repeated finding that simply because a right has “permit” status the permit holder “has done nothing to place their water to beneficial use” is flatly wrong. Because the record does not support this “finding,” the district court’s conclusion that the GMP violates the beneficial use statute because it gives shares to permit holders is fundamentally flawed and cannot stand.¹¹

The district court’s conclusion that the GMP violates the beneficial use statute is defective for another reason. In AB 419, the Legislature expressly empowered permit holders to have a determinative stake in the GMP process by

¹¹ Although the absence of evidence to support the district court’s finding is sufficient for reversal, judicially noticeable data from the records of the Division of Water Resources confirm that most of the irrigation permits in Diamond Valley have a certificated base right, meaning proof of beneficial use was made at some point before a change application was filed. *See* Diamond Valley Hydrographic Abstract in the attached addendum.

requiring that the petition for approval of a GMP be signed “by a majority of the holders *of permits or* certificates.” NRS 534.037(1) (emphasis added). Having explicitly authorized permit holders to have seminal votes in the GMP approval process, it is nonsensical that the Legislature would then have barred a GMP specifically because some of its participants are permit holders. The district court should have construed the statute to avoid this absurd result. *See Sheriff, Clark County v. Burcham*, 124 Nev. 1247, 1253, 198 P.3d 326, 329 (2008).

To the extent the district court’s conclusion that the GMP allegedly violates the beneficial use statute is based on some unused portions of permits, the record indicates that many of the unexercised rights (or portions of rights) in Diamond Valley arise from field corners that are not being irrigated because the farms have converted to more efficient center pivots. IV(778, 780). If the water rights associated with corners have not already been sold or moved elsewhere, initiation of forfeiture or abandonment could encourage irrigators to resume irrigating those corners. II(323-324); IV(799).

The district court agreed with the State Engineer’s 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. XI(2401:10-11). Nevertheless, the district court concluded the State Engineer should have done so. XI(2401-2403). Nothing in NRS 534.037

requires the State Engineer, before approving the GMP, to engage in the multi-year process required by NRS 534.090 for the potential forfeiture and abandonment of rights that are currently in good standing. Moreover, because the GMP reduces annual share allocations over time, and the starting point for the GMP is the amount pumped in 2016, not what exists on paper, the unexercised rights cannot be used anyway with the GMP in place. III(547-548); IV(823).

The State Engineer properly exercised his discretion to not initiate forfeiture and abandonment proceedings that might prompt water rights holders to resume irrigating unused field corners when to do so would undermine the legislative purpose and the GMP's goals. By concluding otherwise, the district court places water users in the untenable position of being punished for conserving water yet being incentivized to waste water. Not only is this contrary to Nevada law, but the district court should not have substituted its judgment for that of the State Engineer. *See Bacher*, 122 Nev. at 1121, 146 P.3d at 800.

E. The State Engineer's Retention of Authority to Manage the Basin Under the GMP Complies With NRS 533.325 and NRS 533.345

As yet another example of its impossibly contradictory legal determinations, the district court concluded that, under the GMP, "the State Engineer retains his authority to manage the Diamond Valley basin" yet somehow divested himself of his responsibilities to review applications to temporarily move water from one well

to another. *Compare* XI(2396:8-9 to 2416:17-2419:4). To reach this result, the district court takes issue with the following aspects of the GMP:

First, the district court contends that NRS 533.360 requires notice and the opportunity to protest temporary change applications, but the GMP does not afford the same opportunity for any temporary movement of an annual allocation. XI(2417:11-14). Notwithstanding the district court's contrary assertion, "temporary change applications do not undergo publication or hearing unless required by the State Engineer." II(322), *citing* NRS 533.345(3). Moreover, the statute provides for a fairly perfunctory review: the State Engineer "shall approve" a temporary change application if: "(a) The application is accompanied by the prescribed fees; (b) The temporary change is in the public interest; and (c) The temporary change does not impair the water rights held by other persons." NRS 533.345(2). It was within the State Engineer's authority to conclude that they GMP was adequately aligned with these procedures. *See* NRS 534.037(2)(g).

Under the GMP, no well may exceed the existing duty already assigned by the State Engineer under the permit or certificate, and the State Engineer may disallow a withdrawal that conflicts with existing rights. III(549-550). Because the State Engineer *already* did a public interest and conflict analysis when approving the initial application, his approval of the temporary change provisions in the GMP was a proper exercise of discretion. The flexibility afforded in the GMP for the

temporary movement of allocations allows participants to most efficiently use the limited water that is available as a result of the annual benchmark reductions. III(550). This is consistent with the legislative intent of AB 419 to allow local stakeholders to solve the water shortage problem while preserving the public welfare.

Second, the district court took issue with the provision of the GMP in which a temporary (one-year) movement of an allocation to any new well or an increased withdrawal of water from an existing well is automatically approved if the State Engineer does not disapprove of it within 14 calendar days. XI(2417:15-17, *citing* III(550)). The district court mischaracterized this as “not requir[ing the State Engineer] to investigate a proposed change.” XI(2417:15-16). Nothing in the GMP absolves the State Engineer of his statutory mandate to oversee the movement of water within a basin. III(550). This provision simply expedites the review process by: (a) requiring the State Engineer to conduct the analysis within 14 days; and (b) allowing the approval to occur without a further affirmative act. III(550). The State Engineer must still disapprove such a change if it is contrary to the public interest or impairs the rights of others. III(550). Moreover, for any change that exceeds a one-year period, the GMP requires that the provisions of NRS 533.370 be followed. III(550).

Third, the district court contends that the GMP's change provisions *could* result in a reduction of aquifer recharge *if* an irrigation permit is changed to another manner of use. XI(2418). The facts in Diamond Valley are that the majority of rights that are subject to the GMP and able to participate in its allocation trading are irrigation rights and mining rights that have base irrigation rights. III(541). As a practical matter, the scenario raised by the district court that a temporary one-year change to some other manner of use would appreciably alter the recharge is unlikely given that Diamond Valley is a farming area. 111(538). Setting aside that the concern expressed by the district court is hypothetical and remote, it is precisely the type of thing that would be evaluated during the State Engineer's 14-day review to determine that the change is in the public interest and does not conflict with existing rights. II(321-322); III(550).

The State Engineer properly exercised his discretion under NRS 534.037 to approve a GMP that he believed was consistent with the temporary change application provisions of NRS 533.345(2) and that maintains his authority to ensure that individual movements of allocations do not conflict with other rights and are in the public interest. II(321-322). As the district court acknowledged, should the State Engineer identify a problem in the future as the GMP is implemented, he retains authority under NRS 534.120(1) to address it. XI(2396:8-9). The district court's speculative concern about what might happen in the future

was not a justification to strike down the GMP. *See EPA v. EME Homer City Generation, L.P. (EME Homer)*, 572 U.S. 489, 524 (2014) (“The possibility that the rule, in uncommon particular applications, might exceed [the agency]’s statutory authority does not warrant judicial condemnation of the rule in its entirety.”).

Notably, the GMP mandates metering and centralized data collection, which will be tracked by the on-site water manager. III(550-552). The State Engineer will have more information than ever at his disposal, allowing him to analyze and address any conflicts if they occur and make adjustments as needed based upon the best available data. II(329-330); III(550-552); IV(776-777). The pumping reductions and other aspects of the GMP’s implementation will be informed by robust groundwater monitoring to ensure that stabilization of the water table is occurring. II(329-330); III(550-552); IV(777). With the State Engineer maintaining his authority to manage the basin, the district court simply did not identify any statutory basis to invalidate the GMP.

CONCLUSION

In authorizing the GMP process, the Legislature recognized that it could not solve problems in overappropriated basins with the same thinking that was used to create those problems. The Diamond Valley GMP rose to the task in precisely the way that the Legislature intended. For the foregoing reasons, the DNRPCA

Appellants respectfully ask the Court to reverse the PJR Order and reinstate Order #1302 and the GMP.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Date: September 23, 2020

/s/ Debbie Leonard

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Attorney for Appellants

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32 (a)(4), the typeface requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2007 in 14-point font, Times New Roman style. I further certify that this brief complies with the type-volume limitation of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it contains 13,812 words.

Pursuant to NRAP 28.2, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28 (e), which requires every assertion regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that this brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Date: September 23, 2020

/s/ Debbie Leonard
Debbie Leonard (Nevada Bar No. 8260)
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Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and that on September 23 2020, the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Participants in the case who are registered with E-Flex as users will be served by the EFlex system. All others will be served by first-class mail.

/s/ Tricia Trevino
An employee of Leonard Law, PC

ADDENDUM

ADDENDUM

Hydrographic Abstracts

Hydrographic Abstract Report

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION					Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record
							Qtr-Qtr	Qtr	SEC	TWN	RNG							
153	18242		6510	8/13/1959	CER	UG	SW	NE	07	22N	54E	5.5	IRR	Y	8/13/1959	1280	EU	ANDERSEN, HARLOW B. AND BONNIE G.
		CHANGED BY: 72370			PER	UG												
153	18802		6024	5/4/1960	CER	UG	SE	NE	08	22N	54E	2.7	IRR		5/4/1960	640	EU	FRED L. ETCHEGARAY AND JOHN J. ETCHEGARAY, A NEVADA PARTNERSHIP
153	18834		5988	5/12/1960	CER	UG	SE	SE	17	21N	54E	3.882	IRR	Y	5/12/1960	1276.23	EU	NEWTON, DEBRA L.
153	18835		5987	5/12/1960	CER	UG	SE	SW	17	21N	54E	3.518	IRR	Y	5/12/1960	1277.8	EU	NEWTON, DEBRA L.
153	19014		6860	7/13/1960	CER	UG	NW	NE	05	21N	54E	2.91	IRR	Y	7/13/1960	640	EU	J & T FARMS, LLC
153	19053		5990	7/21/1960	CER	UG	NE	NW	17	21N	54E	3.487	IRR	Y	7/21/1960	1277.8	EU	NEWTON, DEBRA L.
153	19279		6870	10/17/1960	CER	UG	SE	SE	07	21N	53E	0.898	IRR		10/17/1960	332	EU	DUBRAY, FERNO L. & CARRIE M.
153	19378		7235	12/9/1960	CER	UG	NW	NW	34	21N	53E	1.799	IRR	Y	12/9/1960	979.2	EU	MOYLE, DUSTY L.
		CHANGED BY: 24605			CER	UG												
153	19381		6785	12/9/1960	CER	UG	NW	SE	33	21N	53E	3.57	IRR		12/9/1960	960	EU	MOYLE, DUSTY L.
153	19500		7464	1/27/1961	CER	UG		LT13	20	20N	53E	2.9	IRR		1/27/1961	664.4	EU	CONLEY LAND & LIVESTOCK, LLC
153	19502		7517	1/27/1961	CER	UG	SW	SE	20	20N	53E	2.9	IRR		1/27/1961	609.08	EU	CONLEY LAND & LIVESTOCK, LLC
153	19541		6027	2/8/1961	CER	UG	SE	SE	28	21N	53E	2.7	IRR	Y	2/8/1961	565.2	EU	DIAMOND VALLEY RANCH, LLC
		CHANGED BY: 87116T			EXP	UG												
		CHANGED BY: 87115T			EXP	UG												
		CHANGED BY: 88237T			EXP	UG												
		CHANGED BY: 88238T			EXP	UG												
153	19542		6028	2/8/1961	CER	UG	NE	NE	28	21N	53E	2.7	IRR	Y	2/8/1961	468	EU	DIAMOND VALLEY RANCH, LLC

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
		CHANGED BY: 87117T			EXP	UG												
		CHANGED BY: 88239T			EXP	UG												
153	19904		6484	6/6/1961	CER	UG	SE	NE	29	21N	53E	2.7	IRR	Y	6/6/1961	632	EU	DIAMOND VALLEY RANCH, LLC
153	19966		7041	7/3/1961	CER	UG	SW	NE	12	21N	53E	4.29	IRR	Y	7/3/1961	218.2	EU	BAR D LAND & LIVESTOCK, LLC
		CHANGED BY: 80581			PER	UG												
153	19972		6241	7/3/1961	CER	UG	SE	NW	01	21N	53E	4.161	IRR	Y	7/3/1961	756.2	EU	PLASKETT, TOMMYE J.
		CHANGED BY: 36266			CAN	UG												
		CHANGED BY: 46348			CER	UG												
153	19973		6242	7/3/1961	CER	UG	SE	SW	01	21N	53E	5.32	IRR	Y	7/3/1961	775.72	EU	PLASKETT, TOMMYE
		CHANGED BY: 55335T			WDR	UG												
		CHANGED BY: 34948			CER	UG												
153	20046		6545	8/23/1961	CER	UG	SE	NW	33	22N	54E	2.7	IRR		8/23/1961	640	EU	LYNFORD AND SUSAN MILLER REVOACABLE FAMILY TRUST
153	20366		6196	3/14/1962	CER	UG	SE	NW	22	22N	54E	2.67	IRR		3/14/1962	638.3099 99	EU	MARK MOYLE FARMS, LLC
153	20487		7352	5/25/1962	CER	UG	NE	NW	22	21N	53E	2.7	IRR		5/25/1962	510.8	EU	BUFFHAM, JAMES OR PAMELA
		CHANGED BY: 44460			DEN	UG												
		CHANGED BY: 50962			CER	UG												
153	20565		6942	7/12/1962	CER	UG	SE	NW	32	20N	53E	1.7	IRR		7/12/1962	250	EU	EUREKA COUNTY
		CHANGED BY: 82906			WDR	UG												
		CHANGED BY: 83245			WDR	UG												
		CHANGED BY: 20565R01			RLP	UG												
153	21399	19259	6504	7/22/1963	CER	UG	SW	NW	22	20N	53E	3.959	IRR	Y	10/10/1960	1013.16	EU	MICHEL AND MARGARET ANN ETCHEVERRY FAMILY LIMITED PARTNERSHIP
153	21426	19000	6720	8/2/1963	CER	UG	SW	SE	15	21N	53E	5.4	IRR		7/11/1960	640	EU	MORRISON, LLOYD & BELINDA FAYE
153	21428	19136	6722	8/2/1963	CER	UG	SE	NE	11	21N	53E	3.96	IRR		8/22/1960	465.96	EU	BENSON, PATTI E. AND KENNETH F.

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
		CHANGED BY: 86035			PER	UG												
		CHANGED BY: 85967			PER	UG												
		CHANGED BY: 85966			PER	UG												
153	21561	20376	6958	10/2/1963	CER	UG	SE	NW	21	20N	53E	2.2	IRR	Y	3/21/1962	519.68	EU	EUREKA MOLY LLC
		CHANGED BY: 63247			ABR	UG												
		CHANGED BY: 63052			PER	UG												
153	21839	18992	6733	2/24/1964	CER	UG	SW	SW	16	21N	53E	3.73	IRR		7/11/1960	632	EU	BERGENER, LINDA AND DON
153	21841	18997	6736	2/24/1964	CER	UG	SE	NW	21	21N	53E	4.78	IRR		7/11/1960	632	EU	MICHEL & MARGARET ETHCEVERRY FAMILY LP
153	21843	19001	6715	2/24/1964	CER	UG	SW	SW	15	21N	53E	5.4	IRR		7/11/1960	624	EU	MORRISON, LLOYD AND BELINDA FAYE
153	21844	19002	6718	2/24/1964	CER	UG	SW	NW	15	21N	53E	3.25	IRR		7/11/1960	632	EU	M & C HAY MORRISON TRUST DATED MARCH 26, 2016
153	21929	19253	6189	4/7/1964	CER	UG	SW	NW	28	21N	53E	2.7	IRR		10/6/1960	630.4	EU	DIAMOND VALLEY RANCH, LLC
153	21930	19254	6215	4/7/1964	CER	UG	SW	NE	27	21N	53E	2.7	IRR		10/6/1960	635.2	EU	AMERICAN FIRST FEDERAL
153	22194	18626	6182	8/19/1964	CER	UG	SE	SW	03	21N	53E	2.7	IRR		3/7/1960	536	EU	BAILEY, TIMOTHY LEE AND CONSTANCE MARIE
		CHANGED BY: 55727			CER	UG												
		CHANGED BY: 49732			CER	UG												
153	22195	18626	6183	8/19/1964	CER	UG	SE	SE	03	21N	53E	2.7	IRR		3/7/1960	622	EU	BAILEY, TIMOTHY LEE AND CONSTANCE MARIE
		CHANGED BY: 49731			CER	UG												
153	22217	19503	7576	8/31/1964	CER	UG	SE	NE	20	20N	53E	2.55	IRR		1/27/1961	644.28	EU	CONLEY LAND AND LIVESTOCK LLC
		CHANGED BY: 82904			WDR	UG												
		CHANGED BY: 83241			WDR	UG												
		CHANGED BY: 22217R01			RLP	UG												
153	22316	19254	6190	11/5/1964	CER	UG	SW	SE	27	21N	53E	2.7	IRR		10/6/1960	628.8	EU	AMERICAN FIRST FEDERAL
153	22352	18667	6309	12/7/1964	CER	UG	SW	SE	19	22N	54E	2.79	IRR		3/21/1960	0	EU	MARK MOYLE FARMS, LLC

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Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record	
							Qtr-Qtr	Qtr	SEC								TWN
		CHANGED BY: 69847T			EXP	UG											
		CHANGED BY: 71189T			EXP	UG											
		CHANGED BY: 70940			CER	UG											
		CHANGED BY: 89622T			PER	UG											
153	22353	18668	6310	12/7/1964	CER	UG	SW	NE	19	22N	54E	3.28	IRR	3/21/1960	632	EU	MARK MOYLE FARMS, LLC
153	22566	18751	6561	5/3/1965	CER	UG	SW	SE	08	21N	53E	4.023	IRR	4/22/1960	468	EU	BUFFHAM, JAMES OR PAMELA
		CHANGED BY: 44461			DEN	UG											
		CHANGED BY: 50963			CER	UG											
153	22567	18750	6562	5/3/1965	CER	UG	SW	NE	08	21N	53E	4.54	IRR	4/22/1960	468	EU	BUFFHAM, JAMES OR PAMELA
		CHANGED BY: 44462			DEN	UG											
		CHANGED BY: 50961			ABR	UG											
153	22648	18625	6358	6/18/1965	CER	UG	SW	NE	03	21N	53E	3.12	IRR	Y 3/7/1960	1140.32	EU	BENSON, KENNETH F.
		CHANGED BY: 86032			PER	UG											
		CHANGED BY: 86039			PER	UG											
153	22921	18625	7874	1/14/1966	CER	UG	SW	NW	03	21N	53E	1.93	IRR	Y 3/7/1960	1140.32	EU	BENSON, KENNETH F.
		CHANGED BY: 86032			PER	UG											
		CHANGED BY: 86038			PER	UG											
153	22922	18627	7875	1/14/1966	CER	UG		LT01	02	21N	53E	2.28	IRR	Y 3/7/1960	478.56	EU	BENSON, PATTI E. AND KENNETH F.
		CHANGED BY: 27427			CAN	UG											
		CHANGED BY: 36322			CER	UG											
		CHANGED BY: 86037			PER	UG											
		CHANGED BY: 86036			PER	UG											
153	22982	18639	6191	3/2/1966	CER	UG	SW	NE	22	21N	53E	4.911	IRR	3/9/1960	1260.8	EU	AMERICAN FIRST FEDERAL

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Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION					Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record
							Qtr-Qtr	Qtr	SEC	TWN	RNG							
153	23272	18746	6303	7/26/1966	CER	UG	SW	SW	32	22N	54E	5	IRR	Y	4/22/1960	640	EU	L K FARM LLC
		CHANGED BY: 27399			ABR	UG												
153	23462		7831	10/28/1966	CER	UG		LT01	35	21N	53E	3.34	IRR	Y	10/28/1966	1214	EU	EUREKA COUNTY
		CHANGED BY: 23462R01			RLP	UG												
153	23711		6794	2/23/1967	CER	UG	SE	SW	21	20N	53E	3.58	IRR	Y	2/23/1967	902.76	EU	EUREKA MOLLY, LLC
153	23738	21595	6529	3/8/1967	CER	UG	NW	SW	28	20N	53E	2.102	IRR	Y	10/30/1963	902.76	EU	EUREKA MOLLY, LLC
153	23739	19296	6723	3/8/1967	CER	UG		LT07	28	20N	53E	2.287	IRR	Y	10/24/1960	902.76	EU	EUREKA MOLLY, LLC
153	23803	18713	6521	4/14/1967	CER	UG	SW	SW	35	21N	53E	3.1	IRR	Y	4/11/1960	684.8	EU	MILLER, ANTHONY
153	23893		7695	5/25/1967	CER	UG	SW	SW	22	22N	54E	1.6	IRR	Y	5/25/1967	306	EU	MILES, HAROLD R.
153	23918		8648	6/5/1967	CER	UG	SW	NE	33	21NH	54E	1.15	IRR	Y	6/5/1967	44.4	EU	NORTON, WILIAM H. AND SHIRLEY
		CHANGED BY: 39534			CAN	UG												
		CHANGED BY: 42841			WDR	UG												
		CHANGED BY: 46677			CAN	UG												
		CHANGED BY: 77646			CER	UG												
		CHANGED BY: 80926			CER	UG												
153	24127	18858	6884	9/21/1967	CER	UG	SW	NE	10	21N	53E	3.05	IRR	Y	5/18/1960	1280	EU	CONAWAY, DALE R.
153	24128	18857	6883	9/21/1967	CER	UG	SW	SE	10	21N	53E	4.233	IRR	Y	5/18/1960	1280	EU	CONAWAY, DALE R.
153	24129	18859	7005	9/21/1967	CER	UG	SW	NW	10	21N	53E	4.32	IRR	Y	5/18/1960	1240.8	EU	MORRISON, ALBERTA J.
153	24130	18860	7006	9/21/1967	CER	UG	SW	SW	10	21N	53E	3.042	IRR	Y	5/18/1960	1240.8	EU	MORRISON, ALBERTA J.
153	24214		8174	11/13/1967	CER	UG	SW	NW	17	20N	53E	2.65	IRR	Y	11/13/1967	624.99	EU	DEVIL'S GATE GENERAL IMPROVEMENT DISTRICT
		CHANGED BY: 63164			WDR	UG												
		CHANGED BY: 67902			CER	UG												
153	24262	20090	6959	12/8/1967	CER	UG	SW	NW	09	21N	53E	2.7	IRR	Y	9/19/1961	476.52	EU	BUFFHAM, JAMES OR PAMELA

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
		CHANGED BY: 44463			DEN	UG												
		CHANGED BY: 50958			ABR	UG												
153	24263	20089	6960	12/8/1967	CER	UG	NW	NE	09	21N	53E	2.7	IRR	Y	9/19/1961	452.4	EU	BUFFHAM, JAMES OR PAMELA
		CHANGED BY: 44464			DEN	UG												
		CHANGED BY: 50959			ABR	UG												
153	24264	18899	6961	12/8/1967	CER	UG	SW	SE	09	21N	53E	4.162	IRR	Y	6/3/1960	928.92	EU	DIAMOND VALLEY HAY CO., INC.
		CHANGED BY: 44465			DEN	UG												
		CHANGED BY: 50960			ABR	UG												
153	24265	18900	6962	12/8/1967	CER	UG	SW	SW	09	21N	53E	3.373	IRR	Y	6/3/1960	944	EU	BUFFHAM, JAMES OR PAMELA
		CHANGED BY: 44466			DEN	UG												
		CHANGED BY: 50964			ABR	UG												
		CHANGED BY: 50965			ABR	UG												
153	24272	19759	7072	12/11/1967	CER	UG	SE	SW	08	21N	54E	5.4	IRR		4/18/1961	640	EU	REINFORD, CHUCK D. AND HEIDI N.
		CHANGED BY: 46505			CER	UG												
153	24378		8556	2/22/1968	CER	UG		LT04	21	20N	53E	2.228	IRR	Y	2/22/1968	298.8	EU	COUNTY OF EUREKA
		CHANGED BY: 63189T			EXP	UG												
		CHANGED BY: 82909			WDR	UG												
		CHANGED BY: 83244			WDR	UG												
		CHANGED BY: 63000			WDR	UG												
153	24605	19378	7078	7/25/1968	CER	UG	NW	NE	34	21N	53E	0.874	IRR	Y	12/9/1960	316	EU	MOYLE, DUSTY L.
153	26437		11004	12/14/1971	CER	UG	SE	SE	30	23N	54E	5.4	IRR		12/14/1971	508.8	EU	MOYLE, DUSTY L.
		CHANGED BY: 47591			CER	UG												
153	26664		8945	4/12/1972	CER	UG	SE	NE	24	21N	53E	1.7	IRR		4/12/1972	160	EU	KEPHART, MARY A.

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

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							Qtr-Qtr	Qtr	SEC								TWN
		CHANGED BY: 35261			WDR	UG											
		CHANGED BY: 54226			WDR	UG											
		CHANGED BY: 56652			CER	UG											
153	27976	22649	9084	12/31/1973	CER	UG	NE	SE	02	21N	53E	3.12	IRR	3/7/1960	504.48	EU	MARSHALL FAMILY TRUST
		CHANGED BY: 36321			CER	UG											
153	28035		8414	1/23/1974	CER	UG	SW	SE	06	21N	53E	0.723	IRR	Y 1/23/1974	201.56	EU	BAILEY, CAROLYN
153	28036	21928	8415	1/23/1974	CER	UG	SW	SE	06	21N	53E	1.172	IRR	Y 5/3/1960	277	EU	BAILEY, CAROYLN
153	28061	24270	8639	2/5/1974	CER	UG	NW	SE	08	21N	54E	2.7	IRR	Y 12/11/1967	502.4	EU	REINFORD, CHUCK D. AND HEIDI N.
153	28160	19971	9043	2/28/1974	CER	UG		LT03	01	21N	53E	1.337	IRR	Y 7/3/1961	500.32	EU	PLASKETT, TOMMYE J.
153	28561		9171	8/1/1974	CER	UG	NE	SW	33	22N	54E	2.7	IRR	8/1/1974	520	EU	LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST
153	28641	27399	9226	8/29/1974	CER	UG	SW	NW	32	22N	54E	2.5	IRR	Y 4/22/1960	640	EU	L K FARM LLC
153	29278	27398	9262	3/21/1975	CER	UG	NW	NE	32	22N	54E	1.951	IRR	Y 4/9/1973	480	EU	L K FARM LLC
153	29405	24574	9671	5/22/1975	CER	UG	NE	NW	08	21N	53E	3	IRR	4/22/1960	591.32	EU	MORRISON, D. LLOYD
153	29557		10090	7/29/1975	CER	UG	SE	SE	20	23N	54E	2.7	IRR	7/29/1975	487.36	EU	MOYLE, JAMES L. & N. JANE
		CHANGED BY: 39090			ABR	UG											
153	29765	25823	8881	11/13/1975	CER	UG	SW	SE	18	20N	53E	4.99	IRR	Y 5/15/1967	1252.8	EU	HALPIN FAMILY TRUST
153	29873		10129	12/24/1975	CER	UG	SE	SW	32	23N	54E	5.4	IRR	Y 12/24/1975	1280	EU	MOYLE, JAMES L.
		CHANGED BY: 56542T			EXP	UG											
		CHANGED BY: 81268			PER	UG											
153	29895		11107	1/7/1976	CER	UG	SW	NE	33	22N	54E	2.7	IRR	1/7/1976	502.64	EU	BLEHM, RONALD W. AND GLADYS A.
		CHANGED BY: 44604			CER	UG											
153	30102	26737	10113	3/23/1976	CER	UG	SE	NW	32	23N	54E	1.23	IRR	Y 8/27/1969	890.27	EU	MOYLE, JAMES L.
		CHANGED BY: 80152T			EXP	UG											

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION					Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record
							Qtr-Qtr	Qtr	SEC	TWN	RNG							
153	30913		11109	12/10/1976	CER	UG	SW	NE	29	23N	54E	2.3	IRR		12/10/1976	477.8	EU	MOYLE, DUSTY L.
		CHANGED BY: 47511			ABR	UG												
		CHANGED BY: 47510			CAN	UG												
153	30927	13649	11110	12/14/1976	CER	UG	SE	SE	33	22N	54E	1.045	IRR	Y	3/2/1951	69.12	EU	CHANEY ASSOCIATES
		CHANGED BY: 44606			CER	UG												
153	30928	29896	11111	12/14/1976	CER	UG	SE	SE	33	22N	54E	2.042	IRR	Y	1/7/1976	502.64	EU	CHANEY ASSOCIATES
		CHANGED BY: 44605			CER	UG												
153	31062		10132	2/2/1977	CER	UG	SW	SW	12	21N	53E	2.7	IRR		2/2/1977	553.6799 99	EU	BAR D LAND & LIVESTOCK, LLC
153	31063		10133	2/2/1977	CER	UG	SE	NW	12	21N	53E	2.7	IRR		2/2/1977	523.2	EU	BAR D LAND & LIVESTOCK, LLC
153	31108		9331	2/17/1977	CER	UG	NE	NW	14	21N	53E	2.06	IRR		2/17/1977	541.44	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	31110		9333	2/17/1977	CER	UG	NE	SW	14	21N	53E	1.97	IRR		2/17/1977	541.44	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	31111		9334	2/17/1977	CER	UG	NE	NE	23	21N	53E	0.698	IRR	Y	2/17/1977	158	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	31113		9336	2/17/1977	CER	UG	NE	NW	11	21N	53E	2.66	IRR		2/17/1977	533.6	EU	MOYLE, DENISE L. AND HICKS, DEANNE, M
153	31114		9337	2/17/1977	CER	UG	NE	SW	11	21N	53E	1.94	IRR		2/17/1977	537.6	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	31454		10708	5/3/1977	CER	UG	SE	SE	11	20N	53E	2.05	IRR		5/3/1977	520	EU	HALPIN, JAYME L.
153	31455		10709	5/3/1977	CER	UG	SE	SW	11	20N	53E	2.284	IRR	Y	5/3/1977	512.12	EU	HALPIN, JAYME L.
		CHANGED BY: 81004			PER	UG												
153	33018		11069	8/3/1977	CER	UG	SE	NE	16	21N	53E	2.83	IRR		8/3/1977	480	EU	MARTIN P. & KATHLEEN A. ETCHEVERRY TRUST & ETCHEVERRY, MARK T. & JENNIFER
		CHANGED BY: 35262			ABR	UG												
		CHANGED BY: 42367			CER	UG												
153	33019		11070	8/3/1977	CER	UG	SW	SE	16	21N	53E	2.8	IRR		8/3/1977	480	EU	MARTIN P. & KATHLEEN A. ETCHEVERRY TRUST & ETCHEVERRY, MARK T. & JENNIFER
		CHANGED BY: 35263			ABR	UG												

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
		CHANGED BY: 42368			CER	UG												
153	33668		9386	9/19/1977	CER	UG	NW	NE	20	21N	54E	3.974	IRR	Y	9/19/1977	1223.74	EU	WISEHART, LARRY
153	33669		9387	9/19/1977	CER	UG	SE	SE	20	21N	54E	2.719	IRR	Y	9/19/1977	1223.74	EU	WISEHART, LARRY
153	33670		10433	9/19/1977	CER	UG	SW	SW	20	21N	54E	5.35	IRR	Y	9/19/1977	1264.7	EU	WISEHART, LARRY
153	33671		9672	9/19/1977	CER	UG	NE	NW	20	21N	54E	5.35	IRR	Y	9/19/1977	1264.7	EU	WISEHART, LARRY
153	33817		12364	9/27/1977	CER	UG	NE	NW	27	21N	53E	2.14	IRR		9/27/1977	511.6	EU	BELL, SCOTT THOMAS AND KRISTINE LOUISE
		CHANGED BY: 50681			ABR	UG												
		CHANGED BY: 44467			DEN	UG												
153	33818		12365	9/27/1977	CER	UG	SW	SW	27	21N	53E	2.25	IRR		9/27/1977	510.8	EU	BELL, SCOTT THOMAS AND KRISTINE LOUISE
		CHANGED BY: 44468			DEN	UG												
		CHANGED BY: 50680			ABR	UG												
153	34561		10529	11/3/1977	CER	UG	SE	SW	19	22N	54E	3.05	IRR		11/3/1977	516.01	EU	MARK MOYLE FARMS, LLC
		CHANGED BY: 75457T			WDR	UG												
153	34562		10530	11/3/1977	CER	UG	SE	NW	19	22N	54E	2.637	IRR		11/3/1977	499.48	EU	MARK MOYLE FARMS, LLC
		CHANGED BY: 75456T			WDR	UG												
153	34596		11007	11/10/1977	CER	UG	SE	NE	07	21N	53E	3.42	IRR	Y	11/10/1977	501.82	EU	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016
153	34939		11044	2/3/1978	CER	UG	SE	SW	22	22N	54E	2.7	IRR	Y	2/3/1978	520	EU	MARK MOYLE FARMS, LLC
		CHANGED BY: 44610			CER	UG												
153	34948	19973	10615	2/7/1978	CER	UG	NE	SW	01	21N	53E	2.2	IRR	Y	7/3/1961	505.6	EU	PLASKETT, TOMMYE J.
153	34950	18975	10550	2/7/1978	CER	UG	SE	NE	11	20N	53E	2.7	IRR	Y	7/1/1960	502.72	EU	SESTANOVICH HAY & CATTLE LLC
153	35009		10225	2/16/1978	CER	UG	SW	NW	16	21N	53E	3.39	IRR		2/16/1978	487.56	EU	BENSON, KENNETH F.
		CHANGED BY: 86033			PER	UG												
		CHANGED BY: 86034			PER	UG												

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
153	35012		12453	2/16/1978	CER	UG	NE	SW	22	21N	53E	2.7	IRR	2/16/1978	511.6	EU	ETCHEVERRY, JAMES F.	
		CHANGED BY: 44469			DEN	UG												
		CHANGED BY: 50682			ABR	UG												
153	35013		11623	2/16/1978	CER	UG	SE	SW	21	21N	53E	2.7	IRR	2/16/1978	546.64	EU	MICHEL & MARGARET ETCHEVERRY FAMILY LP	
153	35374		12193	5/2/1978	CER	UG	SW	SW	07	21N	53E	2.397	IRR	5/2/1978	108.44	EU	DUBRAY, FERNO L. & CARRIE M.	
		CHANGED BY: 49271			WDR	UG												
		CHANGED BY: 49854			CER	UG												
153	35375		12194	5/2/1978	CER	UG	SE	SE	07	21N	53E	2.56	IRR	5/2/1978	387.04	EU	DUBRAY, FERNO L. AND CARRIE M.	
		CHANGED BY: 49270			WDR	UG												
		CHANGED BY: 49853			CER	UG												
153	35418	25597	10861	5/12/1978	CER	UG	LT16		29	20N	53E	0.025	IRR	11/2/1960	4	EU	RUBIO, DAVID M.	
		CHANGED BY: 44089			ABR	UG												
		CHANGED BY: 44668			CAN	UG												
		CHANGED BY: 44669			ABR	UG												
153	36070		10135	10/20/1978	CER	UG	SE	SE	32	23N	54E	2.7	IRR	Y	10/20/1978	640	EU	MOYLE, JAMES L.
153	36321	27976	10136	12/19/1978	CER	UG	LT01		02	21N	53E	0.42	IRR	Y	3/7/1960	123.08	EU	BENSON, PATTI E. AND KENNETH F.
		CHANGED BY: 86037			PER	UG												
		CHANGED BY: 86036			PER	UG												
153	36322	22922	10137	12/19/1978	CER	UG	LT01		02	21N	53E	1.14	IRR	Y	3/7/1960	155.38	EU	BENSON, PATTI E. AND KENNETH F.
		CHANGED BY: 86037			PER	UG												
		CHANGED BY: 86036			PER	UG												
153	39156	30009	10716	9/27/1979	CER	UG	SE	NE	05	22N	54E	2.09	IRR	Y	8/8/1975	1250.24	EU	FRED L. ETCHEGARAY & JOHN J. ETCHEGARAY (PTR), A NEVADA PARTNERSHIP
153	39552	18980	11804	11/7/1979	CER	UG	SE	SW	04	21N	53E	1.18	IRR	Y	7/6/1960	552.12	EU	BENSON, CRAIG AND KATHRYN

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION					Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record
							Qtr-Qtr	Qtr	SEC	TWN	RNG							
153	39553	18981	11805	11/7/1979	CER	UG	SE	SE	04	21N	53E	3.03	IRR	Y	7/6/1960	0	EU	BENSON, CRAIG AND KATHRYN
		CHANGED BY: 85968T				WDR	UG											
153	39554	35011	11806	11/7/1979	CER	UG	SE	SW	04	21N	53E	1.25	IRR	Y	2/16/1978	552.12	EU	BENSON, CRAIG AND KATHRYN
153	40010	22165	10593	12/19/1979	CER	UG	SE	NE	32	21NH	54E	0.64	IRR	Y	8/6/1964	458.64	EU	THE LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST DATED DEC.9,2013
		CHANGED BY: 67661				WDR	UG											
		CHANGED BY: 67659T				EXP	UG											
153	40011	22165	10594	12/19/1979	CER	UG	SW	NW	32	21NH	54E	0.15	IRR	Y	8/6/1964	108.59	EU	LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST
153	40013	36059	10595	12/19/1979	CER	UG	SE	NE	32	21NH	54E	2.03	IRR	Y	10/20/1978	44	EU	THE LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST DATED DEC.9,2013
		CHANGED BY: 67660				WDR	UG											
		CHANGED BY: 67658T				EXP	UG											
153	40014	36059	10596	12/19/1979	CER	UG	SW	NW	32	21NH	54E	2.19	IRR	Y	10/20/1978	393.04	EU	LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST
153	40402	30322	11634	1/25/1980	CER	UG	SE	NW	30	23N	54E	2.7	IRR		6/10/1976	508.8	EU	MOYLE, DUSTY L.
		CHANGED BY: 47938				WDR	UG											
		CHANGED BY: 47939				WDR	UG											
153	41883	35896	10476	7/25/1980	CER	UG		LT07	28	20N	53E	1	IRR	Y	9/20/1978	156.8	EU	MILLER, OWEN J. AND CHERYL
153	41884	35897	10477	7/25/1980	CER	UG		LT11	28	20N	53E	1	IRR	Y	9/20/1978	156.8	EU	MILLER, OWEN J. AND CHERYL
153	42019	18979	11844	8/14/1980	CER	UG	SE	NW	04	21N	53E	1.75	IRR	Y	6/6/1960	455.24	EU	BENSON, CRAIG AND KATHRYN
153	42020	35010	11845	8/14/1980	CER	UG	SE	NW	04	21N	53E	0.37	IRR	Y	2/16/1978	88	EU	BENSON, CRAIG AND KATHRYN
153	42021	18999	11846	8/14/1980	CER	UG	SW	NE	15	21N	53E	2.01	IRR	Y	7/11/1960	548.8	EU	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016
153	42367	33018	14443	9/2/1980	CER	UG	SE	NW	24	21N	53E	0.222	IRR	Y	8/3/1977	40	EU	KEPHART, MARI ALICE
153	42368	33019	14444	9/2/1980	CER	UG	SE	NW	24	21N	53E	0.222	IRR	Y	8/3/1977	40	EU	KEPHART, MARI ALICE
153	42369	35262	14445	9/2/1980	CER	UG	SE	NW	24	21N	53E	0.667	IRR	Y	8/3/1977	120	EU	KEPHART, MARI ALICE
153	42370	35263	14446	9/2/1980	CER	UG	SE	NW	24	21N	53E	0.667	IRR	Y	8/3/1977	120	EU	KEPHART, MARI ALICE

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Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
153	42891	18623	12226	11/26/1980	CER	UG	SE	NW	01	20N	53E	0.607	IRR	Y	3/7/1960	141.77	EU	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA
		CHANGED BY: 88493T			EXP	UG												
153	43268	19116	11523	2/27/1981	CER	UG	NW	NE	18	22N	54E	1.21	IRR	Y	8/12/1960	782.1	EU	MARK MOYLE FARMS, LLC
153	43269	32890	11524	2/27/1981	CER	UG	NW	NE	18	21N	53E	0.33	IRR	Y	7/21/1977	76.8	EU	BLANCO RANCH, LLC
153	43270	21446	11525	2/27/1981	CER	UG	NE	SW	18	22N	54E	2.7	IRR	Y	8/7/1963	629.38	EU	MARK MOYLE FARMS, LLC
153	43271	29269	11526	2/27/1981	CER	UG	NW	NW	17	21N	53E	2.23	IRR	Y	3/17/1975	525.615	EU	BERG PROPERTIES CALIFORNIA, LLC
		CHANGED BY: 43837			CER	UG												
153	43272	36327	11527	2/27/1981	CER	UG	NW	NE	17	21N	53E	2.23	IRR	Y	3/17/1975	525.615	EU	BERG PROPERTIES CALIFORNIA, LLC
		CHANGED BY: 43838			CER	UG												
153	43273	29269	11528	2/27/1981	CER	UG	SW	SW	17	21N	53E	2.23	IRR	Y	3/17/1975	514.385	EU	BERG PROPERTIES CALIFORNIA, LLC
		CHANGED BY: 43839			CER	UG												
153	43274	36326	11529	2/27/1981	CER	UG	NW	SE	17	21N	53E	2.23	IRR	Y	3/17/1975	514.385	EU	BERG PROPERTIES CALIFORNIA, LLC
		CHANGED BY: 43840			CER	UG												
153	43397	39090	11636	3/26/1981	CER	UG	SE	SW	20	23N	54E	2.7	IRR		7/29/1975	640	EU	MOYLE, JAMES L. & N. JANE
153	43836	32890	11530	6/4/1981	CER	UG	NW	NE	18	22N	54E	4.32	IRR	Y	7/21/1977	1000	EU	MARK MOYLE FARMS, LLC
153	43837	43271	11531	6/4/1981	CER	UG	NW	NE	18	21N	53E	0.47	IRR	Y	3/17/1975	111.985	EU	BLANCO RANCH, LLC
153	43838	43272	11532	6/4/1981	CER	UG	NW	NE	18	21N	53E	0.47	IRR	Y	3/17/1975	111.985	EU	BLANCO RANCH, LLC
153	43839	43273	11533	6/4/1981	CER	UG	NW	NE	18	21N	53E	0.47	IRR	Y	3/17/1975	109.615	EU	BLANCO RANCH, LLC
153	43840	43274	11534	6/4/1981	CER	UG	NW	NE	18	21N	53E	0.47	IRR	Y	3/17/1975	109.615	EU	BLANCO RANCH, LLC
153	44451	14947	11639	9/21/1981	CER	UG	NE	NE	28	22N	54E	2.5	IRR	Y	3/30/1953	576.58	EU	DONALD F. AND LIZA M. PALMORE FAMILY TRUST
153	44452	21863	11640	9/21/1981	CER	UG	SE	NW	28	22N	54E	2.4	IRR	Y	3/4/1964	640	EU	DONLAD F. AND ELIZA M. PALMORE FAMILT TRUST
153	44604	29895	12429	10/8/1981	CER	UG	NE	SW	27	22N	54E	0.579	IRR	Y	1/7/1976	137.36	EU	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST
153	44605	30928	12430	10/8/1981	CER	UG	NE	SW	27	22N	54E	0.558	IRR	Y	1/7/1976	137.36	EU	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST

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							Qtr-Qtr	Qtr	SEC								TWN	RNG
153	44606	30927	12431	10/8/1981	CER	UG	NE	SW	27	22N	54E	0.285	IRR	Y	3/2/1951	18.88	EU	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST
153	44607	36380	12432	10/8/1981	CER	UG	NE	SW	27	22N	54E	1	IRR	Y	12/29/1978	136	EU	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST
153	44609	13650	12433	10/8/1981	CER	UG	NE	SW	27	22N	54E	1.11	IRR	Y	3/2/1951	236.8	EU	LYNFORD & SUSAN MILLER REVOCABLE FAMILY TRUST
153	44610	34939	12434	10/8/1981	CER	UG	NE	SW	27	22N	54E	0.506	IRR	Y	2/3/1978	120	EU	LYNFORD AND SUSAN MILLER REVOCABLE FAMILY TRUST
153	44621	19276	12228	10/14/1981	CER	UG	SE	NW	36	21N	53E	1.664	IRR	Y	10/17/1960	825.16	EU	RUBY HILL MINING COMPANY, LLC
153	46287	27397	13993	10/29/1982	CER	UG	NW	SW	02	21N	53E	2.7	IRR		9/14/1970	632	EU	GROTH, DANIEL E..
153	46348	19972	11793	11/15/1982	CER	UG		LT05	01	21N	53E	2.5	IRR	Y	7/3/1961	525.12	EU	PLASKETT, TOMMYE J.
153	46461	39041	12213	12/21/1982	CER	UG	SW	NW	29	23N	54E	2.7	IRR		3/17/1978	576	EU	MOYLE, DUSTY L.
153	46505	24272	13353	1/4/1983	CER	UG	SW	NW	08	21N	54E	2.7	IRR		4/18/1961	510.4	EU	REINFORD, CHUCK D. AND HEIDI N.
153	47518	35419	11614	12/15/1983	CER	UG		LT05	29	20N	53E	1.45	IRR	Y	5/12/1978	504.24	EU	STEELMAN FARM, LLC
153	47519	35876	11615	12/15/1983	CER	UG		LT05	29	20N	53E	1.269	IRR	Y	9/13/1978	278.4	EU	STEELMAN FARM, LLC
153	47520	23984	11616	12/15/1983	CER	UG		LT05	29	20N	53E	2.098	IRR	Y	7/13/1967	638.72	EU	STEELMAN FARM LLC
153	47521	19315	11617	12/15/1983	CER	UG		LT05	29	20N	53E	0.761	IRR	Y	11/2/1960	168.24	EU	STEELMAN FARM, LLC
153	47591	26437	11243	1/18/1984	CER	UG	SW	NE	30	23N	54E	2.7	IRR		12/14/1971	508.8	EU	MOYLE, DUSTY L.
153	48225	47517	11907	7/23/1984	CER	UG	SE	NW	07	21N	53E	3.752	IRR	Y	11/10/1977	482.3	EU	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016
153	48226	23941	11908	7/23/1984	CER	UG	SE	NW	07	21N	53E	1.143	IRR	Y	10/17/1960	300	EU	M & C HAY MORRISON FAMILY TRUST DATED MARCH 26, 2016
153	48437	36380	11947	9/26/1984	CER	UG	SE	SW	22	22N	54E	1.644	IRR	Y	12/29/1978	272.8	EU	MARK MOYLE FARMS, LLC
153	48871	13842	13200	2/22/1985	CER	UG	SE	NE	04	21N	54E	1.59	IRR	Y	9/17/1951	296.495	EU	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY
		CHANGED BY: 70588			CER	UG												
153	48872	28234	13201	2/22/1985	CER	UG	SE	NE	04	21N	54E	0.53	IRR	Y	12/10/1962	327.1	EU	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY
153	48948	21928	13361	3/29/1985	CER	UG	SE	SW	06	21N	53E	2.007	IRR	Y	5/3/1960	478.56	EU	BAILEY, CAROLYN
153	49185	40401	13309	7/12/1985	CER	UG	SE	SW	29	23N	54E	2.27	IRR		6/1/1976	502.72	EU	MOYLE, DUSTY L.
153	49188	39042	12674	7/12/1985	CER	UG	SE	SW	29	23N	54E	2.12	IRR		3/17/1978	502.72	EU	MOYLE, DUSTY L.

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER','PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION					Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record
							Qtr-Qtr	Qtr	SEC	TWN	RNG							
153	49853	35375	12206	4/28/1986	CER	UG	SW	SW	07	21N	53E	0.287	IRR	Y	5/2/1978	118.52	EU	DUBRAY, FERNO L. & CARRIE M.
153	49854	35374	12207	4/28/1986	CER	UG		LT08	07	21N	53E	0.303	IRR	Y	5/2/1978	118.52	EU	DUBRAY, FERNO L. & CARRIE M.
153	50095	35193	13310	8/19/1986	CER	UG	SE	SW	30	23N	54E	2.7	IRR		3/17/1978	508.8	EU	MOYLE, DUSTY L.
153	50581	22885	12378	2/11/1987	CER	UG	SE	NW	06	24N	53E	2.7	IRR	Y	12/13/1965	249.6599 9450683 6	EU	EZRA C. LUNDAHL, INC.
		CHANGED BY: 77083			ABR	UG												
153	50582	30955	12379	2/11/1987	CER	UG	NW	SW	06	24N	53E	5.49	IRR	Y	12/22/1976	1100.039 9829101 6	EU	EZRA C. LUNDAHL, INC.
		CHANGED BY: 77082			ABR	UG												
153	50650	27423	13836	3/2/1987	CER	UG	SW	NW	32	23N	54E	2.27	IRR	Y	4/17/1967	640	EU	MOYLE, JAMES L.
153	50962	20487	13182	5/27/1987	CER	UG	NW	NW	13	23N	52E	0.3	IRR	Y	5/25/1962	129.2	EU	KOBEH VALLEY RANCH LLC
		CHANGED BY: 86154			WDR	UG												
153	50963	22566	13183	5/27/1987	CER	UG	NW	NW	13	23N	52E	0.614	IRR	Y	4/22/1960	172	EU	KOBEH VALLEY RANCH LLC
		CHANGED BY: 86155			WDR	UG												
153	51647	46288	13582	12/23/1987	CER	UG	SW	NW	02	21N	53E	2.7	IRR		9/14/1970	578.8	EU	GROTH, DANIEL E.
153	53872	14948	14215	9/19/1989	CER	UG	NE	SW	28	22N	54E	2.34	IRR	Y	3/30/1953	617.2	EU	PALMORE FAMILY TRUST
153	55535	30009	14918	12/17/1990	CER	UG	SW	NW	05	22N	54E	1.87	IRR	Y	8/8/1975	502.4	EU	FRED L. ETCHEGARAY & JOHN J. ETCHEGARAY (PTR), A NEVADA PARTNERSHIP
153	55727	22194	15957	2/1/1991	CER	UG	SE	SW	06	21N	53E	0.112	IRR	Y	3/7/1960	20.556	EU	BAILEY, CAROLYN
153	56652	26664	14447	8/7/1991	CER	UG	SE	NW	24	21N	53E	0.221	IRR	Y	4/12/1972	160	EU	KEPHART, MARI A.
153	57838	50961	15993	7/10/1992	CER	UG	NW	NW	13	23N	52E	1.22	IRR	Y	4/22/1960	172	EU	KOBEH VALLEY RANCH LLC
		CHANGED BY: 77328T			EXP	UG												
		CHANGED BY: 77469T			EXP	UG												
		CHANGED BY: 77621T			EXP	UG												
		CHANGED BY: 77622T			EXP	UG												

Selection Criteria: WHERE owner_type IN ('C','B') AND ms.Basin IN ('153') AND ms.app_status IN ('CER', 'PER') AND ms.source IN ('UG') AND ms.mou IN ('IRR') Run Date: 9/14/2020 9:41:15 PM

Basin	App	Prev App Change of App	Cert	Filing Date	Status	Source	POINT OF DIVERSION			Div Rate (CFS)	Manner of Use	Sup?	Priority Date	Duty Bal	County	Owner of Record		
							Qtr-Qtr	Qtr	SEC								TWN	RNG
		CHANGED BY: 77623T			EXP	UG												
		CHANGED BY: 77624T			EXP	UG												
		CHANGED BY: 77625T			EXP	UG												
		CHANGED BY: 86156			WDR	UG												
153	63497		16935	10/10/1997	CER	UG	SE	SW	36	24N	52E	2	IRR	10/10/1997	408.3	EU	BAILEY FAMILY TRUST	
153	64630	42889	16943	11/23/1998	CER	UG	SE	NW	01	20N	53E	0.5777	IRR	Y	3/7/1960	288.67	EU	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA
		CHANGED BY: 88488T			EXP	UG												
153	64631	42890	16944	11/23/1998	CER	UG	SE	NW	01	20N	53E	0.8616	IRR	Y	3/7/1960	288.67	EU	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA
		CHANGED BY: 88489T			EXP	UG												
153	64632	42893	16945	11/23/1998	CER	UG	SE	NW	01	20N	53E	0.294	IRR	Y	3/7/1960	71.71	EU	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA
		CHANGED BY: 88490T			EXP	UG												
153	64633	44622	16946	11/23/1998	CER	UG	SE	NW	01	20N	53E	0.5874	IRR	Y	10/17/1960	288.67	EU	ERICKSON, TY AND MICHELLE R.; AND ARI AND ALISHA
		CHANGED BY: 88491T			EXP	UG												
153	67172	28956	17329	1/29/2001	CER	UG	SW	SW	34	21NH	54E	2.407	IRR		12/10/1962	495.07	EU	MARK MOYLE FARMS, LLC
153	68923	22290		7/1/2002	PER	UG	NW	NW	32	20N	53E	1.1	IRR		10/19/1964	242	EU	EUREKA COUNTY
		CHANGED BY: 82907			WDR	UG												
		CHANGED BY: 83243			WDR	UG												
153	70249	23271		7/18/2003	PER	UG	NW	SE	32	22N	54E	3.69	IRR	Y	4/22/1960	1270.8	EU	L K FARM LLC
153	70587	18851	18507	11/3/2003	CER	UG	NE	NW	04	21N	54E	1.497	IRR	Y	5/16/1960	123.56	EU	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY
		CHANGED BY: 87072			WDR	UG												
153	70588	48871	18508	11/3/2003	CER	UG	NE	NW	04	21N	54E	0.65	IRR	Y	9/17/1951	229.105	EU	GALLAGHER FARMS, LLC; A NEVADA LIMITED LIABILITY COMPANY
153	70940	22352	17146	3/10/2004	CER	UG	SW	SE	19	22N	54E	2.22	IRR		3/21/1960	502.72	EU	MARK MOYLE FARMS, LLC

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							Qtr-Qtr	Qtr	SEC	TWN	RNG							
153	71748	16468	20006	10/7/2004	CER	UG	SE	SE	08	22N	54E	3	IRR		5/9/1955	506.8	EU	FRED L. ETCHEGARAY AND JOHN J. ETCHEGARAY, A NEVADA PARTNERSHIP
153	72370	18242		3/11/2005	PER	UG		LT02	07	22N	54E	2.5	IRR	Y	8/13/1959	1280	EU	ANDERSEN, HARLOW B. & BONNIE G.
153	73899	34636		2/28/2006	PER	UG	SE	SW	04	22N	54E	2.7	IRR		11/21/1977	508.776	EU	DENNIS L WEST & KIM KENNEDY WEST
		CHANGED BY: 78358			PER	UG												
153	76358	31112		10/8/2007	PER	UG	NE	NW	23	21N	53E	2.03	IRR		2/17/1977	545.44	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	77569	31109		11/5/2008	PER	UG	NW	SE	14	21N	53E	2.06	IRR	Y	2/17/1977	326.38	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
		CHANGED BY: 81269			PER	UG												
153	77646	23918	19847	11/26/2008	CER	UG	SE	SE	33	21NH	54E	0.407	IRR	Y	6/5/1967	123.6	EU	WILLIAM H NORTON
153	77666	23807		12/8/2008	PER	UG	SE	NW	27	23N	54E	2.23	IRR	Y	4/17/1967	394.12	EU	BAR D LAND & LIVESTOCK, LLC
153	77695	65201	19848	12/19/2008	CER	UG	SE	SE	33	21NH	54E	2.67	IRR	Y	10/20/1978	469.92	EU	WILLIAM H NORTON
153	77696	65200	19849	12/19/2008	CER	UG	SE	SE	33	21NH	54E	1.71	IRR	Y	10/20/1978	295.12	EU	WILLIAM H NORTON
153	78062	31107		2/23/2009	PER	UG	NW	NE	14	21N	53E	2.7	IRR		2/17/1977	628	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	78358	73899		4/22/2009	PER	UG	NE	SE	18	22N	54E	0.67	IRR		11/21/1977	122.4	EU	DENNIS L WEST AND KIM KENNEDY WEST
153	78447	19965		5/6/2009	PER	UG	NW	SE	12	21N	53E	1.5	IRR	Y	7/3/1961	0	EU	BAR D LAND & LIVESTOCK, LLC
153	78568	67173	18992	5/19/2009	CER	UG	NW	NW	34	21NH	54E	1.593	IRR		12/10/1962	327.8	EU	MARK MOYLE FARMS, LLC
153	78771	19371		8/3/2009	PER	UG	NW	SE	04	20N	53E	2.3376	IRR	Y	12/5/1960	362.4	EU	J.W.L. PROPERTIES, LLC
153	78772	20001		8/3/2009	PER	UG		LT16	04	20N	53E	0.541	IRR	Y	7/24/1961	128	EU	J.W.L. PROPERTIES, LLC
153	78773	35708		8/3/2009	PER	UG		LT16	04	20N	53E	1.53	IRR	Y	8/7/1978	398.4	EU	J.W.L. PROPERTIES, LLC
153	78774	64315		8/3/2009	PER	UG	SW	SE	04	20N	53E	0.3354	IRR	Y	12/5/1960	52	EU	J.W.L. PROPERTIES, LLC
153	78775	64317		8/3/2009	PER	UG	SW	SE	04	20N	53E	0.338	IRR	Y	8/7/1978	88	EU	J.W.L. PROPERTIES, LLC
153	78905	24608		9/21/2009	PER	UG	SW	NE	28	21N	53E	1.78	IRR	Y	7/25/1968	1099.2	EU	DIAMOND VALLEY RANCH LLC
153	78906	22315		9/21/2009	PER	UG	SW	NE	28	21N	53E	2.7	IRR		10/6/1960	584.4	EU	DIAMOND VALLEY RANCH LLC
153	80581	19966		2/14/2011	PER	UG	SW	NE	12	21N	53E	2.79	IRR	Y	7/3/1961	405.8	EU	BAR D LAND & LIVESTOCK, LLC

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							Qtr-Qtr	Qtr	SEC								TWN	RNG
153	80717	68446	19852	3/31/2011	CER	UG	SW	SE	32	21NH	54E	1.657	IRR	Y	10/20/1978	136	EU	NORTON, WILLIAM H JR AND PATRICIA A
153	80718	65200	19850	3/31/2011	CER	UG	SE	SW	33	21NH	54E	0.79	IRR	Y	10/20/1978	135.6	EU	NORTON, WILLIAM H JR
153	80780	20478		4/14/2011	PER	UG	SE	SE	10	20N	53E	2.511	IRR	Y	5/23/1962	640	EU	SESTANOVICH HAY & CATTLE LLC
153	80781	20479		4/14/2011	PER	UG	SE	NE	10	20N	53E	1.81	IRR	Y	5/23/1962	640	EU	SESTANOVICH HAY & CATTLE LLC
153	80879	68449	19853	5/27/2011	CER	UG	SW	SE	32	21NH	54E	0.3497	IRR	Y	8/6/1964	249.52	EU	NORTON, WILLIAM H JR AND PATRICIA A
153	80880	68448	19854	5/27/2011	CER	UG	SW	SE	32	21NH	54E	0.1223	IRR	Y	8/6/1964	87.28	EU	NORTON, WILLIAM H JR AND PATRICIA A
153	80881	68447	19855	5/27/2011	CER	UG	SW	SE	32	21NH	54E	0.54	IRR	Y	10/20/1978	44	EU	NORTON, WILLIAM H JR AND PATRICIA A
153	80926	23918	19851	6/23/2011	CER	UG	SW	SE	32	21NH	54E	0.3398	IRR	Y	6/5/1967	103.2	EU	NORTON, WILLIAM H JR
153	81004	31455		7/25/2011	PER	UG	SE	SW	11	20N	53E	0.207	IRR	Y	5/3/1977	51.08	EU	HALPIN, JAYME L
153	81268	29873		10/21/2011	PER	UG	SE	NE	32	23N	54E	2.7	IRR	Y	12/24/1975	1280	EU	MOYLE, JAMES L AND N JANE
153	81269	77569		10/21/2011	PER	UG	NE	SE	14	21N	53E	0.8	IRR	Y	2/17/1977	207.22	EU	MOYLE, DENISE L. AND HICKS, DEANNE M.
153	81650	20376		3/9/2012	PER	UG	15	LT	21	20N	53E	1.7275	IRR		3/21/1962	106.448	EU	EUREKA MOLY, LLC
		CHANGED BY: 82556T			EXP	UG												
		CHANGED BY: 85722T			WDR	UG												
153	81720			3/30/2012	PER	UG	NW	SE	23	24N	52E	7.02	IRR		3/30/2012	5100	EU	SADLER RANCH LLC
		CHANGED BY: 89458			RFP	UG												
153	81825			4/26/2012	PER	UG	NE	SE	03	23N	54E	2.01	IRR	Y	4/26/2012	849	EU	VENTURACCI, DANIEL S
153	83567	77665		2/24/2014	PER	UG	SE	NW	27	23N	54E	0.8637	IRR	Y	4/17/1967	149.28	EU	BAR D LAND & LIVESTOCK, LLC
153	83615	19015		3/17/2014	PER	UG	NE	NW	05	21N	54E	0.8	IRR	Y	7/13/1960	189.36	EU	J & T FARMS LLC
153	83616	23808		3/17/2014	PER	UG	NE	SW	05	21N	54E	2.03	IRR	Y	5/16/1960	544	EU	J & T FARMS LLC
153	83617	77145		3/17/2014	PER	UG	SE	NW	05	21N	54E	1.87	IRR	Y	7/13/1960	442.64	EU	J & T FARMS LLC
153	83622	18714		3/18/2014	PER	UG	SE	SE	35	21N	53E	3	IRR		4/11/1960	836	EU	LC PROPERTIES
153	83623	25757		3/18/2014	PER	UG	NE	NE	35	21N	53E	2.7	IRR		8/16/1963	402	EU	LC PROPERTIES

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							Qtr-Qtr	Qtr	SEC								TWN	RNG
153	85131	73570		4/30/2015	PER	UG	NE	SW	05	25N	53E	0.88	IRR	Y	9/27/1977	33.2	EU	RENNER, IRA R. AND MONTIRA
153	85132	73571		4/30/2015	PER	UG	NE	SW	05	25N	53E	0.54	IRR	Y	9/27/1977	128.4	EU	RENNER, IRA R. AND MONTIRA
153	85133	73572		4/30/2015	PER	UG	SE	NW	05	25N	53E	0.54	IRR	Y	2/16/1978	128.4	EU	RENNER, IRA R. AND MONTIRA
153	85134	73573		4/30/2015	PER	UG	SE	NW	05	25N	53E	1.44	IRR	Y	11/2/1960	240	EU	RENNER, IRA R. AND MONTIRA
153	85145	77082		5/6/2015	PER	UG	NE	NW	24	24N	52E	2.474	IRR	Y	12/22/1976	902.08	EU	SADLER RANCH LLC
153	86032	22648		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.15	IRR	Y	3/7/1960	35.32	EU	BENSON, KENNETH F. AND PATTI E.
153	86032	22921		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.15	IRR	Y	3/7/1960	35.32	EU	BENSON, KENNETH F. AND PATTI E.
153	86033	35009		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.77	IRR	Y	2/16/1978	144.44	EU	BENSON, KENNETH F. AND PATTI E.
153	86035	21428		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.9	IRR	Y	8/22/1960	142.04	EU	BENSON, KENNETH F. AND PATTI E.
153	86037	22922		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.22	IRR	Y	3/7/1960	159.8	EU	BENSON, KENNETH F. AND PATTI E.
153	86037	36321		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.22	IRR	Y	3/7/1960	159.8	EU	BENSON, KENNETH F. AND PATTI E.
153	86037	36322		3/24/2016	PER	UG	SE	SE	11	21N	53E	0.22	IRR	Y	3/7/1960	159.8	EU	BENSON, KENNETH F. AND PATTI E.
153	86252	18787		6/3/2016	PER	UG	SE	NW	13	21N	53E	3	IRR	Y	5/2/1960	0	EU	RUTH MARTIN RANCHES, LLC
153	86253	18786		6/3/2016	PER	UG	NE	NE	13	21N	53E	3	IRR	Y	5/2/1960	0	EU	RUTH MARTIN RANCHES, LLC
153	86600	77083		11/23/2016	PER	UG	NE	NW	24	24N	52E	0.2828	IRR	Y	12/13/1965	0	EU	SADLER RANCH LLC
		CHANGED BY: 89457			APP	UG												
		CHANGED BY: 89456T			PER	UG												
153	86794	18623		1/6/2017	PER	UG	SE	SW	36	21N	53E	3.198	IRR	Y	3/7/1960	744.8	EU	RUBY HILL MINING COMPANY, LLC
153	87223	18621		7/21/2017	PER	UG	SE	NW	36	21N	53E	1.381	IRR	Y	3/7/1960	695.2	EU	RUBY HILL MINING COMPANY, LLC
153	87224	18622		7/21/2017	PER	UG	SW	NE	36	21N	53E	2.47	IRR	Y	3/7/1960	823.2	EU	RUBY HILL MINING COMPANY, LLC
153	87225	22551		7/21/2017	PER	UG	SE	NW	36	21N	53E	2.976	IRR	Y	3/7/1960	726.76	EU	RUBY HILL MINING COMPANY, LLC
153	87661	82572		2/8/2018	PER	UG	SE	SE	03	23N	54E	2.01	IRR		1/23/2019	632	EU	VENTURACCI, DANIEL S.
153	89456T	86600		1/27/2020	PER	UG	SE	NW	06	24N	53E	0.2828	IRR	Y	12/13/1965	204.74	EU	SADLER RANCH, LLC

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153	89622T	22352		3/20/2020	PER	UG	SE	SE	19	22N	54E	0.57	IRR		3/21/1960	129.28	EU	MARK MOYLE FARMS, LLC

