

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent/Cross-Appellant.

No. 84345

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JOINT APPENDIX
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Issue 4: Other Providers

Another source of water for development in the City is to obtain it from another provider, such as North Las Vegas or Henderson. These cities are not members of the District, and they own, operate and maintain their water systems. North Las Vegas has already extended its water lines into Las Vegas (See Map 3). Such a precedent affects the ability of the City to plan for and maintain adopted land uses. It also affects establishing any possible service boundary line which would be useful in measuring City growth demands in a fiscally sound manner. Should it be determined that water main extensions must occur in this manner, some form of coordination must be established to determine the effects of growth on the infrastructure and services that are the responsibility of the City. The response of the City of North Las Vegas must consider the effects on our fiscal and service (fire, sewer, flood control) capabilities.

These represent the major issues facing the City in its role as a service provider. The existing Plan provides some general guidance. It appears that a more specific approach is necessary in order to properly establish the City as a key player in the allocation, use and consumption of water in the District service area.

4B.3 Water Distribution System Goal, Objectives, Policies and Programs

GOAL: Efficient, cost-effective provision of public facilities and services.

Objective A: The City will develop and implement conservation measures to reduce the consumptive use of water by itself and its citizens.

Policy A1: Develop cost effective water conservation and waste reduction techniques to reduce water demand.

Program A1.1: Conduct a professional water audit of all City properties.

Program A1.2: Based on the audit, use a conservation working group to review audit recommendations, and begin revisions to all relevant City development as well as building codes and operating procedures.

Program A1.3: Continue documented consumptive water use reduction by the City at an agreed upon rate for the period 1995-2000, inclusive, through retrofitting fixtures, xeriscape and education.

Policy A2: Continue implementation of the "Level 1" water conservation measures, and shall use the information from this effort to develop further conservation measures to reduce the consumptive use of water.

Program A2.1: Continue participation in the Water District Task Force Conservation subcommittee.

Program A2.2: Seek data and information from the District that are relevant to the City's efforts in developing conservation strategies.

Program A2.3: Request the Water District to pursue inverted block water rate charges which will encourage conservation practices by all users.

Policy A3: Initiate a joint study to examine the use of collected stormwater from the City and County which may be proportionately allocated for recharge to the groundwater system.

Objective B: Coordinate with the Las Vegas Water District and other entities on the subject of water supply, management and land use planning.

Policy B1: The City Council will be represented on and support the continuation of an advisory committee to the Water District Board.

Policy B2: Participate in the Southern Nevada Water Authority Board planning, implementation and allocation efforts.

Policy B3: Support the transfer of ground water from basins in other counties within the State to southern Nevada.

Policy B4: Attempt to secure reallocation of water within the City that becomes available through the termination of tentative maps, Resolutions of Intent or abandoned projects.

Program B4.1: Assist the District in revising the 'Commitment to Serve' regulations to reflect changing development opportunities in the City.

Policy B5: Coordinate capital and land use planning with the District.

Program B5.1: Forward annual population estimates to the District and the County and seek joint use of an annual population figure for water service purposes.

Program B5.2: Request District input on plan amendments, rezonings. Apprise the District, as necessary, of approved land uses and population projections for the City.

Program B5.3: Attempt to jointly establish and use a level of service (LOS) with the District for the analysis of the effects of proposed development on water supplies and the distribution system.

Policy B6: Conclude an interlocal agreement with area water service providers in order to help implement the adopted General Plan.

Program B6.1: Initiate formal discussion with the City of North Las Vegas on the subject of responding to requests from developers seeking water service to their properties in the City or in areas likely to be annexed to the City.

Program B6.2: Attempt to conclude an interlocal agreement with Clark County and North Las Vegas, which prohibits extensions of its water systems by those jurisdictions into the City boundaries or areas identified by the City as likely to be annexed.

Program B6.3: Should no interlocal agreement be concluded, per Program B6.2, the City should consider prohibiting any rezoning approving added development in areas not identified for service by the City and the Las Vegas Valley Water District.

Policy B7: Develop a master annexation plan in order to properly program City services.

Program B7.1: Inventory and analyze eligible areas for the effects of potential annexation on the fiscal resources and services of the City.

Program B7.2: Jointly develop a master annexation plan and schedule with Clark County for adoption and use in implementing the General Plan. Provide notice to surrounding jurisdictions and affected citizen groups.

4B.4 Evaluation & Implementation Matrix

The following Water Distribution System Evaluation and Implementation Matrix (EIM - see next page) was prepared as a measurable summary of the above Water Distribution System Policies and Programs. The EIM is to be used:

- as a method of measuring the implementation progress of the General Plan
- as a budgeting document for specific Water Distribution System programs
- as a tool for further developing work programs

The following abbreviations apply to the Evaluation and Implementation Matrix

City

CA City Attorney
CM City Manager
CP Community Planning
FN Finance
PL Parks and Leisure

Other Agencies/Jurisdictions

CC Clark County
Citizens
LVVWD Las Vegas Valley Water District
NLV North Las Vegas
RFC Clark County Regional Flood Control District

4B.4 EVALUATION IMPLEMENTATION MATRIX: WATER DISTRIBUTION SYSTEM

POLICY (PROGRAM)	SUMMARY	RESPONSIBLE DEPARTMENTS	FY OF IMPLEMENTATION	SPECIFIC ACTION/PRODUCT	REMARKS
A1(1-2)	Use a professional water audit to modify codes and procedures to conserve water, reduce waste.	CP PL CC LVWD Citizens	1992, 93	Audit report. Code revisions. Measure drop in consumption.	Coordinate with entities, School District, as necessary.
A1(3)	Continue conservation efforts.	CP PL CC LVWD Citizens	1993-2000	Measurable conservation of water.	
A2(1-3)	Continue "Level 1" Conservation efforts in cooperation with the District, adjust rates to reflect inverted block charges.	CP CM	Ongoing	Level 1 Action Report, annually. Resolution to LVWD to adjust water rates.	
A3	Study the potential to recharge stormwater to the aquifer.	RFC PW CP LVWD	1993	Begin joint study with inventory maps, sources and distribution of floodwaters.	
B1	City Council to also designate a representative to the District water advisory board.	CM	1991	Advisory board membership.	Assist in representation on the Board of Directors of LVWD.
B4(1)	Secure water commitments that may become available through termination of tentative maps and ROI's. Suggest revisions to District 'commitment to serve' regulations.	CP CM LVWD	1992	Regular report on expiration of tentative maps, ROIs and effect on water commitments for service. Request to District to revise "Commitment to Serve".	Allow City to direct growth and retain water commitments.
B5(1-3)	Develop, coordinate, approve and jointly use annual population figure, levels of service and land use planning with the District.	CP LVWD	1993	Memorandum of Understanding, interlocal agreement, comments on service availability for rezonings.	Coordinate with County.

POLICY (PROGRAM)	SUMMARY	RESPONSIBLE DEPARTMENTS	FY OF IMPLEMENTATION	SPECIFIC ACTION/PRODUCT	REMARKS
B6(1-3)	Interlocal agreement with other water providers which respects the General Plan of the City.	CP CA NLV LVWWD	1993	Negotiations w/NLV on water service requests; interlocal agreement as basis for land use decisions; potential for prohibition against added development not in designated service areas.	
B7(1-2)	Fiscal analysis of areas of potential annexations; master annexation plan.	CP CA FN	1993	Financial analysis in potential areas. Memorandum of Understanding adopted master annexation plan.	Coordinate with County, North Las Vegas.

Definitions

Allocation	Colorado River water is made available to a water user by means of an 'allocation', which requires the execution of a contract by the user which is acceptable to the Bureau of Reclamation.
Consumptive Use	Water diverted from the Colorado River system minus the water that is returned (return flow credits). The State of Nevada is allotted a total annual consumptive use 300,000 acre feet per year (AFY).
Diversions	Total water diverted from the Colorado River system. Total diversion is equal to consumptive use plus return flow credits. The Southern Nevada Water System is allotted a total annual diversion of 299,999 acre feet at this time.
Level 1 Conservation	A set of conservation measures that would not impact quality of life.
Level 2 Conservation	A set of conservation measures that might impact quality of life, through such things as restrictions on turf and other greenery and increasing the cost of water.
Restricted Demand	Projected water demand reduced by conservation. Two levels of conservation are considered in the Water Resources Management, Incorporated (WRMI) process; Level 2 involves more conservation than Level 1.
Return Flow	Water taken from the Colorado River and returned to the River after being used.
Reuse	Use of treated effluent from the wastewater treatment plant for water demands such as irrigation.
Unrestricted Demand	Projected water demand without conservation.
Working Reserve	That portion of the water supply that might not be available to Nevada for a number of reasons including droughts on the Colorado River.
WRMI	Water Resources Management, Incorporated. WRMI designed the water management model and acted as facilitator in the process.

Endnotes

1. George Rainer, P.E., ed. *Understanding Infrastructure*, 278 pp., (Wiley Interscience Books, 1990), pp. 5,6.
2. Las Vegas Valley Water District, *Water Facts*, brochure, (undated).
3. Las Vegas Valley Water District, *Water Wise*, Vol. 1, No. 2, "Nevada's Water Laws, Protecting our Environment", undated, p. 4.
4. "Moving Toward the Millennium", (Proceedings of International Symposium, Hydrology Division, American Society of Civil Engineers, San Diego, CA, 1990).
5. Ibid, p. 129.
6. "Hydroelectric Plan Proposed for Rural Water", Las Vegas Sun, March 14, 1991, Section A p. 7, col. 2.

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- Katzer, Terry and Brothers, Kay. "Moving Toward the Millennium". Proceedings of International Symposium, Hydrology Division, American Society of Civil Engineers. San Diego, CA, 1990.
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4C. Flood Control System

4C.1 Background

In the early days of Las Vegas, as in the rest of the southwestern United States, very little attention was paid to flood control. Storm drains were virtually unheard of. Flood waters from the infrequent storms were allowed to run through the streets and into the desert, sometimes with devastating results. For example, on July 23, 1923, flood water flowed through almost every building in the City, including those along Fremont Street. Damage was estimated at \$25,000. As the City grew, so did the frequency of flooding problems and their associated costs.

In May, 1963, a Master Plan for Disposal of Storm Waters was prepared for the City of Las Vegas, but funding was inadequate to implement the plan. After the storm of July 3-4, 1975, the City of Las Vegas was among the first to recognize the need for detention basins (a major component of today's valley wide master plan). After the storm of August 10, 1983, the voters authorized flood control bonds and the Angel Park Detention Basin was constructed. In 1985, the Nevada State Legislature created the Clark County Regional Flood Control District (CCRFCDD).

The sales tax in Clark County was increased by one quarter of one percent (0.25%) in 1987. This sales tax is the primary revenue source for the RFC. These funds are applied to projects contained in an approved master plan. The City, is the "lead agency" in the design and construction of RFC projects within its hydrographic area. The District funds facilities at a regional level. Local flood control funding and priorities, as well as development review are left to the City.

The City of Las Vegas five-year Capital Improvement Plan includes a schedule for flood control (Appendix 1). As do other jurisdictions, the City coordinates its funding needs with those of the RFC. This flood control schedule is based on three levels of analysis:

1. Nominal Drainage Projects: This represents scattered, inexpensive improvements. An example is a small size storm drain (18-24") that might connect to a larger existing storm drain. Generally, expenditures for this category do not exceed \$20,000.
2. City-funded Flood Control Projects (Neighborhood Plans): This flood control effort targets larger projects with planning areas up to two square miles. Typically, these projects consist of smaller, but more numerous, storm drains to safely convey flood waters through City neighborhoods to the Clark County Regional Flood Control master planned facilities. These types of storm drains are not available for Regional Flood Control District funding. There are two areas specifically targeted for local flood control in the present five-year plan of the City. These are shown in Map 4.
3. Regionally Funded Projects: No funding is provided by the City. These improvements are typically projects funded by the RFC master plan which affects the City. These projects frequently provide the large outfalls for the smaller City funded storm drains. These funded improvements are depicted in Map 5.

This General Plan update springs from several requirements. Among them are the requirement for timely data, the requirement to keep up with changing issues and their focus and the requirement to develop strategic planning for resources. This last requirement was addressed in the 1990 "Las Vegas 2000

and Beyond strategic plan" as described in its Introduction. The "2000" document contained "Actions" specified to be accomplished ("the process is not over. We must put these plans into action...")

The Action relating to flood control is:

- Develop City flood control ... facilities in conjunction with optimal regional systems.

4C.2 Issues

Flood control is more than just structures and the safe movement of water to a final discharge point. It is a land use matter. It is also a design item. Ultimately, it represents the effective management of City resources through coordinated planning and fiscal management.

Issue 1: Land Management

A detention basin uses space. Most of the time it is not full of water. Improved public property is at a premium; the joint use of flood control lands for parks, recreation areas or open space is important to improving the resource base of the City. Specific examples of such multiple land uses include recreational trails for horses, joggers, bicyclists and pedestrians. Another use is linear parks which also provide access to larger open spaces and a framework for trails.

Issue 2: Water Quality

The City is a co-permittee with the Regional Flood Control District, the cities of North Las Vegas and Henderson and Clark County and the Nevada Department of Transportation on a National Pollution Discharge Elimination System (NPDES) stormwater quality permit. Together

Infrastructure IV-28a

CLV053136
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13198

Cam 10 Detention Basin (FY 91/92)



Lone Mountain Detention Basin (FY 91/92)



CHEYENNE AVE.

LAKE MEAD BLVD.

OUTER PARKWAY

SUMMERLIN PARKWAY

TOWN CENTER DR.

CHARLESTON BLVD.

OAKEY BLVD.

SAHARA AVE.

DESERT INN RD.

HUALAPAI WAY

ST APACHE RD

DURANGO DR.

CIMARRON RD.

BUFFALO DR.

TENAYA WAY

RAINBOW BLVD.

TORREY PINES DR.

JONES BLVD.

LINDELL RD.

DECATUR BLVD.

DESERT

CLV-3 Gowar Detention and Outfall (FY 91/92)

CLV-3 Gowar Detention and Outfall (FY 92/93)

CLV-3 Gowar Detention and Outfall (FY 93/94)

CLV-3 Gowar Detention and Outfall (FY 94/95)

CLV-3 Gowar Detention and Outfall (FY 95/96)

CLV-3 Gowar Detention and Outfall (FY 96/97)

CLV-3 Gowar Detention and Outfall (FY 97/98)

CLV-3 Gowar Detention and Outfall (FY 98/99)

CLV-3 Gowar Detention and Outfall (FY 99/00)

CLV-3 Gowar Detention and Outfall (FY 00/01)

CLV-3 Gowar Detention and Outfall (FY 01/02)

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CLV-3 Gowar Detention and Outfall (FY 03/04)

CLV-3 Gowar Detention and Outfall (FY 04/05)

CLV-3 Gowar Detention and Outfall (FY 05/06)

CLV-3 Gowar Detention and Outfall (FY 06/07)

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