

IN A SPECIAL JT. WHITE PINE COUNTY COMMISSION, ELY CITY COUNCIL, ELY MUNICIPAL UTILITIES BOARD AND WHITE PINE COUNTY WATER ADVISORY COMMITTEE MEETING HELD ON OCTOBER 9, 2019 AT 6:00 P.M. AT THE ELY ELKS LODGE #1469, 694 CAMPTON STREET, ELY, NEVADA

The Following Were Present:

County Commission

Richard Howe, Chairman
Travis Godon, Vice-Chairman
Ian Bullis, Commissioner
Shane Bybee, Commissioner
Laurie L. Carson, Commissioner
Nichole Baldwin, Clerk of the Board
Susan Lujan, Deputy Clerk-Absent

County Officials

Elizabeth Frances, Finance Director
Mike Wheable, District Attorney
Elanie Calderwood, Chief Dep. Finance Dir.
Burton Hilton, Assessor

Ely City Council

Ed Spear
Ernie Flangas
Jim Allworth
Nathan Robertson, Mayor
Jennifer Lee, Clerk
Carlyanne Palckewski, Admin. Asst.
Michelle Beecher via phone

WPC Water Advisory Committee

Bill Butts
Rod McKenzie, Chairman
Jill Perez
Gary Perea
Cody Odgers, Vice Chairman
Steven Carter

Ely Municipal Utilities Board

Dale Derbidge
John O'Flaherty

Also Present

Ben Roberts, Baker VFD
Tammy Carlgren
Simeon Herskovits, ACE
Bruno Bowles, SNWA
Stella Carter, Lund
Rocky Pastorino
Sally Gust
Rick Spilsbury
Delaine Spilsbury
Abby Johnson
Sharon Williams
George Chachas
Ron Carlgren
Maureen Otzelberger
KayLynn McMurray, Ely Times
Henry Vogler, N. Spring Valley
Sally Gust
Bob Nichols
Wendy Anderson Cobb
Michael Henry
Dan Cracraft
Cindy Cracraft
Terry K. (unknown)

Great Basin Water Network

Abby Johnson, President
Kyle Roerink, Executive Director

Also Present

D. B. Hutchison
H. & B. Wilson
Terri Bischoff
McKinzie Peterson
Ann Little
Bruce Eldridge
Delphin Kouchal

County Commission Chairman Richard Howe called the meeting to order at 6:08 p.m. Mayor Nathan Robertson led the Pledge of Allegiance.

MOMENT OF SILENCE/SILENT INVOCATION

Duly observed.

PUBLIC COMMENT

Henry Vogler lives in North Spring Valley. He feels SNWA are the worst neighbors on the earth and are arrogant bullies. BLM is scared of them and lets them do what they want. Aquifers locally are in the negative discharge since 1920. If SNWA wants to spend \$15 billion on a pipeline, they should spend that money to put more water in the recharge so people can remain whole. It's taken him 50 years to gain modest success and he wants to be able to enjoy his home for as long as possible.

Delaine Spilsbury congratulates the community on gathering for this event.

Rocky Pastorino states Las Vegas can recycle their sewer water or run a line from L.A. for salt water to be desalinated. He is from this community and started getting emotional when talking about the water needing to stay here.

Ann Little is a County resident with water shares. 2 weeks ago she had men checking the meter on her well. She wants to know why her water is being metered and her water use being restricted, but its ok for Clark County to take our water. Larger communities don't care about us smaller communities, but she cares. She does not appreciate being ran over the top of because we're a minority.

Rocky Pastorino states the mighty dollar is ruling the actions of those who desire to take our water; they don't care about us as people.

Rick Spilsbury has concluded that desalination is the solution to this problem, but a pipeline from California to Las Vegas is expensive and unrealistic. He suggests generating power here to trade to California in return for desalinated water. There is more water with desalination. SNWA ignores this suggestion, but if we trade solar power for desalinated water with California, this problem can be avoided because more water from the Colorado River would be available.

Ronda Garner grew up in a community in California. Los Angeles stole water from nearby communities causing ecosystems to change and farmers to be put out. She moved from there because water from her hometown was stolen causing the land to dry up and all farms to go under. She would hate to see the same happen here. She does not see anything good coming from water going to Las Vegas from here.

Dan Cracraft was born and raised here. He does not feel Las Vegas needs to get their water from us. Desalination is better than fighting with us. He's seen springs go dry from climate change. If they take our water, our aquifers will decrease causing huge impacts. He wants his kids and grandkids to enjoy this community and not have their water taken. He supports the trade idea for power and desalinated water.

Delphin Kouchal moved here in 2005. She says Nevada is becoming like California. This state is beautiful. Las Vegas is built in a desert, but they have pools, fountains, hot tubs and they're getting our water and she can't have a second well for her horses. We are entitled to our water and she doesn't want to share.

DISCUSSION ONLY: INTRODUCTIONS

The boards went down the line and introduced themselves starting with the White Pine County Water Advisory Committee. Present were: Cody Odgers, Vice Chairman; Steve Carter; Rod McKenzie, Chairman; Gary Perea; Bill Butts also with CNRWA; and Jill Perez also with Ely Shoshone Tribe.

The White Pine County Commissioners were present with: Shane Bybee, Laurie Carson, Richard Howe, Travis Godon, and Ian Bullis.

The Ely City Council were represented by James Allworth, Mayor Nathan Robertson, Ed Spear, Ernie Flangas, and Michelle Beecher via phone.

The Ely Municipal Utilities Board is present with Dale Derbidge and John O'Flaherty, Chairman.

Simeon Herskovits, the water attorney, Kyle Roerink, Executive Director of the Great Basin Water Network, and Abby Johnson with the Great Basin Water Network were introduced by Richard.

DISCUSSION ONLY: UPDATE REGARDING WATER RELATED ISSUES PERTAINING TO WHITE PINE COUNTY AND THE STATE OF NEVADA INCLUDING A FILM, FACT SHEET, PRESENTATION/ANALYSIS, DISCUSSION WITH ELECTED OFFICIALS AND BOARD MEMBERS

Chairman Howe opened the agenda item and Kyle Roerink took it over. He thanks Clerk Baldwin for her help in coordinating this meeting and the support from other officials locally and states that its an example of how White Pine County treats this water grab, like a very important issue. He notes the countless people who have devoted countless hours to stop the pipeline and fight the water grab. He was 2 years old when the Las Vegas Valley Water District filed for the water applications and they probably thought they would just steamroll the opposition, but they didn't and that is why we're here today. We're still fighting and we are all here today as a part of that effort. He hopes to keep WPC the way it deserves to be. He thanks everyone for their commitment to this fight.

Abby Johnson introduces herself as the president of GBWN since 2011. She's thrilled to pass the baton to the next generation. She is happy to report in 30 years, there is no pipeline. She thanks everyone who was a part of that success. She noted unlikely partners have worked together to make things happen. She added how the County has come through with monetary support over the years and she thanks current and past Commissions. This project has gone on so long that the solution to this problem is now to be found in the 21st century. She introduces Simeon Herskovits who has worked so hard for us to win every fight. He works with Advocate for Community and Environment and he has been working with Abby since 2005.

Simeon Herskovits thanks the boards for this meeting and the opportunity to address them and the public. He notes we have won repeatedly in the courts. Despite that we have to go back and relitigate SNWA's applications for the

pipeline project. We last received a ruling from the State Water Engineer denying SNWA applications in many valleys. The ruling said the applicants have to demonstrate the water is actually available and they can develop it without conflicting with prior appropriators. The State Engineer found ways to rationalize the application approvals in the past. He feels the State Engineer was under political pressure to grant the applications to SNWA in the past and is dissatisfied with having to deny the applications. The State Engineer further approved SNWA's 3M Plan (Monitoring Management and Mitigation Plan) which is very controversial. SNWA attempted to argue that despite the fact that they cannot prove the availability of the water and the possibility of developing the water without causing permissible impact or conflict, the 3M plan would be sufficient to protect the State and those people from negative impacts thus allowing them to move forward. This allows the State Engineer to change the standards he followed when determining whether or not to approve a water application. The fact is a plan was never presented that actually would protect people or correct any negative cause or impact.

Judge Estes made it clear things needed to be proven in order to approve the 3M Plan, which was gratuitously approved by the State Engineer again. That was appealed by us. SNWA appealed the denial of their applications with the support of the State Engineer; this is what the hearing in November is about. Judge Estes ruled in our favor previously and sent it back to the State Engineer requiring him to apply a legal standard on the availability of water issues, which the State Engineer has begrudgingly complied with, and also on the 3M Plan, which the State Engineer has still not done. There will be 6 teams of lawyers arguing for WPC and its allies. Lincoln County has been threatened and baited by SNWA to enter into a contractual relationship with them, therefore they are angry and resentful down there due to not being able to oppose or protest this pipeline project. Ely Shoshone Tribe, Duckwater Shoshone Tribe and the Confederated Tribes of the Goshute Nation are represented and they are allies. Swamp cedars are at risk and are important to the tribes. Millard and Juab Counties in Utah will be represented. The Nevada Supreme Court has ruled in our favor in the past. He feels our position is in line with the law and the courts. If we get a good ruling that is substantially conclusive, there is a chance this could be the end of the pipeline project, at least for now. He wants to take to heart that for 15 years we've been defeating them over and over and he's hoping for one more big victory.

DISCUSSION ONLY: QUESTION & ANSWER SESSION WITH THE PUBLIC

Henry Vogler says it's bad enough that the dropping water table is being monitored, but now he's got to go to court, get a lawyer, and litigate to fight to keep his spring which may go dry first because he is at a higher elevation. Do they want 5 gallons per minute from his spring or are they trying to kill him with a million paper cuts? Simeon replies that our strategy is to never let it get to that point. SNWA will have to come up with the resources to collect the data and do the monitoring to make the determination about the outcome. If anyone desires to challenge SNWA, they will have to come up with the resources for a lawyer and staff to fight the monitoring and mitigation system. Over time, people will be gradually bled to death by the taking of the water or by going bankrupt in funding the fight.

Rocky Pastorino asks where Governor Sisolak stands on this subject. Simeon replies that Governor Sisolak has made public comments against the pipeline in the past, but he does not know the Governor's official stance.

Delphin Kouchal knows a guy with a son that said the Great Basin was created by glaciers a long time ago and if the water is taken, it won't be replaced because its been collecting for so long. That water sustains the elk, deer, cattle and sheep that bring a lot of people here. Water helps our economy in many ways. Simeon verifies that much of our water is fossil water that took a very long time to accumulate.

Ronda asks why the State Engineer was not held in contempt for not complying with the court order. Simeon replies that no one has sought contempt. As much as he disagrees with the State Engineer, they have a different point of view on the matter that they believe is correct. Its not unheard of or contemptuous for someone in the State Engineer's position to rule in a contrary fashion even if the Judge ruled in a different way for political reasons.

Another woman asks why there is no check and balance system in place. Why is there not more than one party involved in determining the impact of water applications? Simeon states the State Engineer is not the only party involved, but they are in control. The BLM is docile when it comes to SNWA who controls everything with their approval and votes. The State Engineer has conceded to let SNWA have their way by saying "trust us" and the State Engineer says "we trust you and we'll do something about it if it doesn't turn out right", which is not the way to run the State Water Engineer's Office. Lack of water affects wildlife and vegetation and she feels more people should be in control of the water applications than one person. If the 3M Plan is approved, there won't be checks and balances, but there is right now and we are it. The Supreme Court and District Judges have kept the State Engineer from rolling over and letting SNWA get their way thus far.

Steve Carter asks that is SNWA prevails with the 3M Plan and their other goals and we throw all of our eggs into one basket and the Judges end up reversed, where does that leave us? Simeon replies that right now there is no valid right of way for this project because SNWA and BLM violated the law, resulting in a Federal Judge ruling. There is legislation in Washington DC currently that will get them out of that trap, but right now they have to figure out how to

compensate for wetlands and meadows they will end up destroying with an equal amount of land or habitat in return. We have written letters asking legislators to not support those of the statute. If we lose this case and this project is approved, it will be incumbent upon anyone effected to bear the burden and go to court and complain and demand action to reduce water pumping or compensation for what was lost. If SNWA doesn't do the responsible thing, you will have to go to SNWA first, the State Engineer second, and the court third to make a case why this is SNWA's fault and what can be done to make you whole. If we lose we can still try to protect ourselves.

Delaine Spilsbury points out that the GBWN was born to fight this exact issue. Chairman Howe asks her to keep her comment for later during Public Comment.

Vice Chair Travis Godon asks if the County has any teeth to deny permits or zoning to help put up obstacles to help our cause. Simeon replies in the affirmative. A decision in 2011 held that Washoe County was able to deny a special use permit despite the State Engineer having approved water applications. If the County has established procedures to protect natural resources in the County, they can deny an application or permit. The denial was upheld in the Nevada Supreme Court. White Pine County must be careful to not target SNWA, but develop a code or ordinance that is comprehensive enough and have it in place before the project is approved. A tool kit is available to the County and the District Attorney may be working on that.

Rocky Pastorino asks how much compensation is being offered for the water that is being fought for. Simeon says there is a small amount written in the plans.

Mayor Nathan Robertson asks what the outlook is for the November hearing and what can our boards do to assist them in their efforts. Simeon clarifies that the hearing will be on November 12th and 13th. He is hesitant to make a prediction, but he acknowledges we are up against people with clout in the state. We have on our side the interpretation of the law. He is optimistic, but notes that the State Engineer has been trying to change the law because he can't comply with it. He feels we are in a strong position that our victory will be reaffirmed. He feels he's gotten good signals from the Supreme Court, but that decision is 2-3 years away. As for what boards in White Pine County can do, make sure residents are aware of the issue, hold meetings to educate and hear concerns, if people attended the court hearing-that would be helpful. A show of support will be noted by the Judge. White Pine County is contributing funding for this legal case. He didn't come here to ask for money, but what he's doing costs money. He's won because we're on the right side. CNRWA can't contribute to the legal fight. He notes grants from years ago when White Pine County didn't have resources to fund the fight, but things have changed and now they help with funding.

Councilman Ernie Flangas suggests that we fight this differently. Many years ago when the pipeline was estimated at \$11 billion, he took a calculation of all the households in southern Nevada and determined that the cost per resident for the pipeline was \$429/month. Simeon states that educating the Southern Nevada citizens about the cost of this project that would trickle down to them is what needs to happen and he notes the outreach GBWN does is priceless, but it costs a lot of money and they have no budget to actually affect people. Making the point to the public is frustrating and costly.

At this time Chairman Howe keeps the meeting room on task and allows questions from local officials.

Rick Spilsbury asks Kyle Roerink what is going on in Congress. There is a proposal drafted by Clark County with provisions regarding this pipeline that we want to defeat. He's in close contact with others to gain support to oppose the proposal. This meeting is important for this issue, too. We can overcome these things with support and Nevada's involvement.

Bill Butts talks about inter basin transfer that says over time when Spring Valley is taken, Steptoe Valley water can drop 200 feet. He thinks we'll have to find money to get somebody to get the USGS to do a study to eliminate this potential hazard. The mine will need more water in a few years and will end up getting it from Steptoe Valley which is hard water. He feels it was a bad move to let the mine drain Murry Spring because the potter available water is low quality. What is the backup plan when Steptoe turns out it isn't good enough? He says Water Advisory Committee needs members that are passionate about the cause and are here for the long haul. People around town talk, but don't get involved.

Jill Perez wants to know what is going to happen to us and our allies when we run out of water? Her family moved here with no water restrictions, but now their water is at risk of being taken. Simeon replies that the first thing is that the basins they are pumping from would go down significantly and that shortage would spread out to neighboring basins. Eventually, pumping in Spring Valley would shift and would drain water from Steptoe Valley. The surface springs in Steptoe would dry up and wells would have to go deeper. It's not pretty. We are fighting very hard to publicize that danger and try to stop it. In the long term their plan is not sustainable and its overly expensive having to turn to desalination in the future, but they won't admit that because they feel entitled to our water. If we win and establish a precedent that they can't pump water unsustainably, we won't have to worry about this in the future.

PUBLIC COMMENT

Abby Johnson says Henry Vogler asked her to remind everyone that the Nevada Rangeland Resources Commission helps to pay for the GBWN newsletter that will appear in the Ely Times this week.

Rick Spilsbury did a rough estimate of what this will cost people in southern Nevada. It will cost 2 million people for a \$20 billion project about \$10,000 each, not including power and maintenance. At this time they have enough water.

Chairman Howe recognizes all members of all boards and the people from GBWN and Simeon for all they've done and their dedication to their community. He also recognizes Gary Perea for his strong advocacy for White Pine County and for being an asset in the fight.

ADJOURNMENT

THE MEETING MAY BE ADJOURNED BY APPROPRIATE MOTIONS OF THE WHITE PINE COUNTY COMMISSION, ELY CITY COUNCIL AND ELY MUNICIPAL UTILITIES BOARD. THE WATER ADVISORY COMMITTEE WILL CALL THEIR MEETING TO ORDER FOLLOWING THE SPECIAL JOINT MEETING.

Commissioner Ian Bullis moves to adjourn the meeting on behalf of the White Pine County Commission. Travis Godon seconds the motion and it passes unanimously. Mayor Robertson entertains a motion to adjourn and Councilman Ernie Flangas moves and Ed Spear seconds, it passes unanimously. The Ely Municipal Utility Board does not have a quorum.

Meeting ends at 7:42p.m.

The Water Advisory Committee resumes their meeting.

BOARD OF COUNTY COMMISSIONERS
WHITE PINE COUNTY
STATE OF NEVADA

BY: 
CHAIRMAN

ATTEST:


WPC CLERK OF THE BOARD