

Pursuant to NRS a joint meeting of the Nye County Board of Commissioners, Nye County Board of Highway Commissioners, Nye County Licensing and Liquor Board, the Nye County Board of Health, the Governing Body of the Unincorporated Town of Pahrump, the Governing Body of the Unincorporated Towns of Beatty, Belmont, Gabbs, Manhattan, and Railroad Valley, and the Board of Trustees for the Pahrump Pool District, was held at 10:00 a.m. in the Commissioners' Chambers, 101 Radar Road, Tonopah, Nevada 89049.

John Koenig, Chair
Debra Strickland, Vice-Chair
Lorinda Wichman, Commissioner
Donna Cox, Commissioner
Leo Blundo, Commissioner
Sandra L. Merlino, Ex-Officio Clerk of the Board
Chris Arabia, District Attorney
Sharon Wehrly, Sheriff
Tim Sutton, County Manager

Also present: Lorina Dellinger, Assistant County Manager; Kelly Sidman, Deputy Clerk; Marla Zlotek, Chief Deputy District Attorney; Bradley Richardson, Deputy District Attorney

Not Present: Lorinda Wichman, Commissioner; Chris Arabia, District Attorney; Sharon Wehrly, Sheriff

1. Pledge of Allegiance

The Pledge was recited.

2. Approval of the Agenda for January 14, 2020 (Non-action item)

Tim Sutton said there were no changes to the agenda.

3. 10:00 – Presentation by Robert Coache regarding deep aquifer carbonate well drilling in Southern Nevada.

Robert Coache from Hydrotech Consulting Services said he was a former deputy state engineer for the Division of Water Resources and had 38 years of experience in Nevada water rights and resources. He discussed State Engineer Orders 1169 and 1303. He explained the goal of the Nye County Water District's (NCWD) deep carbonate aquifer exploration project was to identify whether there was an alternate source of water available in the carbonate aquifer, confirm developable yields, and whether the water quality was suitable for municipal supply, for a total exploration cost of \$4.1 million. Trout Water Canyon was identified as a watershed, but the NCWD did not discuss where that water came from. Mr. Coache's questions were where was the potential alternate source of water coming from, was it available in the carbonate aquifer, was it

3. 10:00 – Presentation by Robert Coache regarding deep aquifer carbonate well drilling in Southern Nevada-Cont'd.

just the Trout Canyon watershed, and where was the potential alternate source of water going to since it was not seen daylighting anywhere. His recommendation was to not spend money looking for a new source of water, but he believed money could be spent drilling wells in the general area to get some triangulation and develop a water level contour. From that contour a gradient could be developed and then the experts could come in and calculate the amount of flow going past that area into California. After that a cost benefit analysis could be done for a water system there and moving municipal water up there and piping it into the valley. Lastly, water right applications to appropriate any identified alternate sources of water would be filed.

4. 10:00 – For Possible Corrective Action – Discussion and deliberation to rescind the action taken on item 40 (decision of the Nye County Water District Governing Board to raise parcel fee to fund carbonate aquifer exploratory project) at the BoCC meeting of December 17, 2019. The action consisted of the commitment of a majority of BoCC members present who made statements of non-support for the decision of the Nye County Water District Governing Board when an appeal of that decision was to be heard before the BoCC in January 2020.

Commissioner Strickland made a motion to rescind the action by the Nye County Water District Governing Board (NCWD); seconded by Commissioner Cox.

Marla Zlotek advised the motion should be made as stated, to rescind the action taken, which was statements of commitment made during that agenda item.

Commissioner Blundo made a motion to rescind action taken on item 40 at the Board of County Commissioners meeting of December 17, 2019; seconded by Commissioner Cox.

John Bosta believed during the prior discussion it was mentioned a workshop would be scheduled, which the public was expecting, but it was not part of this agenda item. He then pointed out that Mr. Coache did not mention that the Mountain Falls Water Association had a huge footprint at the top of Trout Canyon.

Commissioner Koenig explained this agenda item was to correct the Commissioners' action. The workshop could be held after the appeal was heard.

The motion to rescind action taken on item 40 at the Board of County Commissioners meeting of December 17, 2019, passed with 5 yeas.

5. 10:00 – For Possible Action – Public Hearing, discussion and deliberation on Appeal of the Nye County Water District Governing Board's December 9, 2019 decision to raise the per parcel fee in Basin 162 to \$35.00 a year for a minimum of 3 years for funding of the carbonate aquifer exploratory project. The Board may affirm, modify or reverse the decision.

Commissioner Koenig explained this was an appeal hearing pursuant to Nye County Water District Act Section 9.3. The appeal was received by the Board on December 18, 2019, from the Private Well Owners' Cooperative Association of Nye County. The back-up submitted of the record below will be part of the record of this hearing. There were ten reasons submitted in the appeal. Commissioner Koenig would read each reason and after each the appellant would present their case. Each Commissioner would be called by name to address the appellant on that reason. The appellant may respond as well as the Commissioner. Once all reasons had been addressed the appellant may submit a closing statement of their appeal. The Board of County Commissioners may affirm, modify or reverse the decision of the NCWD. There would be public comment at the end of the item limited to three minutes per person.

Appellants Matt Burg and Helene Williams introduced themselves.

Commissioner Koenig listed the additional back-up as follows:

- Nye County Water District Agenda Information Form, item 9, dated December 29, 2019, and the back-up for that item.
- Nye County Water District Board minutes from December 29, 2019.
- December 18, 2019, appeal letter and reasons submitted by the Private Well Owners Cooperative Association of Nye County.
- Copy of NCWD Act Chapter 542, Statutes of Nevada 2007.

Commissioner Koenig said that was the record below. There was also a five-page "Facts Behind the Parcel Fee Increase for Carbonate Aquifer Exploration" dated January 3, 2020, and the rebuttal submitted by Walt Kuver, a member of the governing board, that were not part of the record below.

Commissioner Strickland made a motion to accept the back-up consisting of all the records as read; seconded by Commissioner Blundo; 5 yeas.

Mr. Burg read a letter as an opening statement. The private well owners found it necessary to request the appeal because its board of directors believed the residents of Basin 162 were not told how many additional phases the NCWD wanted to develop and the costs. The NCWD did not represent the desires of the people of Pahrump and the majority of the board members did not live within the boundaries of Basin 162. Mr. Burg said the private well owners cared that their community was governed by elected

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officials, not a group of appointed individuals who believed that because they could afford to pay increasing taxes everyone else could too.

Ms. Williams, Director of the Private Well Owners Association, said she drafted the appeal and the evidence presented.

Commissioner Koenig read and Ms. Williams responded to each reason submitted by the Private Well Owners Association [see Attachment 1].

In closing, Ms. Williams stated the best evidence that could be presented today was the Nevada State Engineer documented what he believed was the annual recharge of Basin 162 at 16,000 acre feet, increased it to 20,000 acre feet, and then over the years committed 60,416 acre feet of water rights. According to their documents along with every document on Basin 162 the actual pumpage was only 14,348 acre feet, leaving a balance of unused water of 46,068 acre feet. With actual pumpage of 14,348 acre feet not exceeding the State Engineer's annual recharge of 20,000 acre feet, there was a credit of 5,752 acre feet. With those numbers, Ms. Williams stated there was no need for a pie in the sky exploration well to be drilled and therefore no property tax to be collected to pay for the project.

Commissioner Koenig said pursuant to the Nye County Water District Act Section 9.3, this Board may affirm, modify or reverse the decision of the NCWD. Any motion made shall include facts and conclusions from this appeal to support the motion.

Commissioner Strickland made a motion to reverse the decision of the Nye County Water District Governing Board of December 9, 2019, to raise the per parcel fee in Basin 162 to \$35.00 a year for a minimum of three years for funding of the carbonate aquifer exploratory project with the following findings of fact and conclusions. The appellant had provided to this Board evidence supported by proof in the record below to reverse the decision of the Nye County Water District Governing Board. The findings of fact and conclusions were 1) it was outside of Nye County 2) stakeholders, and 3) who controlled the water after it was found; seconded by Commissioner Cox.

Commissioner Blundo said there was a water problem in the community. Everyone talked about the developers and how no one wanted them, but on the other hand many people asked about the new Target or new businesses. He promised if the State ever came in to manage the situation it would be hack and slash job everyone would pay for at the end of the day.

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Greg Dann agreed with Robert Coache. If the NCWD wanted to spend \$4.1 million there were better ways to spend it than putting more straws in the ground. There were close to 11,000 domestic wells and hundreds of certificated points of diversion. The answer was not more holes escalating the existing water draw down but rather growth control.

John Bosta stated his property would not receive a benefit from this fee as Great Basin provided his water. AB29 gave the Board the opportunity to rule on matters of local concern, which was in Nye County, not another county, and local concern could not be ruled by an outside agency like the NCWD or the State Engineer. The NCWD had no statutory authority for a fee, only for taxation, and they had never taxed the town. Mr. Bosta did not think the State Engineer would approve giving permission to drill a carbonate rock aquifer in the same basin putting the straw in the same bowl. He thought the Board made the right decision and hoped they all voted in favor.

William Garlough said he was with the County Planning Department years ago and at that time they projected Pahrump to be at 60,000 people with the rate of growth going on at the time, but in 2008 the population decreased. Also, the NCWD was established on the basis they were just a water board to protect the County from SNWA, not to raise fees or taxes. Mr. Garlough disagreed with the fee and said he would not pay for someone to over-develop the County. He suggested the Board stop the manmade lakes at the evaporation rate of four inches a day in the summer months. He also wondered why it was for a minimum of three years rather than a maximum because to him that meant it would double in three years.

Walt Kuver, a member of NCWD representing Pahrump, said the appellant listed ten reasons to reverse the NCWD action, four of which were false. Reason 2 was the project was completely exploratory with no significant proof that water existed. Mr. Kuver stated there were many reports over a 50-year period that claimed the water was there, but it needed to be verified if Pahrump was to grow. Reason 3 was taxation without representation. Mr. Kuver stated the Board of County Commissioners represented the citizens with its review of NCWD actions, a board they appointed. Reason 5 was the project would create open-ended funding which would fall on the backs of parcel owners in Basin 162 for future phases. Mr. Kuver stated it was not open-ended funding but rather funding to allow growth while still protecting the domestic wells. Reason 6 alleged this would assist SNWA by giving them knowledge of possible water and set this project up for a future adverse water grab in Basin 162. Mr. Kuver stated the relatively small amount of water in a remote corner of southern Clark County was not of interest to them and the State Engineer would protect Basin 162's potential use of it.

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Wade Hinden did not want non-elected people making decisions for the public. If there was to be future growth in Pahrump he suggested putting a one-family house on one acre instead of six or eight houses on one acre.

Kenny Bent thanked the Board for seeing through the deception. He felt the water would be piped into a utility and the utility should pay to advance that themselves.

Sam Jones said his water was his water as was everything under the square piece of land he owned and no one was going to take that from him. He thanked the Board for the motion.

Dave Caudle said spending \$4.1 million to do an exploration well to build 5,000 houses equates to \$800.00 per house. He felt if the developer wanted to build houses then they should pay that \$800.00, not the residents of Nye County.

Dwight Lilly did not believe this project was a solution to bring more water into Pahrump and that the logical conclusion was to put a moratorium on building. He said the Board should address the NCWD to have them focus their attention on education and conservation policies. As to the money, \$30.00 extra dollars would not make or break him, but it was a tax to pay for somebody else's benefit and Mr. Lilly did not want to pay for someone's house being built out of his back pocket. He suggested the Commissioners tell the State Engineer's Office there was over-appropriated water in Pahrump that was not being put into use and the water rights should be removed from the books.

Norma Jean Opatik said it was the NCWD that gave the State Engineer the opportunity to put into effect Order 1293, which stopped the drilling of all domestic wells on acre lots where the water had not been allocated. She thought everyone needed to stop listening to the NCWD because their information was not accurate.

Commissioner Koenig addressed each Commissioner by name for comments.

Commissioner Cox said she had received numerous phone calls and e-mails from people who did not support what the NCWD had done. SB21 was to abolish the water board, but it did not pass. She felt the authority needed to be within the elected body, not the appointed body, because they had no one to answer to. Commissioner Cox stated she would not support this as she felt what they were doing was illegal and she would like to see SB21 come back to abolish the NCWD.

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Commissioner Strickland agreed there was an over allocation of water. Most of the water now existed in the utility districts so should it be the utility districts creating more water to feed themselves.

Commissioner Blundo believed there needed to be a call for beneficial use. He felt this was about money, not water.

Commissioner Koenig said a few years ago there was a focus group that had a great idea for a big development at the entry to Pahrump for 60,000 to 80,000 people with other developments planned around that and he thought it was fortunate that did not happen. He said he would sponsor some agenda items for the Board to go to the State Engineer to do something. The workshop would probably happen with the water board.

A roll call resulted in a unanimous vote of 4 yeas to reverse the decision of the Nye County Water District Governing Board of December 9, 2019, to raise the per parcel fee in Basin 162 to \$35.00 a year for a minimum of three years for funding of the carbonate aquifer exploratory project with the following findings of fact and conclusions. The appellant had provided to this Board evidence supported by proof in the record below to reverse the decision of the Nye County Water District Governing Board. The findings of fact and conclusions were 1) it was outside of Nye County, 2) stakeholders, and 3) who controlled the water after it was found.

**6. GENERAL PUBLIC COMMENT (up to three-minute time limit per person.)
Action will not be taken on the matters considered during this period until specifically included on an agenda as an action item (second).**

Greg Dann said he hoped the Board would take the momentum established today and replace the existing members of the NCWD.

Dave Caudle responded to Walt Kuver's comments. Mr. Caudle was a member of the original groundwater management plan advisory committee and found out in a second meeting that the plan had already been written. After he reviewed a lot of it he realized he did not want his name connected to it in any way, shape or form. Mr. Caudle said this fee would dovetail right into the plan in place at this time.

John Bosta said he would like the Board to consider a BDR abolishing the NCWD for the next Legislature.

Kenny Bent said the deep carbonate aquifer and the exploration for an alternative source hanging out there like bait was deception.

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Action will not be taken on the matters considered during this period until
specifically included on an agenda as an action item (second)-Cont'd.

Robert Coache cautioned against calling for beneficial use as that would call everybody's water rights, which would put a stop on what was happening and hard lock the water commitments. The State Engineer already had statutes in place about extensions of time and Mr. Coache thought a more prudent step would be to look at projects that were not facilitating anything and just holding onto the water.

Jennifer Zimmerman said she and her family moved to Pahrump a couple of years ago because of the climate and the rural community. She thanked the Board as her family had been dealing with the library and their Second Amendment rights.

Gene Hombson mentioned conflict of interest as the husband of one of the Board members was on the water board. He heard all the time that he was making money off of the water board and thought in the future that needed to be taken into consideration. Mr. Hombson wanted non-biased opinions and decisions.

William Garlough knew the Commissioners could dissolve the water board but it needed to be replaced with something to protect the County from the SNWA.

7. ADJOURN

Commissioner Koenig adjourned the meeting.

APPROVED this 3rd day

ATTEST:

Of March, 2020.


Chair


Nye County Clerk / Deputy



Private Well Owners Cooperative Association of Nye County
Post Office Box 2073
Pahrump Nevada 89041-2073

“Every Drop Counts”

January 18, 2019

Dear Commissioners,

My name is Helene Williams. I am a Director with the Private Well Owners, and I drafted the Appeal and the evidence presented here today.

The reason why the decision of The Nye County Water District Governing Board should be reversed with evidence provided as requested.

1. The Project is outside the Nye County boundaries solely within Clark County.

Evidence- The Well Owners concern is, why are Nye County policies or regulation providing for Nye County taxpayers to fund work in Clark County?

Cross county projects like this are normally funded by the Nevada State government, where the burden is equally distributed to the state taxpayers, or big development dollars as in Clark County.

What happens to the permit to drill in Clark County when water is found and suddenly Clark County decides that the water rightfully belongs to them after 10s of thousands of dollars of Nye County Taxpayers money goes down these holes?

No one, not even the Nye County Water Governing Board has control of what happens in Clark County, even throw a Clark County Permit process. Clark County has billions of dollars for water research, Nye County has none, unless the burden is placed on the backs of the local taxpayer.

2. The project is completely exploratory with no significant proof that water exists.

Evidence - The Private Well Owners Organization encourages programs that will reinforcement the protection of Basin 162 and the communities water supply. But, the organization must take a stand in opposing this project as it is completely exploratory with no significant proof that water even exists.

At the December 9th, 2019 Nye County Water District Governing Board meeting they appear to have presented four phases, Geophysical Survey, Exploratory Drilling, Test Wells etc. and Groundwater Flow Model etc. with a \$6M estimate. What's next? a minimum of \$45 million in cost for infrastructure.

3. The tax is taxation without representation.

Evidence – The definition of “Taxation without representation” is the act of being taxed by an authority without the benefit of having elected representatives.

The members of the Nye County Water District Board are appointed. We are aware that the State Legislature enacted the board by Act, and we have the right to Appeal, even though this board has the authority by act to create this tax, having something shoved down one's throat always tastes bad.

Taxation at any time always tastes like a bad pill going down, but when members of one's own community drags up some old project from the past and tries to breathe new life into it, and then advocates it to be the only solution to Nye County water problem, that bad pill doesn't go down but chocks you instead.

The way this \$30.00 “parcel fee” was proposed by motion was sad to say the least, there are many in our community that \$30.00 per year could take away necessities in life such as medication or a doctor's bill. Just because the Board believes that they would have no problem paying this tax themselves and stated so, they were not respectful at the time of their fellow citizens in representing that the tax was of little consequence to the taxpayer.

It has come to our attention that approximately 400 properties will be up for auction by the county in the Treasurer's Trust, these properties are held for 3 years or more without tax paid before they sell and go back on the tax roll. At a January 2020 meeting of the BoCC we were all informed that property owners are turning their properties over to the county because of the increasing taxes.

4. This is only phase one of many future phases.

Evidence –The Well Owners Concern is that the Project with a never-ending need for water because of increasing development, that not only will Clark County Nevada be a possible location with many well drilling possibilities but that many locations in California Basin 162 could be pursued next. Who knows!

This is not a “short-term” project, this is the “exploratory” beginning of a project that has no financial end to it, how many phases will be divided into “short-term” projects to the cost of the residents of Basin 162?

Estimates for the entire project could range a minimum of \$45 million and to a possible 100-million-dollar range.

No one knows.

5. This will create open-ended funding falling on the backs of parcel owners in Basin 162 for future phases.

Evidence – The Well Owners believe that this project gives the appearance of a never-ending search for water, if one area doesn't work, then just try another. Not only dig a new hole somewhere but find another old project from the archives. The Water Board makes us believe that the “entire project” is just drilling and exploration, but it is only a single Phase of a project that goes on for years at millions of dollars in cost to the residence of Basin 162.

One can't just drill an exploratory well and say we found water at the end of Basin 162 and now we can increase our water use. The real beginning of this project if

water is found will be just that, the beginning, after all a pipeline will have to transport the water up hill to the other end of Basin 162 with probably more than one pumping station, after this phase we can all look forward to another phase as in a purification station project and then a re injection project phase.

6. This will do nothing more than to assist Southern Nevada Water Authority by giving them the knowledge of possible water and would set this project up for a future adverse water grab in Basin 162.

Evidence – The Well Owners believe that with Clark Counties thirst for water is so out of control they would take legal action to stop this project by Nye County determining that what is in Clark County stays in Clark County, or better yet “what happens in Vegas stays in Vegas.” Clark County may not have had interest in this area to expand their water needs years ago but, their hunger for water for their ongoing development may just drive them to re visit this project, after all they are driving forward with a pipeline all the way from central Nevada. The dollar value of water in this area climbs daily.

Water has become liquid gold, to be sold to the highest bidder, it has been a long-time belief to most Americans that what lays under your land belonged under your land and to you the property owner. Greed is moving water to a commodity from the cost of hundreds of dollars per acre foot to thousands, this project gives the appearance of a “water grab” where no water may exist.

7. There was no discussion as to when and if water is found who will have the permits for the water.

Evidence – It is our belief that the discussion by the water board in their documentation Page 5 last statement “Stakeholder Cooperative Agreement. To be determined” opens the door to a debate of who can lay claim to ownership. There was no clarification of who the “Stakeholder” may be in multiple agreements.

When open ended discussion about Stakeholder finds itself into a project it leads to concern of who is behind the scenes, or what. The term Stakeholder is defined as a person or company with an interest, or financial gain.

This should concern everyone about the truth behind this project, one has to remember that the many phases of this project would involve many project developers, not just water purveyors such as a public utility, or mutual water companies, county water district, or a municipality that delivers water to customers. It appears this project is adding a lot more government to our tax rolls, or is the intent to make the existing Nye County Water Governing Board the biggest power player in Nye County?

8. Who will control the water if any is found?

Evidence – Will the Nye County Water Governing Board control the water directly, or as a utility over-seeing the day to day business no longer as a board but as a management team?

They state that 12,000 AFY Y figure can sustain only 45,000 people, but that 20,000 AFY can support a population of 80,000.

They have not been forthcoming in presenting their long-range plans as to who will control the water if found. We could all let our wildest imaginations go, no telling what we could imagine. Remember this will cost us the taxpayer.

Oh! But wait a minute they state that

“All to protect the most valuable resource your property has: water.”

9. If there is water found there will most definitely be an acceleration of pumpage in the name of development.

Evidence – The Well Owners believe that if water is found and re-injected into the basin for reuse where will the allocation of the water go. Clark County couldn't be a better example to show that the more water they find access to the more development they have. Is that what will become of Nye County, an overdeveloped Valley?

As we have stated before there appears to be the belief that more is better, without the thought to consider the fact that the residence of Nye County love the life-style they live in this rural area. Just about everyone here in Pahrump could live somewhere else, but they came here instead. Just about everyone we speak to that has moved here in recent years loves the life they are living and do not want Pahrump to become a bedroom community to Las Vegas.

Agriculture in the past has used little of the water the State Engineers office allocates to at 11,754 AF and are only pumping 3,466 AF leaving a balance of 8,288 AF. These numbers are on the increase with the continuing growth of hemp into the community. It is not just the private well owners increasing the water use.

For those that don't believe that Pahrump is growing, take a good look around, homes are being built, there's an increase in manufactured homes being sold, business are increasing, we acknowledge some business have been lost, but when you shop today the grocery stores are busier and often run out of food items, and the traffic has increased on our roads. Large medical facilities have been built and empty store fronts are being filled.

10. Larger developments over the last few years have caused most of the issues on added useage of water in Basin 162. When do we just say NO?

Evidence-

The Water District stated that they are using a “short-term parcel fee increase to fund exploration”, what then will be the fee with the full-blown project and looking to increase the population to 80,000.

When talking about larger developments it is the number of homes per acre that concern most citizens in this community. When a development in October 2019 wanted to carve out additional 83 lots from the previously approved 42 single family parcels doubling the size of this development, thankfully it was denied, but likely to occur again. Pahrump does not need the addition of more condensed parcels; we need larger parcels that fit more into the rural life- style that we live in. Residents do not want to become a bedroom community for Las Vegas as we stated. The larger the parcels the less wells and the less water will be used. Instead of 4 to 6 families per lot in a development maybe having just 1 or 2 could help answer some concerns.

Pahrump’s population is 36,441 residents, this kind of development will double the Pahrump population and double the water use.

Therefore, we asked the question “When do we just say **NO**?”

NOW is the time to “Just say **NO!**”

In closing, the best evidence that can be presented here today is that the Nevada State Engineer, as we all know, documents that they believe that the annual recharge of water in Basin 162 was 16,000 AF but increased it to 20,000 AF. But over the years they permitted a total of 60,416 AF of water rights. According to their documents, along with every other document on Basin 162 they record that the actual pumpage as 14,348 AF, that leaves a Balance of unused water in the amount of 46,068 AF, with the actual pumpage of 14, 248 AF not exceeding the State Engineer’s annual recharge of 20,000AF, staying with the actual pumpage

number and the annual recharge they use at 20,000 AF there would still a be credit of 5,752 AF.

Therefore, the taxpayers of Basin 162 have a credit of 46, 068 AF or 5,752 AF, depending on the numbers one wishes to use, of water so there would be no further need for a pie in the sky “exploration” well to be drilled and therefore no property tax to be collected to pay for this project.

Every taxpayer in Basin 162 can understand this simple math, why can't the government. Everyone needs to stop complicating the numbers.

Again at 20,000 AF recharge and actual pumpage at 14, 248 AF Basin 162 is not in overdraft. Therefore, critical management would not and could not be applied.

The Well Owners believe “**Every Drop Counts.**”

I would like to thank the Nye County Board of Commissioners for the opportunity for the Private Well Owners to present their case on this Appeal.

Thank you,

A handwritten signature in cursive script, appearing to read "Helene Williams".

Helene Williams
Director.