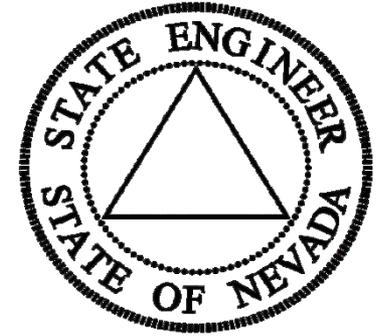
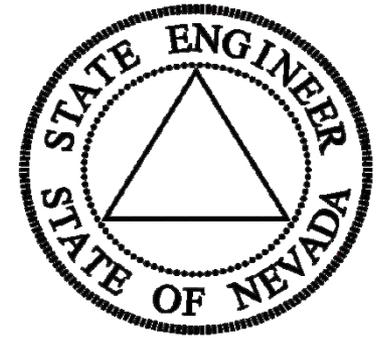


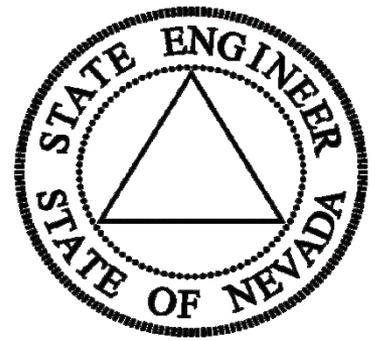
Current Issues in the State Engineer's Office

Western States Water Council
Lake Tahoe, NV
July 10, 2015



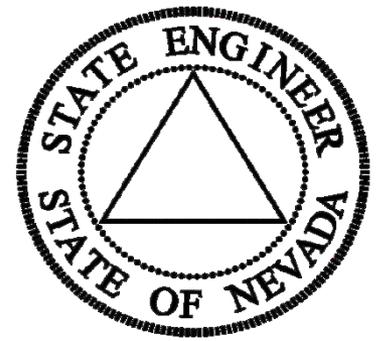
1. Groundwater/Surface Water Connectivity
2. Groundwater Curtailment Order
3. 2015 Legislature
4. Water Law Issues
5. NFWF – No Injury Analysis
6. SNWA Pipeline Update
7. Drought Forum





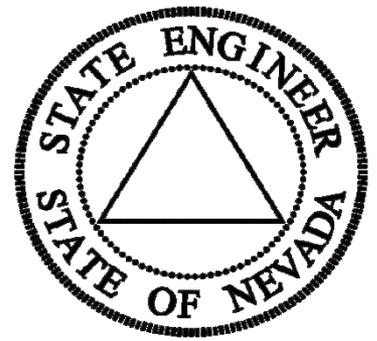
Humboldt River

- 0%, 0%, 10% delivery to Lower Humboldt farmers over the past 3 years.
- Rye Patch Reservoir is at 3% of storage capacity
- Upstream, junior priority groundwater users get full allotment.
- What is the impact from groundwater pumping on river flows and what can we do about it in the near term?
- In-house capture estimate using Glover Analytical Solution
 - Looked at all groundwater rights where 10% of their pumping came from river depletions during 180 day irrigation season
 - Based on expected pumping, less than 2,000 acre-feet would be gained by the river (very liberal)
 - No curtailment was issued



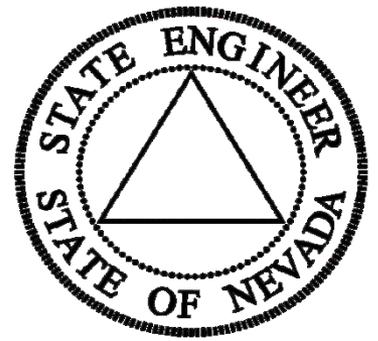
Humboldt River

- Capture model by DRI and USGS
 - 4 years out
 - Will model depletions
 - Require augmentation plans
 - Need to begin NOW in deciding how to use the model i.e. time frames and % depletion



Mason & Smith Valley Curtailment Order

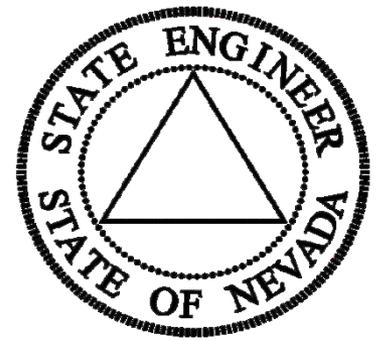
- Majority of recharge in the two basins is from Walker River leakage
- Minimal river flow during drought
- Unprecedented supplemental groundwater pumping during drought
- Unprecedented water level declines
 - 8' per year in Mason Valley
 - 12' per year in Smith Valley
- Declared all manners of use EXCEPT supplemental groundwater for irrigation, a preferred use (second class water right)
- Ordered a 50% curtailment of supplemental groundwater for this irrigation season



Mason & Smith Valley Curtailment Order (con't)

- Order appealed by Farmers Against Curtailment Order (FACO)
- Hearing before the 3rd Judicial District Court
 - Didn't like the 50% cut
 - Needed to have better data to substantiate the 50%
 - Felt that the supplemental pumping should have been curtailed by priority, not a across-the-board cut
 - Agreed that we could designate preferred uses in this instance
 - Didn't feel we gave adequate notice
- Court enjoined (stayed) the curtailment order
- Briefing begins this month

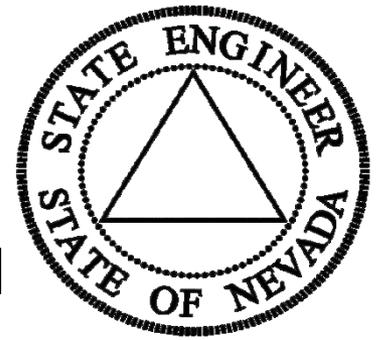
Mason & Smith Valley Curtailment Order (con't)



Our office:

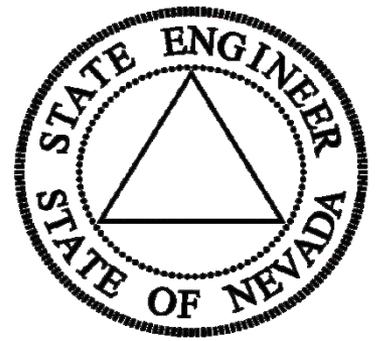
- Has contracted with DRI to perform model runs comparing Walker river flow rates to groundwater pumping in order to compute expected groundwater level declines
- Has increased staff presence in the basins to verify pumping, audit meter readings vs. actual pumpage and to look for illegal uses
- Holding workshops in both basins beginning in July to provide transparency on our work and to take comments from water users on how best to proceed in the management of the basins
- Have a goal of providing information on future curtailment, if any, by October 1 to the water users.

2015 Legislature



Our office introduced SB 65, 81 and co-sponsored SB 485

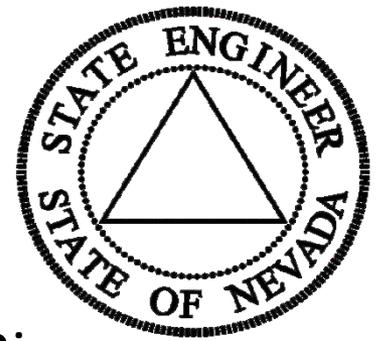
- SB 65 (60+ pages)
 - Modernization of the adjudication process
 - Minor changes, e.g. “Point” instead of “Place” of diversion
- SB 81
 - Changed “Critical” to “Active” Management Area
 - Implemented tools to help our office respond to desires of stakeholders in Diamond and Pahrump Valleys
- SB 485
 - Sunset date of December 31, 2025 for the filing of pre-statutory vested claims
- All three died!



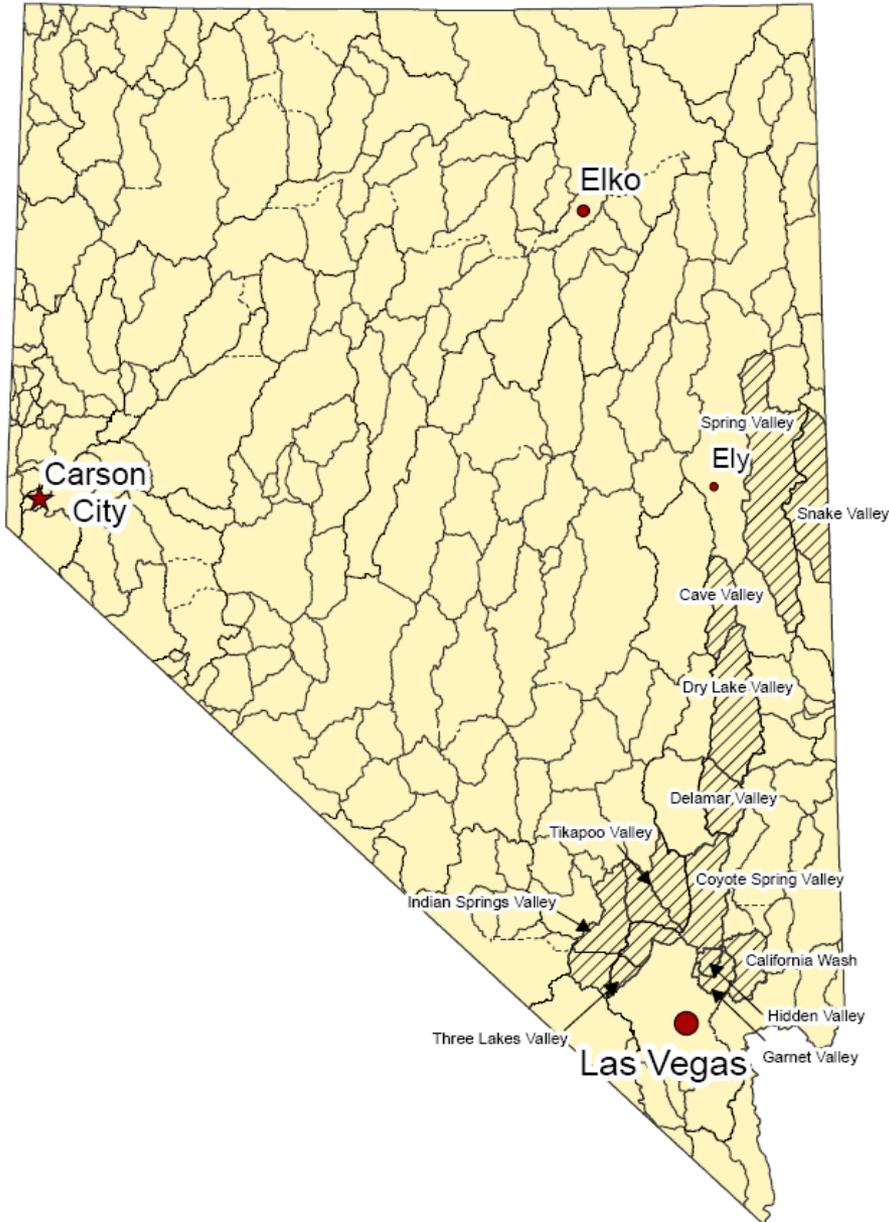
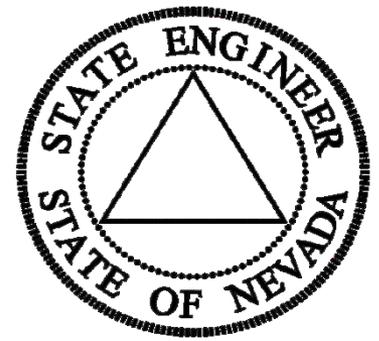
Water Law Issues

- Use it or Lose It
 - Conservation credits?
- Regulation by priority
 - Domestics are included and are usually the most junior of rights
- Rain Barrels
 - Letter of the law, they are illegal

National Fish and Wildlife Foundation (NFWF) Ruling



- Our office approved the transfer of decreed Walker River irrigation rights to wildlife purposes in Walker Lake
- Transferred only the consumptive use portion so other water users and the system remain whole
- Under appeal, the District Court used the *No Injury* analysis to find that transferring only the consumptive use of the right was **NOT** enough to protect, junior storage water users from injury, and that the timing of the water deliveries needed to be reviewed. Therefore the court remanded that issue back to us to consider when the previous holders actually diverted their irrigation water
- Can junior users rely on the “continuance of conditions at the time of appropriation” to trump senior users ?

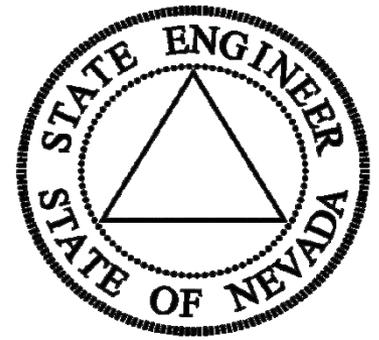


SNWA Pipeline

Four Rulings issued on March 22, 2012 in

- Spring Valley (61,127 afa staged)
- Cave Valley (5,235 afa)
- Dry Lake Valley (11,584 afa)
- Delamar Valley (6,042 afa)

SNWA Pipeline - Appeals



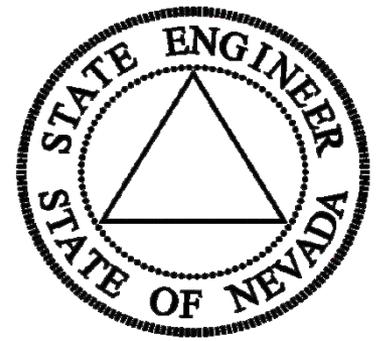
Spring Valley

- White Pine County et al *
- Church of the Latter Day Saints
- Goshute, Duckwater and Ely Shoshone Tribes
- Millard and Juab Counties

Cave, Dry Lake and Delamar Valleys

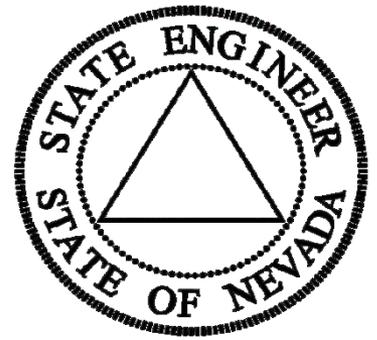
- White Pine County et al
- * Appellants include White Pine, Elko, Eureka and Nye Counties, Central Nevada Water Authority, Great Basin Water Network, Sierra Club and the Center for Biological Diversity. Their appeal represents more than 300 individuals and environmental groups.

SNWA Pipeline



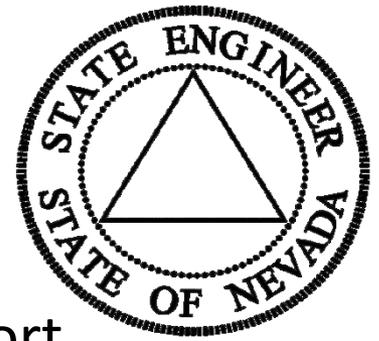
- Oral argument before the 7th Judicial District Court in Ely on June 13 and 14, 2013
- Judge Estes signed his Remand Order on December 10, 2013 sending the decisions back to the State Engineer to:
 1. Add Millard and Juab Counties to the mitigation plan (Spring Valley pumping)
 2. Recalculate water available to appropriate from Spring Valley assuring that the basin reach equilibrium between discharge and recharge in a *reasonable* time.
 3. Define standards, thresholds and triggers for unreasonable effects are neither arbitrary nor capricious in all basins.
 4. Recalculate existing rights in Cave, Dry Lake and Delamar Valleys to avoid over appropriations or conflicts with down gradient basins.

SNWA Pipeline



- The State Engineer, SNWA and Church of Latter Day Saints appealed the decision to the Supreme Court.
- Supreme Court issued it's opinion on February 6, 2015 dismissing our appeal stating that the District Court's order of remand was not an appealable, final judgment.

Drought Forum

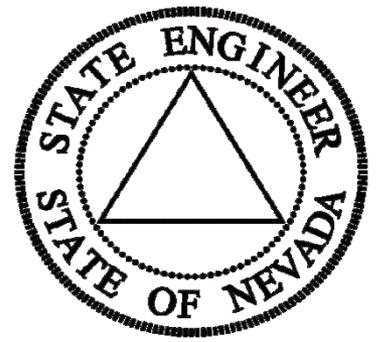


Scaled down version of Governor Sandoval's WGA effort

- Meet with industry – July 14 in LV and August 19 in Carson
- Forum Meeting – August 26th (tentative)
- Drought Summit – September 21-23 in Carson
- Final Report to Governor Sandoval by November 1

It is hoped that Nevada can build from WGA's work; listen to Nevada's industries and learn what works and what doesn't work, i.e. regulatory roadblocks, in times of drought.

The final report will summarize what was learned and may contain initiatives to pursue.



Questions?