

Here's a speaker-by-speaker breakdown from the Lower White River Flow System designation hearing that was held on Wednesday, February 25...

**Thanks to Kyle Reber, Nevada Farm Bureau Federation's Southern Field Service Representative for his summary from the hearing.**

**Hannah Winston – Attorney for Coyote Springs Investment (CSI) – OPPOSED**

Winston testified on behalf of CSI and framed the designation as the continuation of a process that was effectively set in motion by the 2018 letter blocking CSI's subdivision map approvals. Her argument was that this is not a neutral administrative step — it's the next move in a long-running effort to rework how water in the system is treated.

She emphasized the ongoing litigation and pointed to what she sees as shifting legal theories from the state, including arguments that CSI's rights are "unperfectable" or not real property in the way traditionally understood. Her central theme was loss of certainty. She argued that Nevada Supreme Court precedent stresses finality in water rights, and that consolidating and designating the basin in this way destabilizes long-recognized, investment-backed rights. She also suggested that Cane Springs is the real target but that the state is not being transparent about that.

**Sylvia Harrison – Attorney (McDonald Carano) for Republic Services and Georgia-Pacific – CONDITIONAL / CONCERNED**

Harrison spoke for Republic (Apex landfill) and Georgia-Pacific (gypsum/wallboard). She laid out their economic footprint and stressed how long they've been operating in regulatory limbo. Their rights date back to the 1980s, and the concern is straightforward: if the state ultimately applies strict basin-wide priority administration, their rights could be vulnerable to curtailment.

Her testimony focused less on opposing designation outright and more on what comes next. She asked directly whether designation means automatic chronological reprioritization across the super basin, and whether water rights can now be moved within the consolidated system without losing priority. She made clear they could only support designation if it leads to a science-based, collaborative management approach that protects existing economic uses. She also pushed for better subsurface geology, standardized monitoring, and more rigorous data before management decisions are made.

**Frank Flaherty – Attorney for Nevada Cogeneration Associates (NCA 1 & 2 power plants) – SUPPORT WITH QUALIFICATIONS**

Flaherty represents the two cogeneration plants in the Black Mountain area. He emphasized that their water rights are essential to maintaining firm, dispatchable generation capacity in Southern Nevada. He tied that directly to grid reliability, economic investment, and long-term employment.

He supports designation in principle, but was clear that a strict, one-size-fits-all priority regime would be unacceptable. His argument is that wells 20+ miles from the springs should not be treated the same as wells adjacent to the headwaters. He called for flexible, adaptive management grounded in updated science and continued hydrologic study. The message was: we can work within a management framework, but not one that ignores infrastructure importance or geographic realities.

**Rob Dodson – Attorney for Muddy Valley Irrigation Company (MVIC) – SUPPORTED**

Dodson spoke for the senior surface-water irrigators on the Muddy River. Their position is consistent with what we've heard before: they want full protection of their decreed rights and restoration of historic flows.

He supports designation because it gives the state engineer the tools necessary to regulate pumping that impairs senior surface rights. He made it clear the goal is either restoration of pre-development flows or a mechanism to compensate for losses. He also suggested formally incorporating the 1309 record into the designation order to avoid re-litigating settled findings.

**Scott Lake – Center for Biological Diversity – SUPPORTED**

Lake testified on behalf of CBD and focused on the Moapa dace. His position is that the aquifer is materially over-appropriated relative to sustainable yield and that recovery of spring flows is essential for the species.

He leaned heavily on the Supreme Court's acknowledgment of the state engineer's authority to manage connected groundwater and surface water as a single source of supply using best available science. From their perspective, designation is the logical next step to bring pumping back into balance and protect both the species and senior Muddy River rights.

**Wayne Klump – Attorney for Lincoln County and Lincoln County Water District – OPPOSED (particularly inclusion of Cane Springs)**

Klump’s focus was almost entirely on Cane Springs. He argued it is not over-pumped, already subject to multiple management overlays and monitoring requirements, and hydrologically distinct based on newer geophysical work. He pointed to the prior 2021 decision not to designate Cane Springs and questioned what has changed.

He also raised broader procedural concerns, arguing that the state’s approach here differs from how other basins have been handled. His larger theme was statewide precedent and certainty — if hydrographic basin boundaries can effectively be erased and restructured into super basins, it creates instability for water right holders beyond just this system. He also tied this to Lincoln County’s ability to use water for economic development.

**Karen Peterson – Attorney for Vidler Water Company – OPPOSED inclusion of Cane Springs**

Peterson reinforced the Cane Springs opposition, focusing on Nevada Bureau of Mines and Geology Report 61 and related geophysical data. Her argument is that the mapped fault boundary and subsurface data demonstrate a natural separation between Cane Springs and the Lower White River Flow System.

She also challenged the state’s pumping analysis, noting declining averages and missing recent-year data. Her position is that there has been no new investigation justifying designation and that including Cane Springs lacks both hydrologic and factual support. The overarching concern is regulatory uncertainty without a clear evidentiary basis.

**Greg Morrison – Attorney for Moapa Valley Water District – SUPPORTED (with minor modifications)**

Morrison spoke for the Moapa Valley Water District. His position was that designation is a necessary step to move beyond litigation and into actual management. He emphasized that Order 1309 should serve as the baseline and should not be reopened.

He also reminded the state engineer that statutorily created water districts in the basin must be involved in the management phase. From their perspective, designation is essential to getting to enforceable, basin-wide regulation.

**Mike Reese – Lincoln County Commissioner – OPPOSED**

Commissioner Reese appeared virtually and stated for the record that he supports and echoes the testimony provided by Lincoln County and the Lincoln County Water District opposing inclusion of Cane Springs and opposing the broader designation approach.

## **James Balaton – NDWR – Where we are and what’s actually left to decide**

Balaton opened by resetting the table. The courts have already settled the big issues: shared aquifer, Muddy River seniority, and the ~8,000 AF sustainable pumping number. Those aren’t getting reopened.

The only real open questions now are:

- whether conflict is already occurring (the “or less” piece), and
- how the state manages ~38,000 AF of groundwater rights inside an ~8,000 AF system.

He laid out the three paths NDWR sees:

1. Curtailment by priority
2. CMA / groundwater management plan
3. Some kind of voluntary negotiated solution

He was pretty clear that anything other than a purely voluntary deal probably requires a formal conflict determination with due process. He also signaled that designation comes first, then management, and that staffing will control the timeline more than anything else.

## **Sylvia Harrison – Republic / Georgia-Pacific – Step one is a real inventory**

Harrison went straight to the practical starting point: nobody should be talking about reductions until there’s a current inventory everyone agrees on.

Her main points were that the public data is stale, we don’t know what’s been retired or transferred, and everything needs to be broken out in a way that reflects actual hydrology — alluvial vs. carbonate and near-river vs. upgradient. The message was basically that we’re arguing over numbers that aren’t clean.

Balaton didn’t push back on the need — just noted NDWR doesn’t have the internal capacity to build that alone and that it may need to be a joint effort.

## **Greg Morrison – Moapa Valley Water District – Try to solve this before it becomes a CMA**

Morrison's position was to steer toward a negotiated solution and avoid a CMA if at all possible.

He referenced Diamond Valley as the model and suggested getting the stakeholders together with 1309 as the fixed framework and working toward something voluntary before the state imposes a plan.

Balaton's response was the obvious concern — without the regulatory pressure, how do you keep everyone at the table.

## **Rob Dodson – Muddy Valley Irrigation Company – Conflict still has to be formally answered**

Dodson made it clear MVIC's position hasn't changed. From their perspective they are already short about 3,300 AF annually compared to historic flows, and they are not giving up decreed water.

He said voluntary resolution is fine if it happens, but NDWR needs to move forward on a parallel track assuming it won't. The key point was that you can't manage this system just by aiming at 8,000 AF — the "or less" question has to be resolved through an evidentiary process.

He also noted that one year of lower pumping doesn't prove anything — they want to see a long-term response in flows.

## **Paul Taggart – Southern Nevada Water Authority – Inventory, conflict hearing, and full use of the statutory tools**

Taggart backed the inventory concept and said the conflict analysis needs to come first so everyone knows the size of the problem before negotiating.

He reminded NDWR that SNWA has already filed a notice of alleged violation and started talking about the other tools that are available — cancellation, PBU enforcement, and bundling decisions so they move through the courts together.

His underlying point was that there's no historical example in Nevada of taking 38,000 AF down to 8,000 AF, so this is going to require using everything in the toolbox.

## **Theresa Stix – Western Ely / Bedrock – Inventory needs to reflect aquifer and connectivity**

Stix joined the inventory discussion from the same angle — the accounting has to identify which rights are alluvial, which are carbonate, and which are actually connected to the system being managed.

There was also a short side discussion about whether the Hydrologic Review Team data can be folded into the science base for this phase.

## **Sylvia Harrison – Second comment – Best available science still applies**

Harrison came back to make the point that even though 1309 survived substantial evidence review, NDWR still has an ongoing obligation to use updated science in the management phase.

Balaton's response was essentially that they're not reopening 1309, but they do recognize that best available science is a continuing requirement.

## **Rob Dodson – Second comment – Need an actual schedule**

Dodson pivoted to process and said what everyone was thinking — without deadlines this drags on indefinitely.

He asked for a timeline for:

- the inventory,
- expert work, and
- a conflict hearing.

Balaton wouldn't commit to dates but outlined the sequence: written comments on designation close March 27, NDWR decides on designation, another stakeholder meeting in the spring, and potentially a conflict hearing later in the year if staffing allows.

He also made it clear NDWR views designation as the thing that unlocks the rest of the management tools.

## **Balaton – Closing**

He closed by reiterating that NDWR has not picked a management path yet, written comments on designation are the immediate next step, and another meeting will follow once those are reviewed.