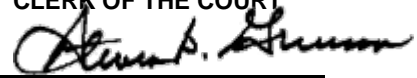


BUSINESS COURT CIVIL COVER SHEET

Clark County, Nevada

Case No. _____
(Assigned by Clerk's Office)

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Steven D. Grierson
CLERK OF THE COURT



I. Party Information (provide both home and mailing addresses if different)

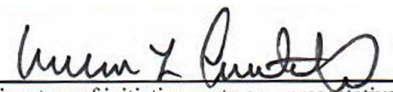
Plaintiff(s) (name/address/phone): 	Defendant(s) (name/address/phone): CASE NO: A-20-820384-B Department 13
Attorney (name/address/phone): 	Attorney (name/address/phone):

II. Nature of Controversy (Please check the applicable boxes for both the civil case type and business court case type)

Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
<p style="text-align: center;">Real Property</p> <p>Landlord/Tenant</p> <p><input type="checkbox"/> Unlawful Detainer</p> <p><input type="checkbox"/> Other Landlord/Tenant</p> <p>Title to Property</p> <p><input type="checkbox"/> Judicial Foreclosure</p> <p><input type="checkbox"/> Foreclosure Mediation Assistance</p> <p><input type="checkbox"/> Other Title to Property</p> <p>Other Real Property</p> <p><input type="checkbox"/> Condemnation/Eminent Domain</p> <p><input type="checkbox"/> Other Real Property</p>	<p style="text-align: center;">Torts</p> <p>Negligence</p> <p><input type="checkbox"/> Auto</p> <p><input type="checkbox"/> Premises Liability</p> <p><input type="checkbox"/> Other Negligence</p> <p>Malpractice</p> <p><input type="checkbox"/> Medical/Dental</p> <p><input type="checkbox"/> Legal</p> <p><input type="checkbox"/> Accounting</p> <p><input type="checkbox"/> Other Malpractice</p> <p>Other Torts</p> <p><input type="checkbox"/> Product Liability</p> <p><input type="checkbox"/> Intentional Misconduct</p> <p><input type="checkbox"/> Employment Tort</p> <p><input type="checkbox"/> Insurance Tort</p> <p><input type="checkbox"/> Other Tort</p> <p style="text-align: center;">Civil Writs</p> <p><input type="checkbox"/> Writ of Habeas Corpus</p> <p><input type="checkbox"/> Writ of Mandamus</p> <p><input type="checkbox"/> Writ of Quo Warrant</p> <p><input type="checkbox"/> Writ of Prohibition</p> <p><input type="checkbox"/> Other Civil Writ</p>	<p style="text-align: center;">CLARK COUNTY BUSINESS COURT</p> <p><input type="checkbox"/> NRS Chapters 78-89</p> <p><input type="checkbox"/> Commodities (NRS 91)</p> <p><input type="checkbox"/> Securities (NRS 90)</p> <p><input type="checkbox"/> Mergers (NRS 92A)</p> <p><input type="checkbox"/> Uniform Commercial Code (NRS 104)</p> <p><input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate</p> <p><input type="checkbox"/> Trademark or Trade Name (NRS 600)</p> <p><input type="checkbox"/> Enhanced Case Management</p> <p><input type="checkbox"/> Other Business Court Matters</p> <p style="text-align: center;">WASHOE COUNTY BUSINESS COURT</p> <p><input type="checkbox"/> NRS Chapters 78-88</p> <p><input type="checkbox"/> Commodities (NRS 91)</p> <p><input type="checkbox"/> Securities (NRS 90)</p> <p><input type="checkbox"/> Investments (NRS 104 Art.8)</p> <p><input type="checkbox"/> Deceptive Trade Practices (NRS 598)</p> <p><input type="checkbox"/> Trademark/Trade Name (NRS 600)</p> <p><input type="checkbox"/> Trade Secrets (NRS 600A)</p> <p><input type="checkbox"/> Enhanced Case Management</p> <p><input type="checkbox"/> Other Business Court Matters</p>
Judicial Review/Appeal/Other Civil Filing		
<p>Appeal Other</p> <p><input type="checkbox"/> Appeal from Lower Court</p>	<p>Other Civil Filing</p> <p><input type="checkbox"/> Foreign Judgment</p> <p><input type="checkbox"/> Other Civil Matters</p>	

Date _____

 # 3927
Signature of initiating party or representative

1 COMP (CIV)

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5 840 South Rancho Drive #4-627
6 Las Vegas, Nevada 89106
7 (702) 898-9944
8 wlc@coulthardlaw.com

9 *Attorneys for Plaintiffs CS-Entities*

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 Coyote Springs Investment LLC, a Nevada
13 Limited Liability Company, Coyote Springs
14 Nevada LLC, a Nevada limited liability
15 company, and Coyote Springs Nursery LLC, a
16 Nevada limited liability company,

17 Plaintiffs,

18 v.

19 STATE OF NEVADA, on relation to its
20 Division of Water Resources, Department of
21 Conservation and Natural Resources, Tim
22 Wilson, Nevada State Engineer; and Does I
23 through X.

24 Defendants.

Case No.
Dept. No.

COMPLAINT FOR DAMAGES;

AND,

DEMAND FOR JURY TRIAL

**Exempt From Arbitration:
Action for Inverse Condemnation with
Damages Far in Excess of \$50,000**

25 COME NOW Plaintiffs COYOTE SPRINGS INVESTMENT LLC, a Nevada limited
26 liability company, COYOTE SPRINGS NEVADA LLC, a Nevada limited liability company,
27 and COYOTE SPRINGS NURSERY LLC, a Nevada limited liability company (collectively the
28 “CS-Entities” and or “Plaintiffs”), by and through their counsel, William L. Coulthard Esq., of
Coulthard Law PLLC, and hereby complain and allege against Defendants STATE OF
NEVADA, on relation to its Division of Water Resources, Department of Conservation and
Natural Resources, Tim Wilson, Nevada State Engineer; and DOES I through X, as follows:

I.

PARTIES AND JURISDICTION

1
2
3 1. Plaintiffs COYOTE SPRINGS INVESTMENT LLC, a Nevada limited liability
4 company (“CSI”), and COYOTE SPRINGS NEVADA LLC, a Nevada limited liability company
5 (“CS-Nevada”), and COYOTE SPRINGS NURSERY LLC, a Nevada limited liability company
6 (“CS-Nursery”) and when referred to together, CSI, CS-Nevada and CS-Nursery shall be referred
7 to as the “CS-Entities”; each of which such entities were formed under the laws of the State of
8 Nevada and collectively are the owners of all of Coyote Springs, a Master Planned development
9 measuring roughly 42,100 acres located in both Clark and Lincoln County, Nevada. A portion of
10 Coyote Springs land measuring approximately 6,881 acres has been planned, designed, mapped,
11 approved and partially constructed as a Major Project in Clark County, Nevada, along with an
12 additional 6,219 acres managed by CSI, of designated conservation land subject to a lease from
13 Bureau of Land Management. Coyote Springs is located approximately 50 miles north of Las
14 Vegas, Nevada. As a critical and necessary part of its Master Planned development and approved
15 Major Project, the CS-Entities also own certain acre feet annually (“afa”) of certificated and
16 permitted Nevada ground water rights in the Coyote Spring Valley.

17 2. Plaintiffs are informed and believe and thereupon allege that Defendant STATE
18 OF NEVADA, on relation to its Division of Water Resources, Department of Conservation and
19 Natural Resources, and Tim Wilson its State Engineer (hereinafter the “State” and/or the “State
20 Engineer”) has taken actions, as will be more particularly described herein, in contravention of
21 CS-Entities’ Master Planned Major Project development rights and its existing permitted and
22 certificated Nevada water rights at Coyote Springs, Nevada

23 3. Plaintiffs are informed and believe and thereupon allege that the State’s actions,
24 as will be more particularly described herein, rise to the level of an unconstitutional taking of CS-
25 Entities’ permitted and certificated water rights as detailed herein, and that the taking of such
26 water rights by the State has left the CS-Entities with no economical beneficial use of its real
27 estate and its master planned development property in Coyote Springs, Nevada.

1 4. The true names and capacities, whether individual, corporate, associates or
2 otherwise, of Defendants herein designated as DOES I through X inclusive are unknown to the
3 Plaintiffs CS-Entities at this time, who therefor sue said Defendants by such fictitious names.
4 Plaintiffs are informed and believe and thereon allege that each of said DOES Defendants may
5 have conspired with the State and/or participated in the wrongful events and happenings and
6 proximately caused the injuries and damages herein alleged. Plaintiffs may, as allowed under
7 NRCP 15, seek leave to amend this Complaint to allege their true names and capacities as they
8 are ascertained.

9 5. Venue is proper in this Eighth Judicial District Court, Clark County, Nevada, as
10 the Coyote Springs Development, and its approved Clark County Major Project under Clark
11 County Code Title 30, is located in Clark County, Nevada. Moreover, many of the claims and
12 the underlying facts arose, and the causes of action plead herein, relate to certain of the CS-
13 Entities' real property rights, including but not limited to its approved Clark County Major Project
14 Development rights, and the prohibited and wrongful delay and blocking of CS-Entities' use and
15 enjoyment of its Clark County real property, including but not limited to, its certificated and
16 permitted water rights in Clark County, Nevada. Finally, many of the witnesses in this case reside
17 in Clark County, Nevada.

18 II.

19 **STATEMENT OF FACTS**

20 **A. CS-Entities' Coyote Springs Master Plan Development.**

21 6. Coyote Springs, Nevada is a master-planned community being developed by
22 Plaintiff CS-Entities in Clark County and Lincoln County, Nevada. The Coyote Springs property,
23 in its entirety, consists of roughly 42,100 acres, or 65 square miles, located approximately 50
24 miles north of Las Vegas. It is bordered by the Delamar Mountains to the north, the Meadow
25 Valley Mountains to the east, State Route 168 to the south and U.S. 93 to the west. Approximately
26 one-third of the CS-Entities lands (13,100 acres) lie within Clark County, Nevada and the
27 remaining two-thirds of the lands (29,000 acres) are located in Lincoln County, Nevada.

1 7. For the past 15 years, CS-Entities have completed, submitted, and processed land
2 use entitlements and zoning applications, permits and approvals for its Coyote Springs’ master
3 planned community. CS-Entities have submitted and obtained multiple government and
4 regulatory approvals for infrastructure, maps and plans, including tentative maps, submitted and
5 recorded large parcel maps, parent final maps for purpose of subsequent residential subdivision
6 maps and related property development and sales, all in furtherance of its planned development
7 of the Coyote Springs master planned community (the “Coyote Springs Master Planned
8 Community”). These zoning, land use and construction applications and permits have been
9 submitted to numerous Federal, State and County agencies including the State, the State Engineer,
10 the Clark County – Coyote Springs Water Resources General Improvement District (“CS-GID”),
11 the Las Vegas Valley Water District (“LVVWC”), Clark County Water Reclamation District
12 (“CCWRD”), and Clark County, Nevada. These CS-Entities’ submittals, approvals, subsequent
13 design, construction and construction approvals consistent with such land use entitlements and
14 approvals were all done in reliance on and in furtherance of, and in support of the CS-Entities’
15 Coyote Springs Master Planned Community development and investment backed expectations
16 and their efforts to design, develop, construct, sell and operate the Coyote Springs Master Planned
17 Community.

18 **B. Clark County Approves Coyote Springs as a Clark County Title 30 Major**
19 **Project and Enters Into A Comprehensive Development Agreement with the**
20 **CS-Entities.**

21 8. As part of its ongoing efforts to develop the Coyote Springs Master Planned
22 Community, the CS-Entities submitted and obtained Clark County’s approval of Coyote Springs
23 as a Major Project, pursuant to Clark County (“CC”) Code 30.20.30, and further submitted and
24 obtained Clark County’s approval of the following Major Project development submittals:

- 25 a. Coyote Springs Concept Plan (MP-1424-01) approved on February 6,
26 2002.
- 27 b. Coyote Springs’ Public Facilities Needs Assessment (PFNA) area (MP-
28 0540-02) approved on May 22, 2002.

1 c. Coyote Springs Specific Plan (MP-0853-02) was first approved on August
2 7, 2002, and then later amended on August 2, 2006, and then again amended and approved
3 on September 17, 2008 (MP-0760-08).

4 d. CS-GID created by Ordinance by the Clark County Board of County
5 Commissioners in October 2006, subject of Clark County Board of Commissioners
6 Ordinance # 3456, Bill # 10-17-06-2, along with the initiating Service Plan and operating
7 agreement among developers and LVVWD and the Clark County Water Reclamation
8 District, all for purposes of operating and providing water and wastewater services in the
9 Coyote Springs Project.

10 e. Coyote Springs' zone change request (ZC-1401-02) which included master
11 development agreement (DA-1400-02) for the Coyote Springs Master Planned
12 Community was approved on December 18, 2002 pursuant to Development Agreement
13 Ordinance #2844 that was effective January 1, 2003, and later amended by that certain
14 First Amendment and Restatement to Development Agreement dated August 4, 2004 and
15 recorded September 16, 2004 in Clark County Official Records as Book 20040916-
16 0004436.

17 f. In 2003, a use permit, UC-1493-03, was approved for a water pumping
18 station, power substation, and other related ancillary structures, and another use permit,
19 UC-0335-04 was approved for power transmission lines on April 8, 2004.

20 g. Approved 125-acre Tourist Commercial zoning that includes a 40-acre
21 Gaming Enterprise District approved on December 17, 2008 (ZC-0947-08), and the
22 conditions therein extended until December 2024, pursuant to ET 0184-16 which was
23 approved on February 8, 2017.

24 h. Many other zoning and land use plan approvals have been similarly
25 pursued and approved for the Coyote Springs Master Planned Community by Clark
26 County.

27 All of the above, when taken together with all other CS-Entities' approvals and entitlements, will
28 be referred to herein as the "CS-Entities' Approved Major Project".

1 9. CS-Entities' Approved Major Project status, confirmed by County Ordinances,
2 authorizes the CS-Entities' development and completion of its Approved Major Project. CS-
3 Entities' Approved Major Project has likewise been designed and pursued in furtherance of the
4 CS-Entities' investment backed development expectations when it acquired the Coyote Springs
5 property and its Coyote Springs' ground water rights in the late 1990's. CS-Entities assert and
6 allege that their Approved Major Project status further vests certain additional Major Project
7 development rights for the Coyote Springs Development.

8 **C. CS-Entities Spend Years and Hundreds of Millions of Dollars Developing**
9 **Coyote Spring Master Planned Community In Furtherance of Their**
10 **Reasonable Investment Backed Expectations and In Reliance Upon**
11 **Government Approvals.**

12 10. In furtherance of its investment backed expectations and its Approved Major
13 Project, CS-Entities have further been preparing and processing permits and construction plans
14 and have obtained numerous approvals for community infrastructure, construction maps and
15 plans, including recorded large parcel, parent final maps for purpose of subsequent residential
16 subdivision maps, for development of the Coyote Springs Development with numerous agencies,
17 including the State, and its State Engineer, LVVWD, CCWRD, Clark County Water Reclamation
18 District ("CCWRD"), CS-GID, and Clark County. Multiple permits, applications, improvements,
19 maps and plans have been approved and the CS-Entities have designed, developed, and
20 constructed significant infrastructure improvements to support the Coyote Springs Master
21 Planned Community and its investment backed expectations. Specifically, CS-Entities
22 constructed and are operating a \$40,000,000 Jack Nicklaus Signature designed golf course open
23 to the public since May 2008, a 325 acre flood control detention basin, which is the subject of a
24 dam permit issued by the Defendant State and its State Engineer, a groundwater treatment plant,
25 including two 1,000,000 gallon water storage tanks designed and constructed to culinary water
26 standards, a wastewater treatment plant and initial package treatment plant, all of which have been
27 considered and approved by the Defendant State and its Nevada Department of Water Resources,
28 and associated electrical power facilities, including a three megawatt electrical substation and
appurtenant equipment. CS-Entities have also constructed four groundwater production wells

1 (Well 1, Well 2, Well 3, and Well 4), two of which, Well 1 and Well 4, are in full operational use
2 at the present time and were constructed to culinary municipal well standards as required by the
3 LVVWD on behalf of the CS-GID, all approved by the State and its State Engineer in 2013, with
4 significant enhancements to make them compliant with municipal well standards at a cost in
5 excess of \$20,000,000. Moreover, and with the approvals of the various government agencies,
6 including the State and subdivisions of the State, CS-Entities developed, permitted, and
7 constructed miles of roads and streets and installed miles of associated underground utilities,
8 including water, treated water / wastewater, fiber-optic, electric lines and a 3 megawatt substation,
9 in the Coyote Springs Development. The total cost of construction and acquisitions for these
10 improvements and associated processing is well over \$200,000,000. This development, and its
11 associated development costs, have all been incurred based upon the CS-Entities' reasonable
12 investment backed expectations, in compliance with all submitted and approved plans, done in
13 furtherance of its Approved Major Project and Development Agreement related thereto, done in
14 furtherance of its real property rights, and with assurance and reliance upon the State and the State
15 Engineer's approval of the use and enjoyment of its certificated and permitted water rights the
16 CS-Entities acquired in the Coyote Spring Valley in support of the Coyote Springs planned
17 development and Approved Major Project.

18 11. When CS-Entities acquired the Coyote Springs real property, and its certificated
19 and permitted water rights to be used in its Master Planned Development, it had reasonable
20 investment backed expectations that it would be able to develop, construct, market and sell its
21 Master Planned Community and their Approved Major Project. Moreover, CS-Entities have
22 relied upon and taken extensive action at the Coyote Springs Development based in large part
23 upon the approvals of the agencies listed above, but most particularly those of the State and its
24 State Engineer, to proceed with its Master Planned Development and construction projects. CSI,
25 in particular has relied on the approvals of the State, and its State Engineer, recognizing that CSI
26 could use its certificated and permitted water rights in the Coyote Springs Development in order
27 to support operation of the golf course, all of its construction efforts, and ultimately to support
28

1 the approved residential and commercial development planned for the Coyote Springs Master
2 Planned Development and Approved Major Project.

3 **D. CSI's Permitted and Certificated Water Rights.**

4 12. In furtherance of its investment backed expectations, and as a necessary component
5 of the Coyote Springs Master Planned Development, CSI acquired rights to 4600 acre feet
6 annually ("afa") of permitted Nevada water rights in the Coyote Spring Valley. Specifically, CSI
7 holds and perfected 1500 afa under Permit 70429 (Certificate 17035) of which 1250 afa were
8 conveyed to the CS-GID to be used for the Coyote Springs Development, with the remaining 250
9 afa still owned by CSI. CSI also holds 1000 afa under Permit 74094 of which 750 afa were
10 conveyed to the CS-GID to be used for the Coyote Springs Development, with the remaining 250
11 afa still owned by CSI. CSI also holds 1140 afa under Permit 70430. CSI, in reliance upon
12 moving forward with the Coyote Springs Development, relinquished 460 afa of Permit 70430,
13 under Permit 70430 RO1, back to the STATE in care of the State Engineer in accord with the US
14 Fish and Wildlife Service as mitigation for any potential Muddy River instream water level flow
15 decreases potentially associated with the CS-Entities' Approved Major Project for the purpose of
16 furthering the survival and recovery of the endangered Moapa dace fish. CSI also holds 500 afa
17 under Permit 74095. In the event that CS-GID is unable or unwilling to supply any of these
18 Water Rights to CS-Entities' Approved Major Project and approve and sign-off on large lot and
19 subdivision maps, and proceed with permits, approvals, inspections, and certificates of
20 occupancy, which is the case following the State actions described herein, all 2000 afa of the
21 Water Rights previously transferred by CSI, to CS-GID, revert back to CSI pursuant to that certain
22 Amended and Restated Coyote Springs Water and Wastewater Multi-Party Agreement dated July
23 7, 2015.

24 13. CS-Entities are informed and believe and thereupon assert that as of the date hereof
25 the total amount of certificated and permitted Nevada groundwater rights owned by CSI is 2140
26 afa; the total amount owned by CS-GID is 2000 afa; and, 460 afa has been relinquished for the
27 purpose of furthering the survival and recovery of the Moapa dace (collectively all 4600 afa are
28 referred to herein as, "CS-Entities' Water Rights"). Importantly, the 460 afa of CS-Entities'

1 permitted and certificated water rights previously relinquished by CSI to the State in care of the
2 State Engineer, and in accord with the US Fish and Wildlife Service, was done in furtherance of
3 the survival and recovery of the Moapa dace, an endangered fish that lives within the headwater
4 springs of the Muddy River, pursuant to agreement among the State, the State Engineer, LVVWD
5 and SNWA and others, in order to mitigate potential harms to the Moapa dace that may arise in
6 connection with the CS-Entities' use of ground water at its planned Coyote Springs Master
7 Planned Development. CS-Entities assert that the State, though its State Engineer's actions of
8 unlawful regulation and restriction of CS-Entities use of its Water Rights allegedly to help protect
9 Muddy River water flow levels for the benefit of the Moapa dace fish are an unlawful and
10 unconstitutional exaction by the State. The CS-Entities have previously relinquished 460 afa of
11 its Water Rights, as mitigation for its development of Coyote Springs. The State's recent actions
12 as described herein place an unreasonable and unfair burden on the CS-Entities for protection of
13 the Moapa dace that should more appropriately be borne by the public as a whole and not the CS-
14 Entities individually.

15 14. CS-Entities are informed and believe and thereupon allege that the State, through
16 its State Engineer's most recent decisions, orders, and actions described herein, and most recently
17 memorialized in the State Engineer's Order 1309 dated June 15, 2020, has wrongfully taken at
18 least 3640 afa, and possibly all 4140 afa of, the CS-Entities' Water Rights; and if the CS-Entities
19 are not allowed to develop the Coyote Springs Master Planned Community, then the 460 afa
20 relinquished for the survival and protection of the Moapa dace is a further wrongful and
21 unconstitutional take from the CS-Entities. This wrongful "take" of CSI's Water Rights has, as
22 the State Engineer is well aware, further effectuated a wrongful and illicit "take" of all of the CS-
23 Entities' economical beneficial use of its property and of the ability to develop its Approved
24 Major Project and the Coyote Springs Master Planned Development.

25 **E. History of Wrongful State Actions Related to CS-Entities' Water Rights.**

26 15. After CSI acquired the Water Rights described above, CSI and others applied for
27 additional water rights in the Coyote Springs Valley. In response to CSI's new applications and
28 the applications of others, in 2002, the State, through then State Engineer, Hugh Ricci, issued

1 Order 1169 which held in abeyance these pending applications. Order 1169 determined that there
2 was insufficient information and data concerning the deep carbonate aquifer from which the water
3 would be extracted for the State Engineer to make a decision on new water rights applications,
4 including CS-Entities' then pending applications. The State Engineer further ordered a
5 hydrological study of the basins. In doing so, the State Engineer recognized that certain parties,
6 including CS-Entities, already had an interest in water rights permitted from the carbonate aquifer
7 system, thereby acknowledging the existence and validity of CS-Entities' Water Rights. The
8 State Engineer ordered a study of the carbonate aquifer over a five-year period during which 50%
9 of the water rights currently permitted in the Coyote Spring Valley Basin were to be pumped for
10 at least two consecutive years. The applicants, which included CS-Entities, were to pay for the
11 studies and were to file a report with the State Engineer within 180 days of the end of the fifth
12 consecutive year.

13 16. Following the issuance of Order 1169, and in furtherance of its ongoing Coyote
14 Springs development plans, CS-Entities along with other applicants engaged in pump tests of the
15 wells in the Coyote Spring Valley basin from 2010 to 2012 and filed their reports in 2013. In
16 January 2014, the State Engineer issued Ruling 6255 which found that the new applications to
17 appropriate groundwater in the Coyote Spring Valley basin could cause a decrease in flows at
18 existing springs and could impact prior appropriated existing water rights. The State Engineer
19 further determined that this potential conflict with existing rights was not in the public interest
20 and that allowing appropriation of additional groundwater resources could impair protection of
21 springs and the habitat of the Moapa dace, an endangered species that lives in the headwaters of
22 the Muddy River. In Ruling 6255, the State Engineer then denied the pending applications for
23 new water rights based on the lack of unappropriated groundwater at the source of supply, that
24 the proposed use would conflict with existing water rights in the Order 1169 basins, and the
25 proposed use would threaten and prove detrimental to the public interest. Importantly, Ruling
26 6255 worked to protect existing water rights, including CS-Entities' Water Rights, from any new
27 appropriations by denying the pending applications on the basis that existing water rights, such
28 as CS-Entities' rights, must be protected.

1 17. Consistent with its reasonable investment backed expectations to develop its
2 Master Planned Community, and in further reliance on the State and its State Engineer’s
3 aforementioned Ruling 6255 protecting its certificated and permitted water rights, CS-Entities
4 have pumped for beneficial use, and continued to pump between 1400 and 2000 acre feet annually
5 from its wells in the Coyote Spring Valley Basin. Currently, approximately 1100 afa are pumped
6 to support the existing and operational golf course, and the rest of the water is pumped to support
7 its planned Master Plan construction activities.

8 18. CS-Entities have adopted, and Clark County has approved via its Major Plan
9 Approval and Development Agreement, an aggressive water conservation plan for Coyote
10 Springs. This plan includes significant reuse of water that is pumped from the groundwater,
11 including use of recycled water on its golf courses, common areas, and public parks. CS-Entities’
12 water conservation goals are aimed at a limitation on the use of water for each developed lot in
13 its development to 0.36 acre feet per year. It is the intent that the effluent from the Coyote Springs
14 Development’s wastewater treatment plant will be recycled within the development and any
15 portion not reused for irrigation will be allowed to be re-injected and recharge the aquifer. To
16 effectuate these plans, an affiliate to CS-Entities was formed to hold the rights to the re-use water
17 from the wastewater treatment facility and that entity, Coyote Springs Reuse Water Company
18 LLC holds permits 77340, 77340-S01 and 77340-S02, which are specifically reuse water permits,
19 for treated wastewater to be used within the Coyote Springs community.

20 19. With the CS-Entities’ Water Rights and all of their Approved Major Project
21 entitlements contemplated and as were approved, CS-Entities intended to support thousands of
22 residential units within its Master Planned Community subdivisions, plus related resort,
23 commercial and industrial development. Return flows from the proposed subdivision and effluent
24 from its treatment plants owned by Coyote Springs Reuse Water Company LLC were to be
25 returned to the aquifer or recycled for use at Coyote Springs. Unfortunately, and as alleged herein,
26 in violation of CS-Entities’ historic reasonable investment backed development expectations, the
27 State, has taken oppressive and wrongful actions to wrongfully delay and preclude CS-Entities
28

1 from moving forward with their design, development and construction of the Coyote Springs
2 Master Planned Development.

3 F. **The State, Commences Efforts to Wrongfully Interfere With CS-Entities’**
4 **Water Rights and Development Efforts at Coyote Springs.**

5 20. The CS-Entities are informed and believe, and thereupon alleges that LVVWD
6 purportedly acting as the manager of the CS-GID, sent an unsolicited letter dated November 16,
7 2017 to the State, and its State Engineer, which sought “to solicit [the State Engineer’s] opinion
8 whether Coyote Spring Valley groundwater can sustainably supply water for the Coyote Springs
9 Master Plan project.” Through its response to this letter, the State commenced its efforts to
10 wrongfully interfere with CS-Entities’ use and enjoyment of its certificated and permitted water
11 rights and CS-Entities’ continuing efforts to develop and construct its Coyote Springs Master
12 Planned and Approved Major Project.

13 21. Despite the fact that LVVWD’s November 16, 2017, letter acknowledged that
14 State Engineer’s Ruling 6255 “did not invalidate any existing water rights, including those held
15 by [Coyote Springs Water Resource General Improvement District] GID and [CSI] Developers”
16 at Coyote Springs, LVVWD asserted that “we [LVVWD] are not convinced that Coyote Spring
17 Valley groundwater can sustainably support the CSI Approved Major Project given endangered
18 species issues in the Muddy River and impacts to senior water rights.” *Id.* Finally, the LVVWD
19 November 16, 2017 letter sought an opinion from the State Engineer as to whether the State
20 Engineer’s “office would be willing to execute subdivision maps for the [Coyote Springs] Project
21 if such maps were predicated on the use of groundwater owned by the GID or [CSI] Developers
22 in Coyote Spring Valley”. *Id.*

23 22. The State received and took action to respond to LVVWD’s November 16, 2017
24 letter despite the fact that no person or entity had asserted an alleged conflict or impairment
25 regarding pumping and use of the CS-GID or CS-Entities’ water rights in Coyote Springs.

26 23. CS-Entities are informed and believe, and thereupon allege that the State accepting
27 and acting upon LVVWD’s November 16, 2017 letter:
28

1 (1) wrongfully interfered with CS-Entities’ use and enjoyment of their Water
2 Rights and continuing Master Planned and Approved Major Project development rights at Coyote
3 Springs;

4 (2) was wrongfully aimed at delaying and/or stopping CS-Entities’ ongoing
5 development of its Coyote Springs Project and use of their certificated, permitted and previously
6 unchallenged Water Rights; and,

7 (3) was wrongfully aimed at precluding CS-Entities’ use of its Water Rights in
8 the Coyote Spring Valley thus preventing development of the Coyote Springs Project, and
9 according to the State’s newly formulated theory of homogeneity of the hydrographic basins
10 (which is contested by the CS-Entities) comprising the Lower White River Flow System
11 identifying these basins incorrectly as a “single bathtub” arguably resulting in increased water
12 flows in the Muddy River and flowing to Lake Mead thereby increasing SNWA’s claim for return
13 flow credits and/or intentionally created surplus, which is then available for use by LVVWD and
14 SNWA in the Las Vegas Valley.

15 24. CS-Entities are informed and believe and thereupon allege that the aforementioned
16 actions done by the State, were aimed at delaying and/or halting CS-Entities planned use of its
17 certificated and permitted Water Rights to develop the Coyote Springs Project with an end game
18 of asserting that unused CS-Entities’ Water Rights flow underground into the Muddy River
19 watershed and eventually into Lake Mead. While contested by CS-Entities, the State and others
20 will likely assert that these unused CS-Entities’ Water Rights will flow through the LWRFS into
21 the Muddy River Springs Area and the Muddy River, and will eventually flow downstream into
22 Lake Mead, thereby providing LVVWD and its affiliate SNWA, with additional water that can
23 be used and/or banked for use by these political entities in Southern Nevada as described in
24 SNWA’s reports and certifications to the U.S. Bureau of Reclamation, in the LVVWD / SNWA
25 Integrated Resource Plan(s) and annual Water Resource Plan(s), among others. The CS-Entities
26 assert that these recent State’s actions are driven in part by SNWA’s recent 2020 abandonment
27 of its long-planned pipeline for the pumping of groundwater from central Nevada into southern
28 Nevada.

1 **H. The State’s Response to LVVWD November 16, 2017 Letter.**

2 25. On May 16, 2018, and in response to LVVWD’s November 16, 2017 letter, the
3 State, through its State Engineer, sent a letter to LVVWD regarding Coyote Spring Valley Basin
4 Water Supply, with a copy to CS-Entities’ Representatives. A true and correct copy of the State
5 Engineer’s May 16, 2018 Letter is attached hereto as Exhibit “1”. In this correspondence, the
6 State asserted that the Order 1169 pump tests indicate that pumping at the level during the two
7 year pump test caused declines in groundwater levels and noted that monitoring of pumpage and
8 water levels has continued since completion of the pumping tests on December 31, 2012 and that
9 the additional data shows that groundwater levels and spring flows have remained relatively flat
10 while precipitation has been nearly average and the five basin carbonate pumping has ranged
11 between 9090 and 14766 acre feet annually during the years 2007 to 2017. *See Interim Order*
12 1303, Section IV final “whereas” clause, page 9.

13 26. The State Engineer's May 16, 2018 letter, the State Engineer publicly announced
14 that the amount of groundwater pumping that will be allowed in the five basin area (also known
15 as the “superbasin”) will be limited to the amount that will not conflict with the Muddy River
16 Springs or the Muddy River as they are the most senior rights in the five basin area. The State,
17 through its State Engineer, then further publicly announced that “carbonate pumping will have to
18 be limited to a fraction of the 40,300-acre feet already appropriated in the five basin area”. *Id.*
19 The State Engineer further stated:

20 Therefore, specific to the question raised in your November 16, 2017, letter,
21 considering current pumping quantities as the estimated sustainable carbonate
22 pumping limit, **pursuant to the provisions found in Nevada Revised Statutes**
23 **Chapter 278, 533 and 534, the State Engineer cannot justify approval of any**
24 **subdivision development maps based on the junior priority groundwater**
25 **rights currently owned by CWSRGID (sic)[Coyote Springs Water Resources**
26 **General Improvement District] or CSI unless other water sources are**
27 **identified for development.** (emphasis in original.)

26 These State actions effectively denied the CS-Entities the use and access to their Water
27 Rights and commenced a taking by the State of these Water Rights and associated Master
28 Planned development rights.

1 27. CS-Entities are informed and believe and thereupon asserts that the State
2 Engineer’s May 16, 2018 letter commenced a “take of CS-Entities’ property rights,
3 worked as a public announcement of the States’ intent to condemn and/or wrongfully take
4 CS-Entities’ Water Rights, and further worked to unreasonably delay CS-Entities’
5 continued development of its Approved Major Project development. CS-Entities further
6 contend that it was inappropriate, unreasonable, and oppressive for the State, and it’s State
7 Engineer, in response to an unsolicited inquiry by LVVWD, with no claim of conflict or
8 impairment of its water rights against the CS-Entities, to publicly announce its decision
9 and intent to manage groundwater resources “across the five-basin area” and that
10 “pumping will have to be limited to a fraction of the 40,300 acre-feet already appropriated
11 in the five-basin area”. *Id.*

12 28. Following the State and its State Engineer’s May 16, 2018 public announcement
13 of its intent to condemn and/or take the CS-Entities’ Water Rights and effectively freeze CS-
14 Entities’ development rights, in communications by email between CS-Entities Representatives
15 and the State Engineer, on May 17, 2018, the State further announced that it “would not sign off
16 on CSI's subdivision maps to allow their approval if they were based on the water rights CS-
17 Entities owned or those previously dedicated to the Coyote Springs General Improvement District
18 CS-GID.” CSI asserts that such State action was unreasonable, oppressive and unlawful.

19 29. On May 18, 2018, in conversation with CS-Entities Representatives, the State
20 Engineer advised CS-Entities “not to spend one dollar more on the Coyote Springs Development
21 Project and that processing of CSI's maps had stopped”. This further evidences the State’s intent
22 and decision to wrongfully take CSI’s existing and certificated water rights and to further
23 unreasonably delay and eventually wrongfully take CS-Entities’ development rights at its Master
24 Planned Community. The State announced that it would prepare a new draft order that would
25 supersede or dramatically modify Order 1169 and Ruling 6255. The State, again through its State
26 Engineer, admitted that this is “unchartered territory and his [State Engineer] office has never
27 granted rights and then just taken them away”. These statements of the State Engineer further
28 confirm the State’s taking of CS-Entities’ Water Rights.

1 30. On May 18, 2018, CS-Entities Representatives further inquired of the State
2 Engineer if anyone had filed an impairment claim or any type of grievance with regards to CSI's
3 and CS-GID's water rights and/or the pumping CS-Entities had performed over the last 12 years
4 at its Coyote Springs Master Planned Development. On May 21, 2018, the State Engineer
5 responded that no one has asserted a conflict or impairment regarding CSI's pumping of the CS-
6 GID and CS-Entities' Water Rights.

7 31. In an effort to best protect its water and development rights and its investment
8 backed expectations, on June 8, 2018, CSI filed a Petition for Judicial Review of the State
9 Engineer's May 16, 2018 letter in this Court, challenging the decision by the State Engineer to
10 place a moratorium on the processing of CSI's subdivision maps. After a court-ordered settlement
11 conference the State Engineer rescinded his May 16, 2018 letter and agreed to "process in good
12 faith any and all maps or other issue submittals as requested by CSI, and/or its agents or affiliates
13 in accordance with the State Engineers' ordinary course of business."

14 32. Recognizing its May 16, 2018 letter decision was unlawful and now rescinded, the
15 State Engineer began a public workshop process to review the water available for pumping in the
16 Lower White River Flow System ("LWRFS") which includes the Coyote Spring Valley basin.
17 On July 24, 2018, the State Engineer held a Public Workshop on the LWRFS and on August, 23,
18 2018, the State Engineer facilitated a meeting of the Hydrologic Review Team ("HRT"), a team
19 established under a 2006 Memorandum of Agreement ("MOA") among some of the same parties.

20 33. On September 7, 2018, the Office of the State Engineer issued two conditional
21 approvals of subdivision maps submitted for review by CSI. The first conditional approval was
22 for the Large Lot Coyote Springs—Village A, consisting of eight lots, common area, and rights
23 of way totaling approximately 643 acres in Clark County and requiring the statutory 2.0 afa per
24 lot, for a total of 16 afa. The second conditional approval was for the Coyote Springs—Village
25 A subdivision map, consisting of 575 lots, common areas and rights of way for approximately
26 142.71 acres in Clark County and requiring an estimate demand of 408.25 afa of water annually
27 based on .71 afa per residential unit. The two subdivision maps were conditionally approved by
28 the State Engineer subject only to a will serve letter from CS-GID and a final mylar map; the

1 State Engineer confirmed that sufficient water existed to supply to these subdivisions without
2 affecting senior water rights in the Muddy River and the Muddy River Springs.¹

3 34. On September 19, 2018, the State Engineer held an additional Public Workshop
4 on the LWRFS and issued a Draft Order at the workshop for comment (the “Draft Order”). A
5 true and correct copy of the September 19, 2018 Draft Order is attached as Exhibit "2". The Draft
6 Order contained a preliminary determination that there were 9,318 afa of water rights with a
7 priority date of March 31, 1983, or earlier, that could be safely pumped from the LWRFS basins
8 without affecting the flows in the Muddy River and without affecting the endangered Moapa dace
9 fish. The Draft Order also contained provisions that would place a moratorium on processing of
10 all subdivision maps unless there was a demonstration that there was a showing to the State
11 Engineer's satisfaction that an adequate supply of water was available "in perpetuity" for the
12 subdivision. CS-Entities are informed and believe and thereupon allege that the “in perpetuity”
13 restriction was arbitrary, capricious, and unreasonable and not supported by law or State
14 precedent.

15 35. On October 5, 2018, CSI-Entities sent a series of comment letters regarding the
16 Draft Order. CS-Entities commented upon the total lack of technical information that was
17 necessary to perform a comprehensive review of the State Engineer's conclusions in the Draft
18 Order. CS-Entities also pointed out to the State Engineer that his use of the 9,318 afa limit for
19 pumping in the basin was not supported by substantial evidence and that the State Engineer's own
20 data supported a figure of at least 11,400 afa that could be pumped without any effect on the flows
21

22
23 ¹ Conditional approval letter for Tentative Subdivision Review No. 13217-T Permit None for Coyote
24 Springs – Village A; dated September 7, 2018, and signed by Mark Sivazlian, PE, Section Chief,
25 Water Rights for the Division of Water Resources, and specifically stating on page 4 thereof:
26 “*Because there exist numerous mechanisms that may supply water to support Coyote Springs –*
27 *Village A...there exists justification to conditionally approved Coyote Springs Village – A, as*
28 *submitted.” And also see Conditional approval letter for Tentative Subdivision Review No. 13216-T
Permit None for Large Lot Coyote Springs – Village A; dated September 7, 2018, and signed by
Mark Sivazlian, PE, Section Chief, Water Rights for the Division of Water Resources, and
specifically stating on page 4 thereof: “*Because there exist numerous mechanisms that may supply
water to support Large Lot Coyote Springs – Village A...there exists justification to conditionally
approved Large Lot Coyote Springs – Village A, as submitted.”**

1 in the Muddy River or any effects on the Moapa dace. CS-Entities' technical expert, Mr. Steve
2 Reich, a qualified hydrogeologist from Stetson Engineering, after criticizing the State Engineer's
3 use of only three years of data, provided the following technical comments on the State Engineer's
4 Draft Order:

5 a. The observed data does not substantiate a direct relationship between
6 the recent three years of pumping and "relatively flat" groundwater levels and
7 spring discharge that support groundwater pumping of 9,318 acre-feet per year for
8 the 6-Basin area.

9 b. An extended 14-year dry period, including two wetter than normal
10 years, occurred from 2000 through 2012.

11 c. Climate and climatic cycles play a significant role in assessing available
12 water supply.

13 d. Discharge at the Pederson Spring Complex is affected by local and
14 regional recharge as shown by response to 1-year and multi-year climatic
15 conditions.

16 e. The relationship between local carbonate pumping and groundwater
17 levels in the [Muddy River Springs Area] MSRA [sic] is affected by recharge and
18 long-term climate. The impact to water levels from pumping in other basins is not
19 defined.

20 f. The effect of pumping in CSV [Coyote Spring Valley] on carbonate
21 groundwater levels in MSRA [sic] may be affected by groundwater barriers and
22 geologic structure.

23 g. Groundwater levels were declining in the MSRA at the early part of this
24 century when there was no pumping in the CSV.

25 h. Rainfall intensity and temporal distribution affect recharge and
26 subsequent groundwater levels in the 6-Basin area.

27 36. On October 23, 2018, CS-Entities provided additional comments on the
28 Draft Order noting again that the State Engineer's own data supported a determination that
the correct amount of pumping that could be sustained in the LWRFS was at least 11,400
afa and not 9,318 afa. However, even assuming that 9,318 afa was the correct number,
this would mean, based on CS-Entities' Water Right priority date of March 31, 1983, that
CS-Entities should be permitted to pump at least 1,880 afa of water for its Approved Major
Project subdivisions. Importantly, and as further evidence of its unreasonable and

1 oppressive conduct, the State, and its State Engineer have refused to acknowledge that the
2 1,880 afa was more than sufficient to support CSI's current proposed subdivision
3 developments that were conditionally approved by the Office of the State Engineer on
4 September 7, 2018. The State Engineer continued to unreasonably delay² the final
5 approval as to CS-Entities' two conditionally approval maps despite the fact the State
6 Engineer's own analysis in the September 19, 2018 Draft Order determined that CSI could
7 pump at least 1,880 afa of water from the Coyote Spring Valley Basin in priority and
8 would be within the 9,318 afa of water that the State Engineer believed could be safely
9 pumped. After CS-Entities incurred extensive time, energy, and expenses related to
10 responding to and addressing the State's proposed Draft Order, the State Engineer
11 abandoned the Draft Order outright and failed to process same as a final order. CS-Entities
12 assert that such actions were unfair, unreasonable, and designed to further delay and
13 frustrate CS-Entities' efforts to continue its Master Planned Development.

14 37. On January 11, 2019, the State Engineer issued Interim Order 1303 (the
15 "Interim Order"). A true and correct copy of the January 11, 2019 Interim Order 1303 is
16 attached as Exhibit "3". In the Interim Order, the State Engineer again declared, consistent
17 with its prior, now withdrawn May 18, 2018 letter, that Coyote Spring Valley, Muddy
18 River Springs Area, Hidden Valley, Garnet Valley, California Wash, and the northwestern
19 part of the Black Mountains Area are designated as a joint administrative unit for purposes
20 of administration of water rights, known as the Lower White River Flow System or the
21 Six-Basin Area. Interim Order 1303 also declared a temporary moratorium on approvals
22 regarding any final subdivision or other submissions concerning development and
23 construction submitted to the State Engineer for review. According to Interim Order 1303,
24 any such submissions shall be held in abeyance pending the conclusion of the public
25

26
27 ² CS-Entities' representatives inquired as to the status of the maps submitted for processing several
28 times, via telephone and electronic-mail between August 15, 2019 and early January 2020, to no
avail, and the State Engineer would not meet or discuss any outstanding questions or concerns of
their office regarding the submittal.

1 process to determine the total quantity of groundwater that may be developed within the
2 Lower White River Flow System. Interim Order 1303 does provide, however, that the
3 State Engineer may review and grant approval of a subdivision or other submission if a
4 showing can be made of an adequate and sustainable supply of water to meet the
5 anticipated "life of the subdivision." Unfortunately, the State Engineer continued its
6 unreasonable and oppressive delay practice as to CS-Entities pending subdivision map
7 submittals, the State Engineer again failed to address any of the technical and legal issues
8 raised by CS-Entities in its comments and failed to recognize that even under the State
9 Engineer's own analysis, there was more than sufficient water in the Six-Basin Area to
10 support CS-Entities current pending subdivision plans. These continuing delays were
11 unreasonable and oppressive actions that have and continue to effectuate an unlawful
12 taking of CS-Entities use and enjoyment of its Water Rights and Master Planned
13 Development rights.

14 **I. The State Failed to Finally Approve CSI's Conditionally Approved**
15 **Subdivision Maps Despite Available Water for Such Development Under the State**
16 **Engineer's Own Water Availability Analysis.**

17 38. CS-Entities have submitted, and attempted to fully process, certain Coyote Springs
18 Village A Development Maps required to move their Approved Major Project and Master Planned
19 Development forward. Specifically, CS-Entities have submitted and obtained Conditional
20 Approval to the following Village A development maps:

21 A. Village A – Large Lot Tentative Map (TM-18-500081) (8 Lots)

- 22 a. Submitted : May 14, 2018
- 23 b. CC Planning Commission Final Approval: July 3, 2018
- 24 c. Expires July 3, 2022
- 25 d. LVVWD Response Letter dated August 20, 2018
- 26 e. State of Nevada- Division of Water Resources on Sept. 7, 2018 –
27 Conditionally Approved subject to a will serve letter, and then as set
28 forth in Order 1303 a verifiable water source condition.
- f. CSI satisfies verifiable water source condition on June 13, 2019, upon
submittal of Technical Report 053119.0 dated May 31, 2019 issued
by Stetson Engineering, Inc., to the State Engineer.

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B. Village A – Large Lot Final Map (8 Lots)

- a. Final Mylar Submitted to Division of Water Resources: June 13, 2019 -- No Response
- b. Paper Map Reviews through Clark County with County Approval “OK to Submit Final Mylar Map”
- c. Paper Final Map submitted to LVVWD – Response Letter dated September 12, 2018.

C. Village A – Parcels A-D Tentative Map (575 Residential Lots)

- a. Submitted: June 11, 2018
- b. Board of County Commissioners Approval: Aug. 8, 2018
- c. Expires: July 3, 2020
- d. LVVWD Response Letter date August 20, 2018
- e. State of Nevada- Division of Water Resources on Sept. 7, 2018 – Conditionally Approved subject to a will serve letter, and then as set forth in Order 1303 a verifiable water source condition.
- f. CSI satisfies verifiable water source condition on June 13, 2019, upon submittal of Technical Report 053119.0 dated May 31, 2019 issued by Stetson Engineering, Inc., to the State Engineer.

D. Village A – Parcel A-B Unit 1 Final Map (30 Lots) - Only Department of Water Resources submittal

- a. Paper Final Map only to DWRS: Dec. 4, 2018 - No Response from Department of Water Resources.

(Collectively the “Conditionally Approved Maps”).

39. On September 12, 2018, LVVWD sent the State Engineer correspondence advising that LLVWD “in its capacity as manager of the Coyote Springs Water Resources General Improvement District (GID), has reviewed the subject [Coyote Springs Village A] subdivision map” and that based upon “the facts described in the Sate Engineer’s letter dated May 16, 2018, concerning the viability of groundwater rights previously dedicated to the GID by the developer [CS-Entities], the uncertain resolution of the Lower White River Flow System (“LWRFS”) workshop process initiated by the Division of Water Resources . . . , and the [LVVWD] District’s assessment of aquifer dynamics, potential conflicts with senior rights, and potential adverse impacts to endangered species, the District is unable to confirm the availability of water resources sufficient to support recordation of this map at this time”.

1 40. The State failed to issue final approval of these Conditionally Approved Village
2 A Maps, despite the fact that the State Engineer’s own Draft Order and Interim Order 1303 allow
3 development to proceed if conditions were met by the CS-Entities. Those conditions were met
4 on June 11, 2019, upon submittal of Technical Report 053119.0 issued by Stetson Engineering,
5 Inc. to the State Engineer, providing the necessary analysis that sufficient available water is
6 present to support this proposed Coyote Springs Village A development. CS-Entities asserts that
7 the State’s failure to finally approved the Conditionally Approved Maps was wrongful,
8 unreasonable and oppressive and have effectuated precondemnation damages, inverse
9 condemnation damages, and a wrongful taking of CSI’s property rights, including CSI’s Water
10 Rights and its development rights as to the Coyote Springs Master Planned Development and
11 Approved Major Project, in the Coyote Springs Valley.

12 **J. The State Engineer Issues Order 1309 Which Effectuates A Take of CS-**
13 **Entities’ Water Rights and Its Master Planned Development Rights, and Has**
14 **Destroyed All Viable Economic Use of CS-Entities’ Property.**

15 41. On June 15, 2020, the State, through its State Engineer, issued Order 1309.
16 Pursuant to its Order 1309, the State Engineer ordered, in relevant part:

- 17 1. The Lower White River Flow System consisting of the Kane Springs Valley, Coyote
18 Spring Valley, Muddy River Springs Area, California Wash, Hidden Valley, Garnet
19 Valley, and the Norwest potion of the Black Mountains Area as described in this
20 Order, is herby delineated as a single hydrographic basin.
- 21 2. The maximum quantity of groundwater that may be pumped from the Lower White
22 River Flow System Hydrographic Basin on an average annual basis without causing
23 further declines in Warm Springs area spring flow and flow into the Muddy River
24 cannot exceed 8,000 afa and may be less.
- 25 3. The maximum quantity of water that may be pumped from the Lower White Rive
26 Flow System Hydrographic Basin may be reduced if it is determined that pumping
27 will adversely impact the endangered Moapa dace.
- 28 4. All applications for the movement of existing groundwater rights among sub-basins
of the Lower White River Flow System Hydrographic Basin will be processed in
accordance with NRS 533.370.

1 5. The temporary moratorium on the submission of final subdivision or other submission
2 concerning development and construction submitted to the State Engineer for review
established under Interim Order 1303 is hereby terminated.

3 6. All other matters set forth in Interim Order 1303 that are not specifically addressed
4 herein are hereby rescinded.

5 See State Engineer’s Order 1309 a true and correct copy of which is attached hereto as Exhibit
6 “4”.

7 42. The State Engineer’s Order 1309, in creating a new single super basin now known
8 as the Lower White River System Hydrological Basin (“LWRFS”) for these seven previously
9 stand-alone hydrological basins, with its limitation of the maximum quantity of groundwater that
10 may be pumped from the LWRFS on an average annual basis that “cannot exceed 8,000 afa and
11 may be less” effectuates a “take” of the CS-Entities Water Rights and its Master Planned
12 Approved Major Project development rights. Multiple legal challenges have been filed by
13 impacted parties, including CSI, to the State Engineer’s Order 1309. If Order 1309 is allowed to
14 stand, the State, will have effectuated an unlawful and unconstitutional take of CS-Entities’
15 property for which just compensation is due. Moreover, even with a judicial set aside of State
16 Engineer’s Order 1309, the State has occasioned a wrongful precondemnation delay and other
17 violations as claimed below, on CS-Entities for which compensation is now due and owing CSI.

18 43. Immediately following its issuance of Order 1309, the State, through its State
19 Engineer, sent correspondence dated June 17, 2020 to CS-Entities regarding its “Final
20 Subdivision Review No. 13217-F” as to CS-Entities’ conditionally approved Coyote Springs
21 Village A subdivision maps, which provided for “eight large parcels intended for further
22 subdivision”. The State Engineer, relying upon the LWRFS as a single hydrological basin, stated
23 in part:

24 General: Coyote Springs Investment, LLC groundwater permits have priority dates
25 which may exceed the threshold of allowable pumping within the
definition of this order.

26 The State Engineer then took the following action:

27 Action: The Division of Water Resources recommends disapproval concerning
28 water quantity as required by statute for Coyote Springs Village A

1 subdivision based on water service by Coyote Springs Water Resources
2 General Improvement District.

3 A true and correct copy of the State Engineer's June 17, 2020 letter is attached hereto as Exhibit
4 "5".

5 44. CS-Entities assert and thereupon allege that the State's actions, and its application
6 of Order 1309 as to CS-Entities' water rights and pending Coyote Springs Village A Maps,
7 effectively deprives the CS-Entities of all economically viable beneficial use of its property and
8 precludes and prevents the continued development of the Coyote Springs Master Planned
9 Community and Approved Major Project. The State's action of joining multiple groundwater
10 basins into the single Lower White River Flow System ("LWRFS") hydrographic basin and
11 reducing the "maximum quantity of groundwater that may be pumped from the LWRFS" is a
12 wrongful and unconstitutional "take" of CS-Entities' Water Rights and Master Planned
13 Community and Major Project development rights for which just compensation for such take is
14 due the CS-Entities. The United State Supreme Court stated in *Lucas v. South Carolina Coastal*
15 *Council*, 112 S.Ct. 2886, 120 L.Ed.2d 796, 505 U.S. 1003 (1992) that "when the owner of real
16 property has been called upon to sacrifice all economically beneficial uses in the name of the
17 common good, that is, to leave his property economically idle, he has suffered a taking." CS-
18 Entities asserts that they have suffered such a taking and that just compensation for such taking
19 of its property rights is now due.

20 45. CSI has previously relinquished 460 afa of its certificated and permitted water
21 rights for protection of the Moapa dace endangered fish species and has committed to dedicate
22 5% of all additional water CSI acquires above 4600 afa and used to support its development.
23 Such water right mitigation contribution was aimed at mitigating the potential decrease in in-
24 stream water flows along the Muddy River to best protect the Moapa dace potentially caused by
25 the ground water pumping needed for the continued development of the Coyote Springs Master
26 Planned Development and Approved Major Project. To take the balance of CSI's Water Rights
27 to further protect the Moapa dace, is an unfair and unreasonable burden placed upon CS-Entities
28 which should be more appropriately born by the public as a whole rather than on the CS-Entities

1 individually. “[W]hen the owner of real property has been called upon to sacrifice all
2 economically beneficial uses in the name of the common good, that is to leave his property
3 economically idle, he has suffered a taking”. *Lucas v. South Carolina Coastal Council*, 505 U.S.
4 1003 (1982). In this matter, CS-Entities have been called upon, though State Order 1309, to
5 sacrifice all economically beneficial uses of its Water Rights and real property development rights
6 allegedly in the name of the common good, the protection of the Moapa dace, which is a taking
7 for which just compensation is required.

8 46. CS-Entities asserts that the aforementioned acts of the State, and its issuance and
9 application of Order 1309 by the State Engineer, effectuated a total regulatory taking of all of CS-
10 Entities’ economically viable use of the entirety of its Coyote Springs property for which it is
11 entitled to an award of just compensation.

12 III.

13 FIRST CLAIM FOR RELIEF

14 (Inverse Condemnation – Lucas Regulatory Taking)

15 47. CS-Entities incorporate the preceding paragraphs as if fully set for the herein.

16 48. The Nevada Supreme Court has previously recognized that the first right
17 established in the Nevada Constitution’s declaration of rights is the protection of a landowner’s
18 inalienable rights to acquire, possess and protect private property. The Nevada Supreme Court
19 further recognized “the Nevada Constitution contemplates expansive property rights in the
20 context of takings claims through eminent domain” and that “our State enjoys a rich history of
21 protecting private property owners against government taking.” *McCarren Intern. Airport v.*
22 *Sisolak*, 122 Nev. 645, 669, (2006). The United States Supreme Court has “recognized that
23 government regulation of private property may, in some instances, be so onerous that its effect
24 is tantamount to a direct appropriation or ouster – and that such “regulatory takings” may be
25 compensable under the Fifth Amendment” of the United States Constitution. *Sisolak*, 122 Nev.
26 at 662. Further, “the Supreme Court has defined “two categories of regulatory action that
27 generally will be deemed *per se* takings for Fifth Amendment Purposes.” *Id.* One such *per se*
28 regulatory taking occurs when a government regulation “completely deprives an owner of all

1 economical beneficial use of her property.” *Id.* CSI-Entities asserts and alleges that the State’s
2 Orders, concluding in Order 1309, effectuates a *per se* regulatory taking and deprives CS-
3 Entities of all economical beneficial use of its property in Coyote Springs.

4 49. The State Engineer’s May 18, 2018 Letter, its purported “draft order” issued only
5 for delay, its 1303 Interim Order, its Order 1309, and its most recent June 17, 2020 “disapproval
6 concerning water quantity . . . for Coyote Springs Village A subdivision”, all have effectuated a
7 regulatory taking of CS-Entities’ Water Rights, its property, and its development rights which
8 requires compensation to CS-Entities (the “State Engineer’s Orders”). The State Engineer’s
9 Orders have had a massive, devastating and continuing economic impact on the CS-Entities and
10 their Coyote Springs Master Planned Development, blocked and interfered with CS-Entities’
11 reasonable and approved investment-backed expectations to design, develop, construct and sell
12 Coyote Springs Master Planned Development, and unfairly signaled out CSI to bear the burden
13 of protecting the Moapa dace that should more appropriately be borne by the public as a whole.
14 The Defendants’ actions have left CS-Entities’ property economically idle and the CS-Entities
15 have suffered an unconstitutional taking for which just compensation is now due.

16 50. CS-Entities are informed and believe and thereupon alleges that the State, and its
17 State Engineer’s actions as described herein, were wrongful, oppressive and unreasonable and
18 have resulted in a taking of CS-Entities’ Water Rights, its property, and its Master Planned and
19 Approved Major Project development rights, and any viable economic use of its property. The
20 State’s actions rise to the level of an unconstitutional *per se* regulatory taking for which just
21 compensation is due to the CS-Entities.

22 51. The State’s taking of CS-Entities’ property by the public constitutes a taking by
23 inverse condemnation which require compensation under the Fourteenth Amendment to the
24 United Sates Constitution and Article I, Section 8 of the Nevada Constitution, requiring the
25 State to pay full and just compensation to Plaintiff CS-Entities.

26 52. As a result of the State’s wrongful conduct and actions as described herein, the
27 CS-Entities have been damaged far in excess of \$15,000.
28

1 53. As a further result of Defendants’ wrongful conduct, Plaintiffs have been
2 required to retain legal counsel to prosecute this action and therefor Plaintiff CS-Entities are
3 entitled to recover their reasonable attorneys’ fees and costs of suit incurred in this action.

4 **SECOND CLAIM FOR RELIEF**

5 **(Inverse Condemnation –Penn Central Regulatory Taking)**

6 54. CS-Entities incorporate the preceding paragraphs as if fully set forth the herein.

7 55. Regulatory taking challenges are governed by the standard set forth in *Penn*
8 *Central Transportation Co. vs New York City*, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d
9 631(1978). In determining whether a Penn Central-type regulatory taking has occurred a Court
10 should consider (1) the regulation’s economic impact on the property owner, (2) the regulations
11 interference with investment-backed expectations, and, (3) the character of the government
12 action. *Sisolak*, 122 Nev. at 663.

13 56. The State Engineer’s May 18, 2018 Letter, its 1303 Interim Order, its Order
14 1309, along with the June 17, 2020 “disapproval” of Coyote Springs Village A subdivision
15 maps based on water service” all have effectuated a *Penn Central* regulatory taking of the CS-
16 Entities’ property and development rights which requires compensation to the CS-Entities (the
17 “State Engineer’s Orders”). The State Engineer’s Orders have had a massive and devastating
18 economic impact on the CS-Entities and their Coyote Springs Master Planned Development,
19 blocked, interfered with, and ultimately destroyed the CS-Entities’ investment-backed
20 expectations to design, develop, construct and sell Coyote Springs Master Planned
21 Development, and unfairly signaled out the CS-Entities to bear a public burden, protecting the
22 Moapa dace, that should be borne by the public as a whole rather than by the CS-Entities. This
23 is particularly true when the CS-Entities, as the Master Planned Community and Approved
24 Major Project owner and developer, has previously transferred and conveyed 460 afa of their
25 water rights in Coyote Springs Valley, to mitigate for any potential damage the Coyote Springs
26 development and its water use may cause to water flows and the Moapa dace. CS-Entities’
27 investment backed expectations have been destroyed and wrongfully taken by the State for
28 which just compensation is now due.

1 57. Defendants taking of the CS-Entities’ property by the public constitutes a taking
2 by inverse condemnation which require compensation under the Fourteenth Amendment to the
3 United Sates Constitution and Article I, Section 8 of the Nevada Constitution, requiring
4 Defendants to pay full and just compensation to Plaintiff.

5 58. As a result of Defendants’ wrongful conduct and actions, the CS-Entities have
6 been damaged far in excess of \$15,000.

7 59. As a further result of Defendants’ wrongful conduct, the CS-Entities have been
8 required to retain legal counsel to prosecute this action and therefor are entitled to recover their
9 reasonable attorneys’ fees and costs of suit incurred in this matter.

10 **THIRD CLAIM FOR RELIEF**
11 **(Pre-Condemnation Damages)**

12 60. Plaintiff repeats and realleges all prior paragraphs as though fully set forth
13 herein.

14 61. The State’s acts and/or omissions have resulted in Plaintiff CS-Entities suffering
15 pre-condemnation damages in an amount to be determined at trial, due to the massive delays in
16 processing Plaintiffs’ pending, and conditionally approved, subdivision maps thereby freezing
17 continuing development of the Coyote Springs Master Planned Development.

18 62. The pre-condemnation taking of Plaintiff’s property by the public mandates
19 compensation under the Fourteenth Amendment to the United States Constitution and Article I,
20 Section 8 of the Nevada Constitution, requiring the State to pay full and just compensation to
21 Plaintiffs CS-Entities in an amount to be determined.

22 63. As a further result of Defendants’ wrongful conduct, the CS-Entities have been
23 required to retain legal counsel to prosecute this action. Plaintiffs are therefore entitled to
24 recover their reasonable attorney’s fees and costs of suit incurred in this action.

25 **FOURTH CLAIM FOR RELIEF**
26 **(Equal Protection Violations)**

27 64. Plaintiffs repeat and reallege all prior paragraphs as though fully set forth herein.
28

1 65. Under the Fourteenth Amendment of the United States Constitution, the State,
2 cannot deprive the CS-Entities of the equal protection of the law. Under the Equal Protection
3 Clause, CS-Entities must not be subjected to discrimination by the State and its State Engineer's
4 decisions that result in standardless and inconsistent administration. The State Engineer has
5 violated Plaintiff CSI's rights to equal protection under the Nevada and United States
6 Constitutions as its May 16, 2018 letter, its Draft Order, and its Interim 1303 Order, all singled
7 out the CS-Entities as to the map moratorium contained therein. By failing to timely process
8 and fairly adjudicate CS-Entities' pending maps and applications, including its Conditionally
9 Approved Maps, the State has treated CS-Entities in a different, standardless and inconsistent
10 position than others similarly situated.

11 66. The State, intentionally and without rational basis, treated CS-Entities differently
12 than others subject to its State Engineer Orders, by placing a moratorium on the processing and
13 final approval of CS-Entities' Master Planned Development submitted subdivision maps and
14 Conditionally Approved Maps as described herein. The State and its State Engineer, have
15 unfairly and in bad faith, targeted the CS-Entities.

16 67. The State and its State Engineer, without rational basis, treated the CS-Entities
17 differently from other similarly situated, and accordingly violated the equal protection clause of
18 the Fourteenth Amendment of the United States Constitution. *N. Pacifica LLC vs. City of*
19 *Pacifica*, 526 F.3d 478,486 (9th Cir. 2008).

20 68. Plaintiff CS-Entities are entitled to damages for these Equal Protection
21 violations.

22 69. Defendant's conduct has required Plaintiffs to incur attorneys' fees and costs of
23 suit to bring this action, and Plaintiffs are entitled to an award of attorneys' fees and costs
24 incurred in this action.

25 **FIFTH CLAIM FOR RELIEF**

26 **(Violation of 42 U.S.C. Sec. 1983)**

27 70. Plaintiffs repeats and realleges all prior paragraphs as though fully set forth
28 herein.

1 71. The above described actions also subject the State to liability under 42 U.S.C
2 Sec. 1983.

3 72. The above referenced Equal Protection violations were committed by the State,
4 and its State Engineer, purportedly acting under color of state laws including NRS 533 et seq.

5 73. The State conduct deprived the CS-Entities of the rights, privileges, and
6 immunities secured by the Constitution and /or laws of the United States to which the CS-
7 Entities are legitimately entitled.

8 74. The CS-Entities have been damaged by such deprivations in an amount to be
9 determined at trial.

10 75. The State’s conduct has required Plaintiff CS-Entities to incur attorneys’ fees
11 and costs of suit to bring this action, and Plaintiffs are entitled to an award of their attorneys’
12 fees and costs incurred in this matter.

13 **SIXTH CLAIM FOR RELIEF**

14 **(Claim of Attorneys’ Fees Incurred Herein)**

15 76. Plaintiffs repeats and realleges all prior paragraphs as though fully set forth
16 herein.

17 79. CS-Entities asserts that the State’s conduct has required Plaintiffs to incur
18 attorneys’ fees to bring this action and that Nevada Revised Statutes and State Common Law
19 provide for an award of attorneys’ fees to prevailing parties in inverse condemnation actions.
20 CS-Entities hereby provide notice to these Defendants that it intends to pursue its attorneys’
21 fees incurred in this action as allowed by Nevada law. Accordingly, the CS-Entities reserve all
22 rights to pursue an award of their Attorney Fees incurred in this matter as allowed by law.

23 **IV.**

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs pray for the following relief:

- 26 1. For payment of full and just compensation as provided by law for the taking of
27 property, water rights, and development rights of the CS-Entities.
28 2. For Pre-Condemnation damages in an amount to be proven at trial;

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- 1 3. For compensatory and special damages as set forth herein;
- 2 4. For pre-judgment and post-judgment interest, as allowed by law;
- 3 5. For all of the CS-Entities' incurred attorneys' fees and costs of suit as provided by
- 4 law;
- 5 6. For all other remedies and relief that the Court deems just and appropriate.

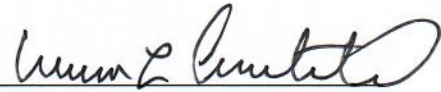
6 V.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiffs CS-Entities, hereby demand a jury trial for all issues so triable.

9 DATED this 28th day of August, 2020.

10 COULTHARD LAW, PLLC

11 

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