

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting

August 25, 2017, 9:30 a.m.

NACO Office

304 S. Minnesota Street

Carson City, NV 89703

AGENDA

Some NACO Board members may attend via video link or phone from other locations. Items on the agenda may be taken out of order. The NACO Board may combine two or more agenda items for consideration. The NACO Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

Call to Order, Roll Call and Pledge of Allegiance

1. Public Comment. Please Limit Comments to 3 Minutes.
2. Approval of Agenda. **For Possible Action.**
3. NACO President's Report.
4. NACO Executive Director's Report.
5. Acceptance of the Resignation Letter of NACO Executive Director Jeff Fontaine and Terms of Resignation. **For Possible Action.**
6. Appointment of Deputy Director, Dagny Stapleton, as NACO Executive Director and Approval of the Employment Agreement. **For Possible Action.**
7. Approval of Minutes of the June 23, 2017 and August 10, 2017 NACO Board of Directors Meetings. **For Possible Action.**
8. Acceptance of NACO's July 2017 Financial Statement and Investment Report. **For Possible Action.**
9. Approval for Charter Communications to be an Associate Member of NACO. **For Possible Action.**
10. Selection of Six Nominees who Reside in a County whose Population is Less than 100,000 for Possible Appointment by the Governor to Four Positions on the Nevada Right to Counsel Commission (SB377 from the 2017 Legislative Session). **For Possible Action.**
11. Discussion regarding the Submittal of Nominees by Counties for Possible Appointment by the Governor to the Board of Directors of the Nevada Clean Energy Fund (SB407 from the 2017 Legislative Session).
12. Approval of a Letter to Secretary of State, Barbara Cegavske, and Assembly Ways and Means Committee Chairman, Maggie Carlton, Expressing NACO's Appreciation for their Leadership in the Enactment of AB519 which makes an Appropriation of \$5 Million to Award Grants to the Counties for the Purchase of Voting Machines. **For Possible Action.**
13. Briefing on Changes in Recording Fees Contained in AB169 Enacted in the 2017 Legislative Session.
14. Presentation by WiFi in the Park LLC on a Nevada Statewide Managed WiFi Network Proposal
15. Briefing on Nevada 2-1-1, a Free Service that Provides Information about Vital Health and Human Service Programs that are Available throughout the State.
16. Update on Bureau of Land Management Fires.

Note: The NACO Board of Directors May Interrupt the Open Meeting and Exclude the Public from the Meeting for the Limited Purpose of Receiving the Information and for Deliberation Relative to Agenda Item #17(d) i, (d) ii and (e) below:

17. Update and Possible Action Regarding Public Lands and Natural Resources Issues Including:
 - a) March 27, 2017 Memorandum from the Secretary of Interior to the Bureau of Land Management, "Improving the Bureau of Land Management's Planning and National Environmental Policy Act Processes." **For Possible Action.**
 - b) Update on Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District.
 - c) Military Withdrawals
 - i. The U.S. Department of the Navy's Notice of Intent to Prepare a Legislative Environmental Impact Statement for the Fallon Range Training Complex Modernization: Expansion of Land Ranges, Airspace Modifications, and Public Land Withdrawal Renewal.
 - ii. The U.S. Air Force's Notice of Intent to Prepare a Legislative Environmental Impact Statement for the Nevada Test and Training Range Military Land Withdrawal at Nellis Air Force Base.
 - d) Greater Sage-Grouse. **For Possible Action.**
 - i. BLM's Proposed Sagebrush Focal Area Withdrawal Draft Environmental Impact Statement.
 - ii. The BLM's and U.S. Forest Service's Greater Sage-Grouse Resource Management Plans including the Complaint for Declaratory and Injunctive Relief Filed by the State of Nevada and Nine Nevada Counties, and Recent Implementation Training.
 - iii. August 4, 2017 Report Pursuant to U.S. Department of Interior Secretarial Order 3353.
 - iv. The Nevada Collaboration Conservation Network.
 - e) The Center for Biological Diversity's Lawsuit against the U.S. Fish and Wildlife Service Seeking to Vacate their Decision not to List the Bi-State Sage Grouse as an Endangered Species and NACO's Motion to Intervene on behalf of the F&WS.
18. NACO Committee of the Emeritus Update.
19. National Association of Counties and Western Interstate Region Board Member Updates.
20. NACO Board Member Updates.
21. Public Comment - Please Limit Comments to 3 Minutes

Adjournment.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify NACO in writing at 304 S. Minnesota Street, Carson City, NV 89703, or by calling (775) 883-7863 at least three working days prior to the meeting.

Members of the public can request copies of the supporting material for the meeting by contacting Amanda Evans at (775) 883-7863. Supporting material will be available at the NACO office and on the NACO website at: www.nvnaco.org

This agenda was posted at the following locations:

NACO Office 304 S. Minnesota Street, Carson City, NV 89703

Washoe County Admin. Building 1001 E. Ninth Street, Reno, NV 89520

Clark County Admin. Building 500 S. Grand Central Parkway, Las Vegas, NV 89155

POOL/PACT 201 S. Roop Street, Carson City, NV 89701

The following links and/or pages are support for agenda
Item 7

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Special Meeting

August 10, 2017, 8:30 a.m.

UNADOPTED MINUTES

Attendance: Douglas County Commissioner Thaler, Lyon County Commissioner Alt, Storey County Commissioner McGuffey and NACO Staff (Jeff Fontaine, Dagny Stapleton, Amanda Evans and Tori Sundheim)

Remote Attendance: President Elect Weekly, Vice President Waits, Past President Wichman, Mineral County Commissioner Tipton, Washoe County Commissioner Herman, Churchill County Commissioner Olsen, Eureka County Commissioner Goicoechea, Humboldt County Commissioner French, Nancy Parent, Nevada Association of Clerks and Election Officials and Bob Roshak, Nevada Sheriffs Association.

Other Attendees: Pam Webster, Nye County Manager

The meeting was called to order at 8:30A by President-elect Weekly.

1. **Public Comment.** None was given.
2. **Approval of Agenda.** The agenda was approved on a motion by Past President Wichman with second by Commissioner Tipton
3. **Discussion and Possible Approval of the Recruitment and/or Hiring Process to Replace the Outgoing Executive Director of NACO.** Jeff reminded the Board that on August 2nd he had notified the Board that he had accepted the position of Executive Director of the Central Nevada Regional Water Authority and therefore would be stepping down as the Executive Director of NACO. He told the Board that it had been an honor to serve the Association for the past ten years and thanked the Executive Committee and the Board members that he had previously spoken to regarding the situation for their support. He informed the Board that he is planning his departure sometime between the 30th of September and the end of October to ensure that there is time for the transition and that he has the time to complete some things for the Association and noted that the CNRWA has given him flexibility to ensure the transition is as smooth as possible and that he will be available as needed beyond his official exit date. Jeff then referenced the By-Laws as they outline the Boards appointment of the Executive Director and the qualifications and responsibilities of the position and reminded the Board that there are two regularly scheduled Board meetings prior to his target timeframe for departure. President Elect Weekly opened the floor for discussion on the process for Jeff's replacement, Vice President Waits said she was open to the Board's pleasure, however if the decision is made to advertise the position that it should happen as soon as possible. President Elect Weekly recommended Dagny for the position and noted her relationships with not only the Board members but those relationships she holds with people, departments and partners throughout the state. Past President Wichman inquired as to whether the President Elect would like to make that a motion to which she would provide second. Vice President Waits and Commissioner Tipton inquired as to whether Dagny would like the position. Dagny addressed the Board and stated that she is interested and would be honored to be considered for the position. She said that she had spoken with Jeff at length and feels she is up for the challenge and believes in and is passionate about the Association. Commissioner McGuffey commented that while he hates to see Jeff leave, during the last Legislative Session he was very impressed with Dagny's performance and she was the first person that came to mind when he thought about the need to fill the position. Commissioner Alt echoed Commissioner McGuffey's sentiments but inquired if there was a legal need to go through an advertising period. Jeff

clarified that they By-Laws are clear in their direction to the Board and its flexibility. He also noted that if the Board decides to offer the position to Dagny, it should be put on the agenda for the August 25th meeting to allow for time to complete contracts. President Elect Weekly noted that he would be much more comfortable with placing the final decision up to a vote at the next Board meeting when President Phillips would be present. Jeff informed the Board that he spoke with President Phillips the previous day and that while he was hesitant to speak for the President, Dagny's possible appointment was a part of that discussion but it is well within the Board's authority to direct staff to work with the Executive Committee on a contract for a vote on August 25th. Past President Wichman moved to direct staff to work with the Executive Committee on a contract with Dagny and to place the contract and salary on the agenda for August 25th as an action item, Commissioner Herman seconded the motion and it was approved unanimously.

4. **Discussion and Possible Approval for NACO to Provide Supplemental Travel Funds to Humboldt County Commissioner Jim French to Participate in the National Association of Counties Annual Payment in Lieu of Taxes (PIILT) Fly-In from September 6-8, 2017 in Washington D.C.** Jeff informed the Board that this is an annual event to educate Members of Congress about PILT and to lobby for funding for the program. He noted that at the NACO Annual Conference the previous month that each state was requested to submit names to NACO for participation in the event and that while all Commissioners are welcome to attend the event, Commissioner French had been selected to be an official NACO representative for the event. Jeff noted that NACO would cover a portion of the travel costs for Commissioner French. He further noted that the travel policy allows for offsetting of the remaining costs and that there are sufficient travel funds available in the budget if the Board so desires. President Elect Weekly stated that he appreciates Commissioner French's leadership and participation and that he would support covering the remaining funds. Commissioner Tipton moved to cover the remaining expenses and Past President Wichman seconded the motion. The motion passed with abstention by Commissioner French.
5. **NACO Board Member Updates.** Past President Wichman informed the board that the BLM has permitted a solar plant near Tonopah. Commissioner McGuffey shared that Storey County had participated in a workshop with GOED and that they are in the process of using the effluent water from the Truckee Meadows Regional Water Authority as cooling water for servers at the industrial park. Commissioner Thaler informed the Board that Douglas County will be hosting an Aviation Round Up at which the Thunderbirds will be present on October 7th and 8th and that if any of the members are interested in attending to contact him. Commissioner Goicoechea informed the Board that he had requested staff to distribute the report that DOI staff had submitted to Secretary Zinke about the review of the Sage Grouse Plan Amendment the previous day. He let the Board know that the Sagebrush Eco-System Council will be providing comment on the report and he requested that the Board review the document and give him any feedback within the next three weeks and that he would take those comments and concerns to the Council at their next meeting.

President Elect Weekly requested an update on the Annual Conference and Jeff noted that when the conference is held in September early registration is typically slow. Amanda concurred with Jeff's assessment and encouraged the Board to remind their colleagues and staff to register before the end of Early Bird registration on the 18th. Jeff also noted the posting of the draft agenda and the completion of the sessions and that the speakers scheduled are impressive. Commissioner French also informed the Board that he had contacted Secretary Zinke and invited him to attend the conference and that the Secretary was interested in attending. Commissioner French stated that he had submitted all necessary documents to his office for the Secretary to attend and that he had informed the Commissioner that if he is not able to attend he would send someone from his office in his stead.

6. **Public Comment.** None was given.

The meeting was adjourned at 9:11A on a motion by Commissioner Thaler with second by Past President Wichman.

NEVADA ASSOCIATION OF COUNTIES (NACO)
Board of Directors' Meeting
June 23, 2017

UNADOPTED MINUTES

Attendance: President Elect Weekly; Vice President Waits; Past President Wichman; Mineral County Commissioner Tipton; Lyon County Commissioner Alt; Washoe County Commissioner Herman; Storey County Commissioner McGuffey; Carson City Mayor Crowell; Humboldt County Commissioner French; Ken Retterath, Nevada Association of Human Service Administrators and NACO Staff (Jeff Fontaine, Dagny Stapleton, Amanda Evans and Tori Sundheim)

Remote Attendance: Elko County Commissioner Dahl and Clark County Commissioner Kirkpatrick

Other Attendees: Churchill County Manager, Eleanor Lockwood; Linda Bisset, NV Energy; Storey County Assessor, Jana Seddon; Churchill County Assessor, Denise Helton; Humboldt County Assessor, Jeff Johnson; Nye County Public Information Officer, Arnold Knightly; Nye County Manager, Pam Webster; Churchill County Commissioner Erquiaga; Douglas County Human Services Administrator, Karen Beckerbauer; Nikki Lynn, Humboldt County; Jeff Figueiredo, Nevada Army National Guard and Jared Aranda, NACO Summer Intern.

The meeting was called to order at 9:31A.

1. **Public Comment.** Jeff Figueiredo spoke to the Board regarding the Selective Service System and gave an overview of the draft system and the associated Draft Boards. He informed the Board that some of the Boards throughout the state are in need of volunteer members and requested that the NACO Board members communicate these needs to their communities. Mayor Crowell spoke to Carson City's recent Marijuana Forum and thanked and congratulated Dagny on her presentation.
2. **Approval of Agenda.** Commissioner Tipton inquired as to changes and Jeff noted that item 13a would need to be heard time certain at 10:00 and Commissioner Kirkpatrick would need to address the Board under item 17 earlier in the meeting. The agenda, as changed, was approved on a motion by Commissioner Tipton with second by Past President Wichman.
3. **NACO President's Report.** President Elect Weekly informed the Board that NACo would be visiting Clark County and that they are moving forward with the hosting of the NACo Annual Conference in 2019.
4. **NACO Executive Director's Report.** Jeff introduced Jared and informed the Board that he has already done some great work. He also outlined Jared's education, previous internships and his service in the Air National Guard. Jeff announced that former Lincoln County Commissioner and NACO Board member Tommy Rowe had been elected as the Mayor of Caliente. He referenced registration being open for the Annual Conference in Winnemucca and requested that the Board let him know if any of their counties are interested in hosting the conference in 2018. Jeff also spoke about the upcoming NACo Annual Conference in July and noted that voting credentials had been sent to all Commission Chairs and that they needed to be completed and returned to National. He also requested that anyone planning to attend please let staff know. He noted that Steering Committee sign-ups are open and anyone interested in serving or continuing to serve on these National committees should make sure they complete the application documents. Dagny spoke to the Board about the Fire Adapted Communities program and how the Fire Safe Council's disbandment had limited the program's outreach due to the lack of ability to obtain and administer grant funding. She informed the Board that due to the lack of a non-profit able to take on those duties that the NV Division of Forestry determined that they were able to take on those responsibilities and subsequently entered into a MOU with Cooperative Extension. The new organization will be called the Nevada Network of

Fire Adapted Communities. The structure of the advisory board will resemble that of the Fire Safe Council, and Dagny sat in as the NACO representative in a retreat earlier in the week. She informed the Board that the organization should be able to start actively supporting communities' fire prevention efforts within the next 6-12 months. She also let the Board know that a representative would be coming to a future meeting to update the Board on the progress and the organization. President Elect Weekly asked for clarification on the makeup of the Board and Dagny noted that each entity (FS, BLM, NACO, State, and the League of Cities) will each have a representative and that there would also be three community representatives based on regions. At President Elect Weekly's request Dagny also clarified that NDF will administer grant funds that all funds will be distributed to the individual local communities for targeted projects.

5. **Approval of Minutes of the May 19, 2017 NACO Board of Directors Meeting.** The minutes were approved on a motion by Mayor Crowell with second by Commissioner Tipton.
6. **Update and Possible Action regarding the Phase-out of Advanced Data Systems used by Nevada's Counties, including County Contracts for Software and Development and Licensing.** Jeff gave an update on the status of the conversion and noted that he has been informed by several counties on progress and that some of them have signed with DevNet for Assessor/Treasurer software and others are looking at or have signed with Helion for Recorder's software. Assessors Helton and Johnson informed the Board that five counties have signed with DevNet for the Assessor/Treasurer software and that several others will have contracts on their July agendas. Assessor Helton noted that Comptroller's and Recorders are projecting to have contracts on agendas in July as well. President Elect Weekly inquired as to deadlines and Assessor Helton informed him that the assessment and tax collection pieces used by the Assessors and Treasurers was the most complex and that they are intending to start development in August. Jeff noted the timeline included in the April meeting for reference. Commissioner McGuffey inquired as to the counties using the same software and it was clarified that all the Assessors and Treasurers are utilizing the same software and Assessor Seddon informed the Commissioner that she was in agreement and the contract would be on Storey County's July 18th agenda. Jeff also noted that it was always understood that the Clerks and Recorders systems did not need as much customization and would allow for more vendor choice. Commissioner Tipton noted that her Clerk/Treasurer and Assessor would be going with DevNet. Mayor Crowell noted that Carson City had DevNet on their agenda but that the firm had pulled the contract, for reasons he was unclear on. Assessor Helton told the Mayor that she was informed it was due to a scheduling conflict and that the item was pulled by the District Attorney. Commissioner French asked for clarification of all 15 affected counties being in concert with DevNet and Assessor Helton said yes. Nye County Manager Webster asked about the payment portion of the contract and inquired if any of the counties who had signed had opted for milestone billings instead of quarterly billings. Assessor Johnson informed Ms. Webster that Humboldt County had agreed to the contract as written and Vice President Waits informed her that Lander County had gone with an annual payment. Assessor Seddon noted that Storey County's Comptroller had the same issue and that during their meeting with DevNet it was noted that if a county wasn't satisfied with the progress that the next quarterly payment could be withheld. Ms. Webster noted concern that the risk was being borne by the counties and that they would be continuing to look at language to address the issue.
7. **Update on Interlocal Agreements between the Nevada Department of Health and Human Services, Aging and Disability Services Division and Counties to Provide Services to Children with Intellectual and Developmental Disabilities.** Jeff referenced the discussion at the April Board meeting and the changes in the contracts with respect to the costs assessed to the counties. He also referenced the discussion on the impacts to counties regarding costs that exceeded the Division's projections used in budget creation. He noted that NACO continues to work the County Human Services Administrators on the issue. Karen Beckerbauer, Social Services Manager in Douglas County informed the Board that the changes took away the ability to negotiate on income eligibility, formerly capped at 200% being increased to 300% of poverty level and smaller counties not being able to negotiate levels of service. She noted that a meeting would be held the following week to negotiate contracts returned to the counties. She used an example in Douglas County for supported living arrangements of two minors that would be billed, in full to the County 13-14K/mo. She noted that several DA's would be in the meeting to address concerns with NRS interpretation. She also addressed extreme concern with a lack of caps on what the counties could be assessed for cost of services. Commissioner McGuffey inquired as to the justification for the monthly cost referenced for

the supportive living arrangement. Jeff told the Board that he had met with Director Whitley and his management team about the issue and made them aware of the situation. He noted that the Director acknowledged the issues and asked his managers to go back and work with the counties. Director Whitley said that he would follow the original language of the 2011 agreements. It was also noted that the Director recognized that with the change in the Division's management there may be a lack of institutional knowledge, and that he is interested in his management team having good relationships with the counties as well as consistency. President Elect Weekly discussed the work the Director is doing with regards to county jails and Medicaid, specifically in Washoe County, and noted that there are concerns 'all the way around.' He suggested having the Director come to a future meeting.

8. **Overview of the Nevada Association of County Human Services Administrators Priorities and Activities.** Ken Retterath, President of the Association gave an overview of the Association and noted that they meet monthly, have a weekly call during the legislative session and will add meetings as needed. He noted that all 17 counties have representation in the Association and all are well represented and active, and that they work closely with NACO. He informed the Board that the most pressing issues being addressed by the group are the contracts discussed in the previous agenda item and the ongoing discussion of health care reform. He noted that pre ACA all the counties were responsible for indigent care and with Medicaid expansion, which covered the majority of people the counties were previously providing services for, allowed the counties to move millions of dollars to other areas of need. He noted that the potential roll back of the expansion of Medicaid would result in the counties again being responsible for indigent health care. Mr. Retterath also noted that the issues with the contracts previously discussed were a result of recession push downs and informed the Board that the Association is following those two items very closely and will report back to the Board as development arise. Jeff informed the Board that he had received an email from NACO that the currently proposed Senate bill is worse than the House bill and that they are asking for counties to take action on the issue. According to the communication Medicaid would move to a per capita cap program which would result in a \$830B reduction in Medicaid over the next 10 years and drive people to seek care from higher cost providers such as emergency rooms etc. Jeff also mentioned an OpEd in the Ely News that specifically discussed the detrimental effects 'repeal and replace' will have on rural communities, specifically hospitals. Mr. Retterath noted that the implementation of the ACA took away a lot of services and reversal of the Act will require reinventing the wheel specifically mental health services. President Elect Weekly spoke to specific challenges in his district and unfunded mandates that require suffering in other areas and noted his concerns with the issues discussed and how balance can be achieved. Commissioner Alt noted the need for churches and civic organizations to step up to provide services that government may not be able to provide. Past President Wichman noted that there are 18K square miles in her district that have zero services and citizens within that area are relying on neighbors to help them. She noted that her district lost all of the medical services after the ACA went into effect and neighboring counties are suffering the costs associated with care and transportation.
9. **Briefing and Possible Action Regarding the Implementation of Question 2, "The Regulation and Taxation of Marijuana Act," which was approved in the 2016 General Election including; Bills enacted by the 2017 Legislature, the Governor's Task Force Report and the Distribution of State Excise Tax Revenues to Local Governments.** Dagny reminded the Board that the possession and use of recreational marijuana is now legal throughout the state regardless of whether a county has zoned out marijuana businesses. She noted that State marijuana licenses are being issued and that if a county has not acted on the zoning restrictions that they need to do so now. She noted that Douglas County has a good ordinance for prohibiting marijuana businesses and that Clark County's ordinance is a good template for allowing the business with tight restrictions. President Elect Weekly noted that Clark County had recently approved business licenses for 25 firms and that those firms had made valiant attempts to skirt around a multitude of the County's restrictions. He encouraged the Board to use their ordinance as a template for allowance of the businesses. Dagny noted that the Legislature passed legislation that allows rural cities to allow marijuana businesses regardless of county ordinances and that direct delivery to consumers may be occurring as well, and that she is researching if counties can zone out delivery services. She informed the Board that SB487 allows counties to charge a business license fee up to 3% of gross revenues and that there is no other dedicated tax that will go to counties. She noted another important piece of the marijuana laws include the distribution of the \$5M to local governments, which was also codified in SB487. She noted that NACO has proposed a formula for those dollars that includes an equal distribution of \$1.5M to all

counties with the remainder being distributed to jurisdictions with marijuana businesses based upon revenues received. Originally the cities were supportive of ensuring there was a distribution of these dollars to counties where cities have authorized the businesses but counties have not; but the League of Cities has indicated that they are no longer supportive of the proposed formula and that they would like to see the distribution formula go before the Committee on Local Government Finance. Commissioner McGuffey requested clarification on the proposed formula and Dagny explained that the proposed distribution of the \$1.5M would be to all counties to address impacts. Mayor Crowell informed the Board that Carson City's analysis showed a roughly \$440K impact whether they zone in or zone out the businesses and that he will inquire as to the cities' reluctance to support something that they had gone on record supporting during the legislative session. Past President Wichman inquired as to the city's ability to adopt fees and licensing and it was clarified that the cities have the ability to enact the same fees as the counties. Commissioner Tipton inquired as to how to address usage by employees and it was reaffirmed that the policies of not only the counties but private business will stand, regardless of the legalization of use. Further discussion included determining the location of medical card holders to assist in determining where the potential for the most impacts may be and Dagny indicated that she would reach out to the State to see if they would provide that information. By consensus the Board instructed staff to advocate for the inclusion of the formula in the marijuana regulations. Dagny concluded her remarks with a summary of the approved laws including that counties cannot enact regulations more strict than the state regarding packaging, dosage, type, tracking and transportation of marijuana except on direct delivery to consumer and asking that the sheriff to be notified of deliveries. She noted that Tribal governments are allowed to approve consumption, production and distribution but any production done on tribal lands would not be allowed to be part of the Nevada market unless the tribe signs an MOU with the Governor and adopts all of the same laws and regulations as the State. Commissioner French inquired as to retailers from other states setting up businesses on tribal lands and it was clarified that tribes could have allowed marijuana prior to the passage of Q2 as a sovereign entity. Jeff inquired as to the Board's appetite to do a workshop on the issue and Past President Wichman noted that it would be a good project for the Emeritus Committee and the Board instructed staff to put one together. Dagny concluded her update by sharing that the Governor's Task Force on Marijuana had released their report and that those recommendations are supposed to be used to write the permanent regulations.

10. **Update on the 2017 Legislative Session including Bills and Budgets that Impact County Governments.** Jeff referenced the bill tracker and summary of actions that counties must take per bills passed during the session distributed the previous day. Commissioner French inquired about the bills that would have allowed the rural counties to enact a diesel tax. Jeff noted that the SB439 passed out of the Senate committee but did not pass the deadline. He discussed the Executive Committee's meeting with Senator Ford who agreed to bring the bill back if rural support could be guaranteed, which occurred, and then the Bill immediately passed out of the Senate. On the Assembly side the Bill passed out of committee but did not receive a vote on the floor and therefore died despite the best efforts of the counties. Mayor Crowell inquired as to the indigent defense bill and Jeff gave a summary of SB377, which would have established a right to council commission and allowed rural counties to opt in and/or out of a state system. Jeff noted that the Board instructed staff to take a neutral position on the bill, which NACO did. The Bill was amended in the late hours of the session by the courts and now creates a commission similar to that proposed in the original Bill that will make recommendations for potential indigent defense reforms to the 2019 Legislature. The commission will be comprised of 6 county NACO nominees' from whom the Governor will appoint 4, and Jeff requested that the Board think about recommendations for the August meeting - Mayor Crowell volunteered for nomination. Commissioner French inquired about the Humboldt County bill that would have allowed a county to make appointments to small boards with vacancies due to lack of candidates. Dagny noted it was a similar story to the diesel tax bill and that it died without a vote in the Assembly. Vice President Waits inquired about the White Pine Courthouse bill and the pets in vehicles bill. Dagny noted that SB409 (pets) had amendments put into it to address concerns raised by rural legislators and she will follow up with further details. Jeff informed the Board that the White Pine courthouse bill (AB40) received one hearing on short notice and that White Pine County did a good job on their presentation, but in the end it was not approved. AB379 regarding the creation of parks districts with taxing authority in cities was discussed - NACO staff worked with others on amendments that created more county oversight of the districts. Jeff informed the Board that there was a lot of discussion on property taxes but little action other than SJR14 which if passed again in 2019 would put a question on the 2020 ballot that would reset valuation and abatements. With regards to

collective bargaining the majority of actions were fairly neutral, as the Governor made it clear that he would not approve any changes to the measures passed in the 2015 session. Cooperative Extension was also a 'hot topic' including SB407, which would have split the program and granted land grant status to UNLV. AB407 passed out of the Legislature and NACO staff drafted and sent a veto request to the Governor. The bill was vetoed. Immediately after session NACO staff met with UNR to discuss strategy for creating better relationships with Cooperative Extension in Southern Nevada. Jeff also noted that the great collaborative effort of NACO, the Clerks and Election officials, and the Secretary of State resulted in AB519 - a direct appropriation for about half the costs of the replacement of voting machines for all counties. With regards to the document on legislation requiring county actions, Dagny requested that the document be distributed and to reach out to her with any questions. With regards to budget impacts Jeff noted that increases in assessments were fairly neutral but there is an increase in the costs PSI's of 57%. There were also changes to non-state retiree's in the state Public Employees Benefits program, which was included in the budget and codified in SB512. SB512 transitions the cost offset from the State to the counties within 4 years. The pool is declining based upon enrollment in Medicare etc., but in the interim the counties will be responsible for the costs.

Item's 11 & 12 were heard concurrently

11. **Discussion and Possible Action regarding a NACO Op-Ed on the Implications of the 2017 Legislative Session on Nevada's Counties.**
12. **Discussion and Possible Action regarding Interim Legislative Activities to Address County Assessments for Services provided by the State.** Jeff noted that the Board had been kept apprised of the activities of the session and thought it would be a good opportunity to think about the ramifications of the session. Jeff suggested that there may not be a need to do an Op-Ed but said that there is an opportunity for discussion on what the counties can and should do during the interim to address some of the assessments which, it has been made clear, will not be rolled back as well as paying assessments for services with no control or input over them. Jeff mentioned working collaboratively with DHHS to potentially bill Medicaid directly for some services as well as taking over some services or creating regional programs. Jeff also suggested that there needs to be more communication with legislators to help them understand rural issues. Commissioner Tipton stated that the group needs to have serious discussions on the potential to do regional mental health and CPS services and agreed that the education of urban legislators and the opening of effective communication are paramount. President Elect Weekly noted that if NACO presents a united and active front that the Association could affect positive change. A general outreach plan was discussed and staff was directed to prepare a proposed plan and bring it back to the Board. No actions were taken on either item.
13. **Update and Possible Action Regarding Public Lands and Natural Resources Issues Including:** Commissioner Tipton, Chair of the Public Lands & Natural Resources Committee noted that the Committee had discussed the BLM's Planning 2.0 initiative and have developed a strategy to address the Secretary's letter instructing the agency to come up with a better planning process. Tori noted that the strategy includes making Nevada specific recommendations and Commissioner Tipton stated that she is pushing to make county master and land use plans the first point of discussion for any proposed agency land use planning decision. Commissioner French noted that you can't overhaul 40 years in 3 months and that some items of concern are stipulated by the courts and also noted that adherence to the original intent of FLPMA and NEPA is important. Vice President Waits inquired about the webinar taking place later in the month and that being an opportunity to make that argument and Tori said that she has criticized the use of that platform to gain meaningful comments and noted that it enables them to check a box. Tori also noted that she will be working with other states to align some of the concerns that are similar to include consistent comments and suggestions. It was also noted that it is important to keep both master and land use plans are continuously updated.
 - a) **Update by the National Wild Horse and Burro Rangeland Management Coalition.** Keith Norris, Director of Government Affairs for the Wildlife Society joined remotely and Mr. Norris noted the Coalition's appreciation of NACO's membership. He gave a brief overview of the Coalition and its focus on rangeland health and the need for appropriate management levels (AML's) of wild horses and burros. He noted that there are 18 national associations that serve on the steering committee and additional organizations like NACO that serve as general members. He noted that

- in Nevada the population estimate is 37K, which exceeds the AML of 12K by 300%. He also clarified that these estimates are only BLM estimates and that they do not include animals on USFS, state or tribal lands. It was noted that the BLM has tried some things to address the herd levels but was stopped by litigation which resulted in low management activities. He said that one of the reasons for limited management actions is the 46K/animal cost to keep animals in holding facilities. He noted that the budget proposed by President Trump removes language that restricts sale, which would allow for further gathers and removals. Commissioner Dahl asked if the Coalition was optimistic on the success of the removal of the language. Mr. Norris noted that there are challenges with the language removal and that they are working on educating members of Congress. He said that, in his opinion, taking a vote to remove the language would not be one any member would be willing to take. The best case scenario is to keep the language out of the original draft. Commissioner Dahl noted that Congressman Amodei suggested that the term slaughter be left out. Commissioner French noted that there is a long standing dispute with the BLM's estimated numbers and that the true number of animals would fall somewhere between 300% and 700% of AML in Humboldt County alone and referenced a WIR meeting where then Director Kornzie discussed potential changes to policy to allow for adoption internationally and possible payments to adoptees. Mr. Norris noted that the ideas had been discussed but that with the transition of the administration, a lot of possible policy changes and ideas have been put on hold. Commissioner McGuffey asked about the cost per animal in captivity and it was noted that the current costs are \$54K resulting in a FY16 cost to the BLM of \$49.5M.
- b) **Approval of NACO's Federal Priorities Paper.** No discussion was held on this item.
 - c) **Approval of a NACO Letter to Governor Sandoval requesting Assistance in Addressing the Overpopulation of Wild Horses in Nevada.** Vice President Waits suggested minor verbiage changes. The letter was changed as noted and approved on a motion by Commissioner Wichman with second by Commissioner French.
 - d) **Approval of a NACO Letter in Response to the April 26, 2017 Presidential Executive Order on the Review of Designations under the Antiquities Act.** Tori informed the Board that Jared had researched the size of former declarations per the Board's direction in May. She requested the Board provide their opinions on including a specific size recommendation or not in the letter due July 10th.
 - e) **The U.S. Department of the Navy's *Fallon Range Training Complex Modernization: Expansion of Land Ranges, Airspace Modifications, and Public Land Withdrawal Renewal Environmental Impact Statement, and the U.S. Air Force's Notice of Intent to Prepare a Legislative Environmental Impact Statement for the Nevada Test and Training Range Military Land Withdrawal at Nellis Air Force Base.*** Tori noted that Churchill County has done a fantastic job taking a leadership role in the process and that Mineral County is fully engaged as is Nye. Commissioner Alt shared that Lyon County does not have an appetite to take an active role in the process. Tori noted that she would reach out to Manager Page to further gauge the County's appetite to engage. She referred to a forum held the previous Monday with only local governments and the military and that progress had been made on communicating the impacts.
14. **The Center for Biological Diversity's Lawsuit against the U.S. Fish and Wildlife Service Seeking to Vacate their Decision not to List the Bi-State Sage Grouse as an Endangered Species and NACO's Motion to Intervene on behalf of the F&WS.** Tori informed the Board that she had attended a meeting in Bishop and learned a lot about the landscape and that briefing will continue through January and the first hearing will likely be scheduled for early 2018.
 15. **The BLM's and U.S. Forest Service's Greater Sage-Grouse Resource Management Plans including the Complaint for Declaratory and Injunctive Relief Filed by the State of Nevada and Nine Nevada Counties.** This item was not heard due to council being out of town.
 16. **National Association of Counties and Western Interstate Region Board Member Updates.** Commissioner French informed the Board that WIR was held the previous month in Oregon and highlights were discussions on Planning 2.0, and the need for input from the counties. He noted discussions on the National agenda and how it dovetails into western needs including SRS, PILT. Tori noted that one thing of interest was Arizona Supervisor Martin's request to determine three specific things to accomplish as a region. Commissioner French noted a lack of discussion on the opioid epidemic and that during conversations with fellow Commissioners from states who have already

instituted recreational marijuana about various issues with legalization. Commissioner Tipton informed the group that the NACo Board held a meeting at the WIR conference but the big meeting is upcoming in Ohio in July.

17. **NACo Board Member Updates.** Commissioner Kirkpatrick brought to the Board's attention the workshop on Workforce Solutions and informed the Board that there are funds available for travel and requested anyone interested in attending contact her. Commissioner Wichman informed the Board that Secretary Zinke would be visiting Pahrump the following Monday, specifically to discuss PILT, and that he is interested in hearing from all local government officials on the subject. Vice President Waits informed the Board that the Lander County Recreation Center would be taking place July 3&4. Commissioner McGuffey updated the Board on the ground breaking for two hotels at the Tahoe/Reno Industrial Center and shared that there are 12 additional properties in escrow. President Elect Weekly discussed his role on the Workforce Connections Board in Southern Nevada, and encouraged Board members to find out what the Northern Nevada office is doing and take advantage of the resources offered.
18. **Public Comment** – Past President Wichman informed the Board that the Emeritus Committee is planning three workshops in 2018 on How to Follow a Bill, C-Tax, Public Lands Issues and possibly a review of marijuana laws. She also noted that discussions were held on strategies to better develop relationships with legislators in the interim. Dagny noted that the Board gave direction to staff to work on a proposal earlier in meeting

The meeting was adjourned at 2:00pm.

The following links and/or pages are support for agenda
Item 8



RAYMOND JAMES®

Nevada Assoc Of Counties Account Summary

Closing Value **\$413,584.56**

0002736 04 MB 1:377 04 TR 00046 RJCPC4TD1 0000000
 NEVADA ASSOC OF COUNTIES (NACCO)
 EAM HOTAX
 304 S MINNESOTA ST
 CARSON CITY NV 89703-4270046



JOE WOODS II
 Raymond James Financial Services, Inc.
 RAYMOND JAMES FINANCIAL SVCS. | 1011 C AVENUE | CORONADO, CA 92118 | (619) 435-1893
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Raymond James Client Services | 800-647-SERV (7378)
 Monday - Friday 8 a.m. to 9 p.m. ET
 Online Account Access | raymondjames.com/investoraccess

Investment Objectives

Primary: Income with a medium risk tolerance and a time horizon exceeding 10 years.

Activity

	This Statement	Year to Date
Beginning Balance	\$ 413,431.98	\$ 388,330.85
Deposits	\$ 0.00	\$ 152,195.18
Income	\$ 540.24	\$ 4,925.36
Withdrawals	\$ 0.00	\$ (130,000.00)
Expenses	\$ (1,302.56)	\$ (3,100.98)
Change in Value	\$ 914.90	\$ 1,234.15
Ending Balance	\$ 413,584.56	\$ 413,584.56
Purchases	\$ (15,572.06)	\$ (168,428.63)
Sales/Redemptions	\$ 2,219.32	\$ 136,850.43

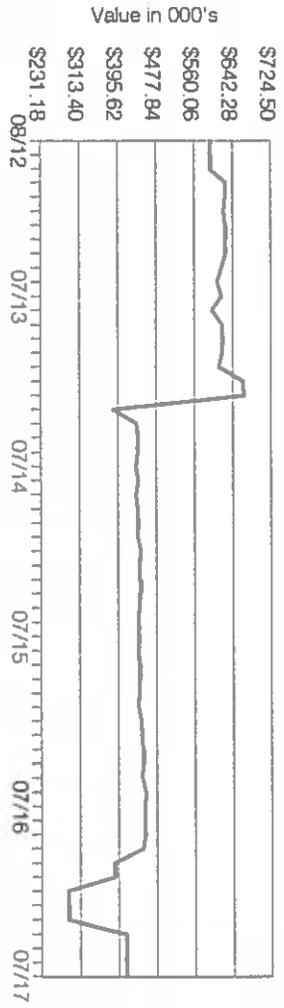
Time-Weighted Performance

See Understanding Your Statement for important information about these calculations.

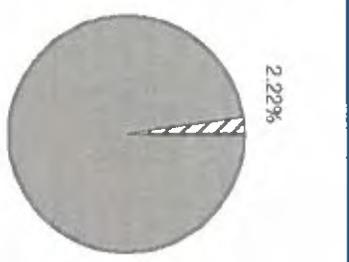
Performance Inception	YTD	2016	2015
08/26/96	0.93%	0.42%	0.32%

Excludes some limited partnerships, unpriced securities and annuity history prior to the annuity being linked to the account.

Value Over Time



Asset Allocation Analysis



Asset Class	Value	Percentage
US Equities	\$ 404,379.55	97.78%
Non-US Equities	\$ -	-
Fixed Income	\$ -	-
Real Estate & Tangibles	\$ -	-
Alternative Investments	\$ -	-
Non-classified	\$ -	-
Cash & Cash Alternatives	\$ 9,205.01	2.22%



Account earned by Raymond James & Associates Inc
 Member New York Stock Exchange/SIPC
 0002736 RJCPC4TD1 051537



RAYMOND JAMES
An Independent Firm

June 30 to July 31, 2017

Nevada Assoc Of Counties Account Summary

Closing Value **\$181,247.63**

NEVADA ASSOC OF COUNTIES (NACO)
EAM EQUIN
304 S MINNESOTA ST
CARSON CITY NV 89703-4270046



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Online Account Access | raymondjames.com/investoraccess

Investment Objectives

Primary: Growth with a medium risk tolerance and a time horizon exceeding 10 years.

Activity

	This Statement	Year to Date
Beginning Balance	\$ 180,439.34	\$ 189,332.77
Deposits	\$ 0.00	\$ 30,000.00
Income	\$ 366.59	\$ 3,131.22
Withdrawals	\$ 0.00	\$ (52,195.18)
Expenses	\$ (909.60)	\$ (2,895.98)
Change in Value	\$ 1,351.30	\$ 13,874.80
Ending Balance	\$ 181,247.63	\$ 181,247.63
Purchases	\$ 0.00	\$ (31,203.05)
Sales/Redemptions	\$ 0.00	\$ 53,905.54

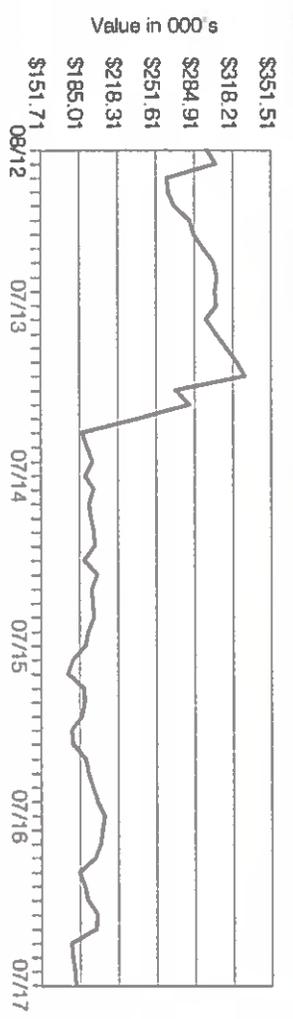
Time-Weighted Performance

See Understanding Your Statement for important information about these calculations.

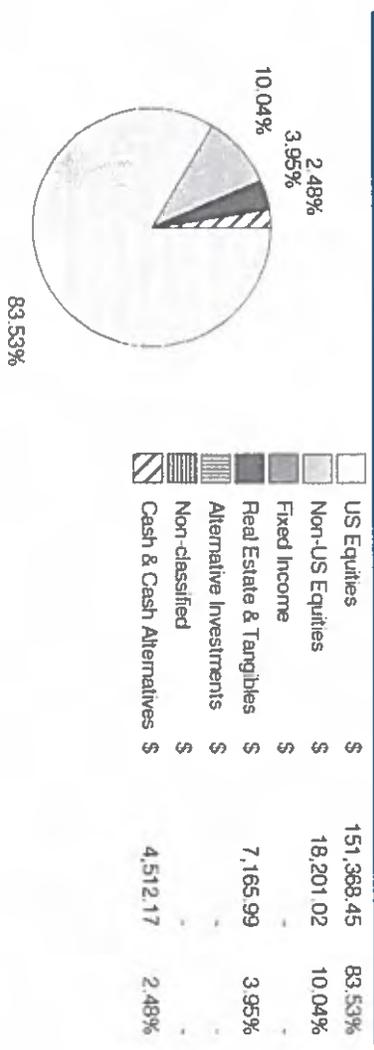
Performance Inception	YTD	2016	2015
08/26/96	7.71%	11.49%	(5.52)%

Excludes some limited partnerships, unpriced securities and annuity history prior to the annuity being linked to the account.

Value Over Time



Asset Allocation Analysis



Account carried by Raymond James & Associates Inc.
Member New York Stock Exchange/SIPC
006304 RJC/P4ZD2 010266

Nevada Association of Counties
Balance Sheet
July 31, 2017

ASSETS

Current Assets		
Cash - Bank of America	\$	246,721.30
Cash - NV State Bank		7,452.48
Money Market		110,435.78
PayPal Cash Account		14.26
Investments Cash Equivalents		4,512.17
Investments Cash Equivalents		9,205.01
Accounts Receivable		25,292.00
Prepaid Expenses		3,694.32
Prepaid Pension Liability		<u>181,078.00</u>
Total Current Assets		588,405.32
Property and Equipment		
Office Equipment		173,613.00
Building		447,906.18
Land		131,000.00
Building Improvements		90,311.78
Fixed Assets - Vehicle		32,878.25
Accumulated Depreciation		<u>(262,000.75)</u>
Total Property and Equipment		613,708.46
Other Assets		
Investments - RJ Equity		176,735.46
Investments - RJ Securities		404,379.55
DEFERRED OUTFLOWS		<u>35,335.00</u>
Total Other Assets		<u>616,450.01</u>
Total Assets		<u>\$ 1,818,563.79</u>

LIABILITIES AND CAPITAL

Current Liabilities		
Accrued Payroll Benefits	\$	21,638.74
PERS Pension Liability		639,269.00
DEFERRED INFLOWS		<u>48,242.00</u>
Total Current Liabilities		709,149.74
Long-Term Liabilities		
Total Long-Term Liabilities		<u>0.00</u>
Total Liabilities		709,149.74
Capital		
Retained Earnings		885,682.20
Net Income		<u>223,731.85</u>
Total Capital		<u>1,109,414.05</u>
Total Liabilities & Capital		<u>\$ 1,818,563.79</u>

Nevada Association of Counties
Income Statement
For the Seven Months Ending July 31, 2017

	Current Month		Year to Date	
Revenues				
Investment Revenue - EQ	\$ 366.59	11.48	\$ 3,131.22	0.56
Investment Revenue - HQT	540.24	16.92	4,925.36	0.89
Membership Dues	0.00	0.00	477,720.00	85.91
Conference Registration Fees	0.00	0.00	100.00	0.02
Conference Sponsorship Fees	0.00	0.00	4,867.50	0.88
Conference POWER Reg Fees	0.00	0.00	900.00	0.16
Conference Golf Proceeds	0.00	0.00	65.00	0.01
IAF/Supplemental Funds	0.00	0.00	30,000.00	5.40
Interest Income	19.18	0.60	117.34	0.02
National Programs	0.00	0.00	6,358.15	1.14
Associate Memberships	0.00	0.00	12,750.00	2.29
Unrealized Gain/(Loss)-EQINC	1,351.30	42.33	13,874.80	2.50
Unrealized Gain/(Loss)-HQTAX	914.90	28.66	1,234.15	0.22
	<u>3,192.21</u>	<u>100.00</u>	<u>556,043.52</u>	<u>100.00</u>
Total Revenues				
Cost of Sales				
	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Cost of Sales				
	<u>3,192.21</u>	<u>100.00</u>	<u>556,043.52</u>	<u>100.00</u>
Gross Profit				
Expenses				
Salaries	24,596.82	770.53	185,874.39	33.43
Retirement	0.00	0.00	44,196.36	7.95
Employee Health Insurance	(1,769.04)	(55.42)	14,117.49	2.54
Employee Life Insurance	142.00	4.45	492.00	0.09
FICA and Medicare Expense	376.62	11.80	2,652.10	0.48
ESD Expense	38.21	1.20	714.63	0.13
PEBP Expenses	122.40	3.83	727.00	0.13
Equipment Maint/Lease	361.91	11.34	4,549.39	0.82
Office Supplies	394.66	12.36	1,238.07	0.22
Office Equipment Purchase	0.00	0.00	159.99	0.03
Telephone	1,303.45	40.83	7,867.94	1.41
Postage	0.00	0.00	216.90	0.04
Liability/Auto Insurance	707.25	22.16	3,110.19	0.56
Vehicle Maint/Registration	0.00	0.00	344.46	0.06
Publications/Subscriptions/Due	394.89	12.37	3,453.39	0.62
Printing	0.00	0.00	60.19	0.01
Staff Travel	1,104.53	34.60	7,648.25	1.38
Representative Travel	1,422.76	44.57	7,601.58	1.37
WIR Dues/Travel	0.00	0.00	8,049.67	1.45
NACO Conference Other Expenses	15.00	0.47	15.00	0.00
NACO Conference PayPal Fees	21.00	0.66	21.00	0.00
Board Meetings	0.00	0.00	2,059.97	0.37
Legislative Expense	253.94	7.95	4,849.95	0.87
Audit	0.00	0.00	2,775.00	0.50
Video Conference Hosting	511.50	16.02	3,069.00	0.55
Professional Fees	0.00	0.00	6,000.00	1.08
Payroll Processing Service	242.80	7.61	1,827.61	0.33
Member Services	0.00	0.00	392.00	0.07
NV Land Management Task Force	1,040.00	32.58	2,925.00	0.53
Miscellaneous Expense	0.00	0.00	188.65	0.03
Interest Expense	0.00	0.00	(11.87)	(0.00)
NCCAE Dues	0.00	0.00	1,000.00	0.18
Bank Charges	5.00	0.16	91.97	0.02
Investment Expense	2,212.16	69.30	5,996.96	1.08
Utilities	469.49	14.71	2,673.15	0.48
Maintenance & Repairs	258.84	8.11	3,144.29	0.57
Janitorial Expenses	370.00	11.59	2,220.00	0.40
	<u>34,596.19</u>	<u>1,083.77</u>	<u>332,311.67</u>	<u>59.76</u>
Total Expenses				
Net Income	<u>(\$ 31,403.98)</u>	<u>(983.77)</u>	<u>\$ 223,731.85</u>	<u>40.24</u>

Nevada Association of Counties
Budget to Actual Comparison
As of July 31, 2017

Account Description	Budget Amount	YTD	Remaining Budget	This Month Last Year	Difference Between Years
Revenues:					
Associate Memberships	15,750.00	12,750.00	3,000.00	16,000.00	(3,250.00)
Conference Revenue	85,187.00	5,932.50	79,254.50	7,565.55	(1,633.05)
Conference Registration Fees		100.00			
Conference Sponsorship Fees		4,867.50		6,630.55	
Conference Raffle Proceeds					
Conference POWER Reg Fees		900.00		675.00	
Conference Golf Proceeds		65.00			
Conference County Contribution					
Conference Registration-Spouse/Guest					
Conference-Other Income				260.00	
IAF/Supplemental Funds	70,000.00	30,000.00	40,000.00	30,000.00	-
Interest Income:	17,753.00	8,173.92	9,579.08	9,968.76	(1,794.84)
Interest Income		117.34		128.67	
Investment Revenue - EQ		3,131.22		3,248.16	
Investment Revenue - HQT		4,925.36		6,591.93	
Membership Dues	349,552.00	477,720.00	(128,168.00)	346,886.00	130,834.00
National Programs	11,000.00	6,358.15	4,641.85	6,314.42	43.73
Public Lands Assessment	128,166.00				
Unbudgeted Income:	-	15,108.95	(15,108.95)	29,534.51	(14,425.56)
Tax Refunds					
Net Investment Income		15,108.95		29,114.51	
Wild Horse Burro Legal Contribution					
Land Management Task Force					
Land Use Summit				420.00	
Grant Admin. Fees					
Miscellaneous Income					
TOTAL Revenues	677,408.00	556,043.52	(6,801.52)	446,269.24	109,774.28
Expenses:					
Salaries	319,759.00	185,874.39	133,884.61	170,502.50	15,371.89
Benefits:	130,321.00	62,172.58	68,148.42	76,165.25	(13,992.67)
Retirement	89,533.00	44,196.36	45,336.64	43,495.08	
Employee Health Insurance	34,966.00	14,117.49	20,848.51	28,956.26	
Employee Life Insurance	822.00	492.00	330.00	464.00	
ESD, FICA and Medicare Expense	5,000.00	3,366.73	1,633.27	3,249.91	
Audit	8,400.00	2,775.00	5,625.00	4,925.00	(2,150.00)
Bank Charges		91.97	(91.97)	91.11	0.86
Board Meetings	4,000.00	2,059.97	1,940.03	2,389.37	(329.40)
Building Expenses	24,403.00	8,037.44	16,365.56	10,373.51	(2,336.07)
Utilities		2,673.15		3,328.10	
Building Maint. & Repairs		3,144.29		1,855.00	
Office Cleaning Service		2,220.00		2,220.00	
Property Taxes				2,970.41	

Nevada Association of Counties
Budget to Actual Comparison
As of July 31, 2017

Account Description	Budget Amount	YTD	Remaining Budget	This Month Last Year	Difference Between Years
Conference Expenses	42,353.00	36.00	42,317.00	32.84	3.16
Conference Meals					
Conference Speakers					
Conference Facility					
Conference Hotel					
Conference Entertainment					
Conference Gifts/Prizes					
Conference Printing					
Conference Supplies					
Conference Transportation					
Conference POWER Program					
Conference Other Expenses		15.00			
Conference PayPal Fees		21.00		32.84	
Donations / Sponsorships	1,500.00		1,500.00	50.00	(50.00)
Equipment Maint/Lease	7,522.00	4,549.39	2,972.61	14,185.70	(9,636.31)
Equipment Purchases	4,500.00	159.99	4,340.01	607.96	(447.97)
Elected Officials Training Program	1,800.00		1,800.00	-	-
Registration Seminars/Conferences				-	
Legislative Expenses	3,000.00	4,849.95	(1,849.95)	46.10	4,803.85
Liability and Auto Insurance	4,200.00	3,110.19	1,089.81	2,954.42	155.77
Member Services		392.00	(392.00)		392.00
Office Supplies	3,500.00	1,238.07	2,261.93	1,211.09	26.98
PEPB Liability	1,452.00	727.00	725.00	844.04	(117.04)
Postage	575.00	216.90	358.10	218.43	(1.53)
Printing	1,000.00	60.19	939.81	37.00	23.19
Professional Services	17,142.00	7,827.61	9,314.39	7,747.18	80.43
Professional Fees		6,000.00		6,000.00	
Payroll Processing Service	-	1,827.61		1,747.18	
Publications/ Dues / Professional Fees	6,819.00	3,453.39	3,365.61	4,073.52	(620.13)
Representative Travel	15,000.00	7,601.58	7,398.42	11,479.22	(3,877.64)
Special Studies	15,000.00		15,000.00		-
Staff Travel	20,000.00	7,648.25	12,351.75	5,431.15	2,217.10
Telephone	13,200.00	7,867.94	5,332.06	8,326.31	(458.37)
Vehicle Maint/Registration	3,000.00	344.46	2,655.54	811.77	(467.31)
Video-Conference Hosting & Warranty	9,528.00	3,069.00	6,459.00	511.50	2,557.50
Website Upgrade			-		-
WIR Dues/Travel	9,991.00	8,049.67	1,941.33	9,991.38	(1,941.71)

Nevada Association of Counties
Budget to Actual Comparison
As of July 31, 2017

Account Description	Budget Amount	YTD	Remaining Budget	This Month Last Year	Difference Between Years
Unbudgeted Expenses:	-	10,098.74	(10,098.74)	6,464.36	3,634.38
Interest Expense		(11.87)		15.00	
NCCAE Dues		1,000.00			
Recruiting & Advertising					
Wildlife Support Group					
Wild Horse Burro Legal Services				70.00	
NV Land Management Task Force		2,925.00			
Public Lands Summit Expense				442.23	
Depreciation Expense					
Investment Expense		5,996.96		5,937.13	
Miscellaneous Expense		188.65			
TOTAL Expenses	667,965.00	332,311.67	335,653.33	339,470.71	(7,159.04)
Net Income	9,443.00	223,731.85	(342,454.85)	106,798.53	116,933.32
Reserve Income Forward					
Unreserved Fund Balance	43,000.00	-	43,000.00	-	
Transfer From Investments			-	-	
Capital Projects Carried Forward	-	-	-	-	
Equipment & Vehicle Reserve	110,303.00	-	110,303.00	-	
Vacation & Sick Leave Reserve	17,967.00	-	17,967.00	-	
SUBTOTAL	171,270.00	-	171,270.00	-	
Reserve Expenses Forward					
Unreserved Fund Balance	52,443.00	-	52,443.00	-	
Equipment Reserve	110,303.00	-	110,303.00	-	
Vacation / Sick Leave Reserve	17,967.00	-	17,967.00	-	
SUBTOTAL	180,713.00	-	180,713.00	-	
NET INCOME WITH RESERVES	-	223,731.85	(351,897.85)	106,798.53	

Nevada Association of Counties
 General Ledger Trial Balance
 As of Jul 31, 2017

Filter Criteria includes: Report order is by ID. Report is printed in Detail Format.

Account ID	Account Description	Debit Amt	Credit Amt
1000	Cash - Bank of America	246,721.30	
1010	Cash - NV State Bank	7,452.48	
1020	Money Market	110,435.78	
1025	PayPal Cash Account	14.26	
1030	Investments - RJ Equity	176,735.46	
1031	Investments Cash Equivalents	4,512.17	
1040	Investments - RJ Securities	404,379.55	
1041	Investments Cash Equivalents	9,205.01	
1250	Accounts Receivable	25,292.00	
1500	Office Equipment	173,613.00	
1525	Building	447,906.18	
1527	Land	131,000.00	
1528	Building Improvements	90,311.78	
1550	Fixed Assets - Vehicle	32,878.25	
2000	Prepaid Expenses	3,694.32	
2001	Prepaid Pension Liability	181,078.00	
2200	DEFERRED OUTFLOWS	35,335.00	
2500	Accumulated Depreciation		262,000.75
3160	Accrued Payroll Benefits		21,638.74
3800	PERS Pension Liability		639,269.00
3850	DEFERRED INFLOWS		48,242.00
4000	Retained Earnings		885,682.20
4200	Investment Revenue - EQ		3,131.22
4220	Investment Revenue - HQT		4,925.36
4500	Membership Dues		477,720.00
4501	Conference Registration Fees		100.00
4502	Conference Sponsorship Fees		4,867.50
4505	Conference POWER Reg Fees		900.00
4506	Conference Golf Proceeds		65.00
4602	IAF/Supplemental Funds		30,000.00
4650	Interest Income		117.34
4700	National Programs		6,358.15
4702	Associate Memberships		12,750.00
4740	Unrealized Gain/(Loss)-EQINC		13,874.80
4741	Unrealized Gain/(Loss)-HQTAX		1,234.15
7100	Salaries	185,874.39	
7103	Retirement	44,196.36	
7104	Employee Health Insurance	14,117.49	
7105	Employee Life Insurance	492.00	
7106	FICA and Medicare Expense	2,652.10	
7108	ESD Expense	714.63	
7109	PEBP Expenses	727.00	
7202	Equipment Maint/Lease	4,549.39	
7204	Office Supplies	1,238.07	
7205	Office Equipment Purchase	159.99	
7207	Telephone	7,867.94	
7210	Postage	216.90	
7212	Liability/Auto Insurance	3,110.19	
7214	Vehicle Maint/Registration	344.46	
7216	Publications/Subscriptions/Due	3,453.39	
7218	Printing	60.19	
7219	Staff Travel	7,648.25	
7222	Representative Travel	7,601.58	
7224	WIR Dues/Travel	8,049.67	
7300-15	NACO Conference Other Expenses	15.00	
7300-17	NACO Conference PayPal Fees	21.00	
7303	Board Meetings	2,059.97	
7304	Legislative Expense	4,849.95	
7305	Audit	2,775.00	
7307	Video Conference Hosting	3,069.00	
7308	Professional Fees	6,000.00	
7309	Payroll Processing Service	1,827.61	
7313	Member Services	392.00	
7327	NV Land Management Task Force	2,925.00	
7400	Miscellaneous Expense	188.65	
7402	Interest Expense		11.87
7403	NCCAE Dues	1,000.00	
7404	Bank Charges	91.97	
7406	Investment Expense	5,996.96	
8000-BLD	Utilities	2,673.15	
8100-BLD	Maintenance & Repairs	3,144.29	
8200-BLD	Janitorial Expenses	2,220.00	
Total:		2,412,888.08	2,412,888.08

The following links and/or pages are support for agenda
Item 9

NACO ASSOCIATE MEMBER INFORMATION

Company Information (please print or type)

Charter Communications

Company Name

222 NE Park Plaza Drive, Suite 231

Headquarters Address

Vancouver

WA

98684

City

State

Zip

360-258-5104

Phone

Fax

www.charter.com

Company Website

Official Company Representative (please print or type)

Marian

Jackson

Director of Government Affairs

First Name

Last Name

Title

Address (if different from above)

360-258-5108

marian.jackson@charter.com

Phone

Fax

Cell

E-mail

Additional/Alternate Company Contact (Name & E-mail)

Please provide a brief summary of what your firm does and how a partnership with NACO will be mutually beneficial.

Telecommunications services for Northern Nevada.

Thank you for your interest in joining NACO!

Please return your completed application to us at: 301 S. Minnesota St.
Carson City, NV 89703
or via E-mail at: aevans@nvaco.org

The following links and/or pages are support for agenda
Item 10

https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB377_EN.pdf

The following links and/or pages are support for agenda
Item 11

https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB407_EN.pdf

The following links and/or pages are support for agenda
Item 13

https://www.leg.state.nv.us/Session/79th2017/Bills/AB/AB169_EN.pdf

The following links and/or pages are support for agenda
Item 14

<http://wifiinthepark.net/>



Part 2 -- Offer to Solve the Digital Divide & Fund the Solution

WiFi in the Park's managed WiFi network is an economic empowerment & e-commerce engine enabling monetization by ViaSat and individual businesses and governmental landholder entities, such as cities, counties, federal and state agencies.

WiFi in the Park and ViaSat are positioned to become the dominant managed WiFi provider throughout the nation's parks, recreational areas and communities with a ubiquitous high-speed network, which in part is a Pay-WiFi as a Service (PW) business. The PW business is like a pay telephone business, with the payphone owner sharing a portion of the revenue with each business or land owner where the payphone is located.

Solving the digital divide is conceptually as simple as one PW company installing all the PW throughout the state where public broadband access is needed and installing additional infrastructure for Digital Divide projects in lieu of certain revenue sharing, which our teaming partner, ViaSat, supports.

This is a completely workable technical and financial solution that will solve the Digital Divide issue throughout the country if there is the political will to do so. Since we are at the beginning of WiFi in the Park's deployments, there is a unique once in a lifetime opportunity for each county, city or state to architect and negotiate a custom WiFi in the Park/ViaSat technical & financial pay-WiFi as a Service solution to accomplish putting pay-WiFi everywhere it is needed in public areas, (which includes managing all the free access as well) and in large measure solving the Digital Divide for each community simultaneously. E-Rate and government grants have a place as well.

This model works for ViaSat if the opportunity is large enough so that the overall infrastructure investment, more and less profitable sites combined, has an acceptable ROI to ViaSat.

The owners of WiFi in the Park are telecommunications infrastructure consultants who built and operated and sold the largest most respected private payphone company in Connecticut before moving to Las Vegas and one of the owners was president of the Connecticut Payphone Association.

No problem is too difficult to solve with the right capabilities and know-how. ViaSat and WiFi in the Park have the capabilities, financial strength, know-how and corporate willingness to solve the Digital Divide nationwide for each of the states using ViaSat managed Pay-WiFi, a common and needed service, in a balanced and cost-efficient solution designed to provide excellent wireless broadband services tourists and travelers are demanding, and to offset state Digital Divide solutions infrastructure costs from the overall proceeds.

What makes this financially and technically viable is the vertically integrated solution. ViaSat owns the ISP, the satellites, the hardware with proprietary chipsets, the proprietary software, the 24/7/365 call center, programmers, engineers and installers, and thus can provide the Digital Divide solutions much more cost efficiently to itself as part of a statewide managed WiFi as a Service solution, compared to anyone who would purchase or contract for individual services and hardware to piece a solution together. This overall offer represents Digital Divide problems all solved with just a matter of working out the details between ViaSat and the willing.

The following links and/or pages are support for agenda
Item 17a

<http://www.nvnaco.org/wp-content/uploads/17a.pdf>

The following links and/or pages are support for agenda
Item 17b

<https://www.usatoday.com/story/news/nation-now/2017/08/10/10-states-back-california-agencies-fight-tribe-over-groundwater/554861001/>



Neutral

As of: April 13, 2017 9:15 PM Z

[Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.](#)

United States Court of Appeals for the Ninth Circuit

October 18, 2016, Argued and Submitted, Pasadena, California; March 7, 2017, Filed

No. 15-55896

Reporter

2017 U.S. App. LEXIS 4009 *; 849 F.3d 1262

AGUA CALIENTE BAND OF CAHUILLA INDIANS, Plaintiff-Appellee, UNITED STATES OF AMERICA, Intervenor-Plaintiff-Appellee, v. COACHELLA VALLEY WATER DISTRICT; ED PACK, in Official Capacity as Member of the Board of Directors of the Coachella Valley Water District; JOHN POWELL, JR., in Official Capacity as Member of the Board of Directors of the Coachella Valley Water District; PETER NELSON, in Official Capacity as Member of the Board of Directors of the Coachella Valley Water District; G. PATRICK O'DOWD, in Official Capacity as a Member of the Board of Directors of the Coachella Valley Water District; CASTULO R. ESTRADA, in Official Capacity as a Member of the Board of Directors of the Coachella Valley Water District; DESERT WATER AGENCY; PATRICIA G. OYGAR, in Official Capacity as Member of the Board of Directors of the Desert Water Agency; THOMAS KIELEY, III, in Official Capacity as Member of the Board of Directors of the Desert Water Agency; JAMES CIOFFI, in Official Capacity as Member of the Board of Directors of the Desert Water Agency; CRAIG A. EWING, in Official Capacity as Member of the Board of Directors of the Desert Water Agency; JOSEPH K. STUART, in Official Capacity as Member of the Board of Directors of the Desert Water Agency, Defendants-Appellants.

Prior History: [*1] Appeal from the United States District Court For the Central District of California. D.C. No. 5:13-cv-00883-JGB-SP. Jesus G. Bernal, District Judge, Presiding.

[Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist., 2015 U.S. Dist. LEXIS 49998 \(C.D. Cal., Mar. 20, 2015\)](#)

Disposition: AFFIRMED.

Core Terms

reservation, Tribe, groundwater, reserved right, Winters, Valley, surface water, water rights, appurtenant, purposes, rights, district court, water agency, Phase, River, acres, irrigate, primary purpose, aquifer, Basin, state water, water use, envisioned, acre-feet, impliedly, permanent, summary judgment, river system, applies, parties

Case Summary

Overview

HOLDINGS: [1]-The Winters doctrine did not distinguish between surface water and groundwater, but rather, its limits derived only from the government's intent in withdrawing land for a public purpose and the location of the water in relation to the reservation created; [2]-Because the United States intended to reserve water when it established a home for the Tribe, the district court did not err in determining that the government reserved appurtenant water sources, including groundwater, when it created the Tribe's reservation in the Coachella Valley.

Outcome

Judgment affirmed.

LexisNexis® Headnotes

Civil Procedure > Appeals > Summary Judgment Review > Standards of Review

Civil Procedure > Appeals > Standards of Review > De Novo Review

HN1 [↓] The district court's grant of summary judgment is reviewed de novo.

Civil Procedure > ... > Summary Judgment > Entitlement as Matter of Law > Appropriateness

[HN2](#) [↓] Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. [Fed. R. Civ. P. 56\(a\)](#). A court shall grant summary judgment when, under the governing law, there can be but one reasonable conclusion as to the verdict.

Constitutional Law > Relations Among Governments > Federal Territory & New States

[HN3](#) [↓] When the United States withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation. U.S. Const. art. I, § 8; U.S. Const. art. IV, § 3.

Governments > Native Americans > Water Rights

[HN4](#) [↓] In what has become known as the Winters doctrine, federal reserved water rights are directly applicable to Indian reservations and other federal enclaves, encompassing water rights in navigable and nonnavigable streams. The creation of these rights stems from the belief that the United States, when establishing reservations, intended to deal fairly with the Indians by reserving for them the waters without which their lands would have been useless. It is impossible to believe that when Congress created the great Colorado River Indian Reservation and when the Executive Department of this Nation created the other reservations they were unaware that most of the lands were of the desert kind, hot, scorching sands, and that water from the river would be essential to the life of the Indian people and to the animals they hunted and the crops they raised.

Governments > Native Americans > Water Rights

[HN5](#) [↓] Despite the long-standing recognition that Indian reservations, as well as other reserved lands, require access to water, the Winters doctrine only applies in certain situations: it only reserves water to the

extent it is necessary to accomplish the purpose of the reservation, and it only reserves water if it is appurtenant to the withdrawn land. Once established, however, Winters rights vest on the date of the reservation and are superior to the rights of future appropriators.

Governments > Native Americans > Water Rights

[HN6](#) [↓] In *United States v. New Mexico*, the United States Supreme Court emphasized that, under the reserved rights doctrine, the government reserves only that amount of water necessary to fulfill the purpose of the reservation, no more. Where water is only valuable for a secondary use of the reservation, the United States must acquire water in the same manner as any other public or private appropriator. In other words, New Mexico established a primary-secondary use distinction. Water is impliedly reserved for primary purposes. It is not, however, reserved for secondary purposes.

Governments > Native Americans > Water Rights

[HN7](#) [↓] *United States v. New Mexico* is not directly applicable to Winters doctrine rights on Indian reservations. However, it clearly establishes several useful guidelines.

Constitutional Law > Relations Among Governments > Federal Territory & New States

[HN8](#) [↓] Congress does not defer to state water law with respect to reserved rights. Instead, Congress retains its authority to reserve unappropriated water for use on appurtenant lands withdrawn from the public domain for specific federal purposes.

Governments > Native Americans > Water Rights

[HN9](#) [↓] The federal purpose for which land was reserved is the driving force behind the reserved rights doctrine. Each time the United States Supreme Court has applied the implied-reservation-of-water-doctrine, it has carefully examined both the asserted water right and the specific purposes for which the land was reserved, and concluded that without the water the

purposes of the reservation would be entirely defeated. But the question is not whether water stemming from a federal right is necessary at some selected point in time to maintain the reservation; the question is whether the purpose underlying the reservation envisions water use.

Governments > Native Americans > Water Rights

[HN10](#) [↓] Because United States v. New Mexico holds that water is reserved if the primary purpose of the reservation envisions water use, a court must determine the primary purpose of a Tribe's reservation and whether that purpose contemplates water use. To do so, courts consider the document and circumstances surrounding the reservation's creation, and the history of the Indians for whom it was created.

Governments > Native Americans > Water Rights

[HN11](#) [↓] The specific purposes of an Indian reservation are often unarticulated. The general purpose, to provide a home for the Indians, is a broad one and must be liberally construed. Moreover, most of the land in these reservations is and always has been arid, and it is impossible to believe that the United States was unaware that water would be essential to the life of the Indian people.

Governments > Native Americans > Water Rights

[HN12](#) [↓] The Winters doctrine applies to groundwater.

Constitutional Law > Relations Among
Governments > Federal Territory & New States

[HN13](#) [↓] Apart from the requirement that the primary purpose of the reservation must intend water use, the other main limitation of the reserved rights doctrine is that the unappropriated water must be appurtenant to the reservation. Appurtenance, however, simply limits the reserved right to those waters which are attached to the reservation. It does not limit the right to surface water only. Impliedly reserved waters may include appurtenant groundwater when it held that the United States can protect its water from subsequent diversion, whether the diversion is of surface or groundwater. If the

United States can protect against groundwater diversions, it follows that the government can protect the groundwater itself.

Governments > Native Americans > Water Rights

[HN14](#) [↓] The Winters doctrine encompasses both surface water and groundwater appurtenant to reserved land.

Governments > Native Americans > Water Rights

[HN15](#) [↓] A reserved right in unappropriated water vests on the date of the reservation and is superior to the rights of future appropriators. Further, reserved rights are not analyzed in terms of a balancing test. Rather, they are federal water rights that preempt conflicting state law. The reserved rights doctrine is an exception to Congress' explicit deference to state water law in other areas. Finally, the rights are not lost through non-use. Instead, they are flexible and can change over time.

Constitutional Law > Relations Among
Governments > Federal Territory & New States

[HN16](#) [↓] State water rights are preempted by federal reserved rights.

Governments > Native Americans > Water Rights

[HN17](#) [↓] Rights reserved by treaties are not subject to appropriation under state law, nor has the state power to dispose of them.

Governments > Native Americans > Water Rights

[HN18](#) [↓] The fact that a Tribe did not historically access groundwater does not destroy its right to groundwater now.

Governments > Native Americans > Water Rights

[HN19](#)  The New Mexico inquiry does not ask if water is currently needed to sustain the reservation; it asks whether water was envisioned as necessary for the reservation's purpose at the time the reservation was created.

Summary:

SUMMARY**

Water Rights / Tribal Rights

The panel affirmed the district court's partial summary judgment in favor of the *Agua Caliente* Band of Cahuilla Indians and the United States, which declared that the United States impliedly reserved appurtenant water sources, including groundwater, when it created the Tribe's reservation in California's arid Coachella Valley.

The Tribe filed this action for declaratory and injunctive relief against water agencies, and the parties stipulated to divide the litigation into three phases. Phase I, at issue in this interlocutory appeal, addressed whether the Tribe has a reserved right to groundwater.

Under the doctrine in *Winters v. United States, 207 U.S. 564, 28 S. Ct. 207, 52 L. Ed. 340 (1908)*, federal reserved water rights are directly applicable to Indian reservations.

The panel held that the Winters doctrine does not distinguish between surface water and groundwater. The panel held that the United States, in establishing the *Agua Caliente* reservation, impliedly reserved water. The panel further held that because the United States intended to reserve water when [*2] it established a home for the *Agua Caliente* Band of Cahuilla Indians, the district court did not err in determining that the government reserved appurtenant water sources — including groundwater — when it created the Tribe's reservation in the Coachella Valley. The panel also held that the creation of the *Agua Caliente* Reservation carried with it an implied right to use water from the Coachella Valley aquifer.

The panel rejected the water agencies' arguments concerning the contours of the Tribe's reserved water rights. The panel held that state water rights are

preempted by federal reserved rights. The panel also held that the fact that the Tribe did not historically access groundwater did not destroy its right to groundwater now. Finally, the panel held that the Tribe's entitlement to state water did not affect the analysis with respect to the creation of the Tribe's federally reserved water right.

Counsel: Steven Bane Abbott (argued), Gerald D. Shoaf, and Julianna K. Tillquist, Redwine and Sherrill, Riverside, California, for Defendants-Appellants Coachella Valley Water District, G. Patrick O'Dowd, Ed Pack, John Powell Jr., Peter Nelson, and Castulo R. Estrada.

Roderick E. Walston (argued), [*3] Arthur L. Littleworth, Michael T. Riddell, and Steven G. Martin, Best Best & Krieger LLP, Walnut Creek, California, for Defendants-Appellants Desert Water Agency, Patricia G. Oygur, Thomas Kieley III, James Cioffi, Craig A. Ewing, and Joseph K. Stuart.

Catherine F. Munson (argued), Kilpatrick Townsend & Stockton LLP, Washington, D.C.; Steven C. Moore and Heather Whiteman Runs Him, Native American Rights Fund, Boulder, Colorado; Mark H. Reeves, Kilpatrick Townsend & Stockton LLP, Augusta, Georgia; Adam H. Charnes, Kilpatrick Townsend & Stockton LLP, Dallas, Texas; for Plaintiff-Appellee.

Elizabeth A. Peterson (argued), Yosef M. Negose, Daron T. Carreiro, Patrick Barry, John L. Smeltzer, and William B. Lazarus, Attorneys; John C. Cruden, Assistant Attorney General; United States Department of Justice, Washington, D.C.; Christopher Watson and Scott Bergstrom, Office of the Solicitor, United States Department of the Interior, Washington, D.C.; for Intervenor-Plaintiff-Appellee.

Judges: Before: Richard C. Tallman and Morgan B. Christen, Circuit Judges, and Matthew F. Kennelly,* District Judge. Opinion by Judge Tallman.

Opinion by: Richard C. Tallman

Opinion

TALLMAN, Circuit Judge:

"When the well's dry, we know the worth [*4] of

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

* The Honorable Matthew F. Kennelly, United States District Judge for the Northern District of Illinois, sitting by designation.

water." Benjamin Franklin (1706-1790), Poor Richard's Almanac.

The Coachella Valley Water District ("CVWD") and the Desert Water Agency ("DWA") (collectively, the "water agencies") bring an interlocutory appeal of the district court's grant of partial summary judgment in favor of the ***Agua Caliente*** Band of Cahuilla Indians (the "Tribe") and the United States. The judgment declares that the United States impliedly reserved appurtenant water sources, including groundwater, when it created the Tribe's reservation in California's arid Coachella Valley. We agree. In affirming, we recognize that there is no controlling federal appellate authority addressing whether the reserved rights doctrine applies to groundwater. However, because we conclude that it does, we hold that the Tribe has a reserved right to groundwater underlying its reservation as a result of the purpose for which the reservation was established.

I

A

The ***Agua Caliente*** Band of Cahuilla Indians has lived in the Coachella Valley since before California entered statehood in 1850. The bulk of the ***Agua Caliente*** Reservation was formally established by two Presidential Executive Orders issued in 1876 and 1877, and the United States, [*5] pursuant to statute, now holds the remaining lands of the reservation in trust for the Tribe. The reservation consists of approximately 31,396 acres interspersed in a checkerboard pattern amidst several cities within Riverside County, including Palm Springs, Cathedral City, and Rancho Mirage. See [Agua Caliente Band of Mission Indians v. Riverside County](#), 442 F.2d 1184, 1185 (9th Cir. 1971).

The Executive Orders establishing the reservation are short in length, but broad in purpose. In 1876, President Ulysses S. Grant ordered certain lands "withdrawn from sale and set apart as reservations for the permanent use and occupancy of the Mission Indians in southern California." Exec. Order of May 15, 1876. Similarly, President Rutherford B. Hayes's 1877 Order set aside additional lands for "Indian purposes." Exec. Order of Sept. 29, 1877. These orders followed on the heels of detailed government reports from Indian agents, which identified the urgent need to reserve land for Indian use in an attempt to encourage tribal members to "build comfortable houses, improve their acres, and surround themselves with home comforts." Comm'r of Indian Aff., Ann. Rep. 224 (1875). In short, the United States sought

to protect the Tribe and "secure the Mission Indians permanent homes, with land and [*6] water enough." Comm'r of Indian Aff., Ann. Rep. 37 (1877).

Establishing a sustainable home in the Coachella Valley is no easy feat, however, as water in this arid southwestern desert is scarce. Rainfall totals average three to six inches per year, and the Whitewater River System—the valley's only real source of surface water—produces an average annual supply of water that fluctuates between 4,000 and 9,000 acre-feet, most of which occurs in the winter months.¹ See CVWD, Engineer's Report on Water Supply and Replenishment Assessment at III-12 (2016-2017); CVWD, Urban Water Management Plan at 3-2, 3-20 (2005). In other words, surface water is virtually nonexistent in the valley for the majority of the year. Therefore, almost all of the water consumed in the region comes from the aquifer underlying the valley—the Coachella Valley Groundwater Basin.²

The Coachella Valley Groundwater Basin supports 9 cities, 400,000 people, and 66,000 acres of farmland. See CVWD-DWA, The State of the Coachella Valley Aquifer at 2. Given the demands on the basin's supply, it is not surprising that water levels in the aquifer have been declining at a steady rate. Since the 1980s, the aquifer has been in a state of overdraft,³ which exists despite major efforts to recharge the basin with water delivered from [*7] the California Water Project and the Colorado River. In total, groundwater pumping has

¹ An acre-foot is the volume of water sufficient to cover one acre in area at a depth of one foot. CVWD, 2010-2011 Annual Review at 2. It is equivalent to 325,851 gallons. *Id.* It takes about four acre-feet of water to irrigate one acre of land for a year in the Coachella Valley. See U.S. Dep't of Agric., A Review of Agricultural Water Use in the Coachella Valley at 6 (2006). Therefore, at 9,000 acre-feet per year, the river system provides enough water to irrigate around 2,250 acres. At 4,000 acre-feet per year, the system can only irrigate about 1,000 acres. Considering that the Tribe is not the only user of the Whitewater River System, and that its reservation alone accounts for 31,396 acres, even in a peak year the river system provides very little water for irrigation or for human consumption.

² The CVWD estimates that surface water accounts for less than five percent of its water supply each year. See CVWD, Urban Water Management Plan at 3-20 (2005).

³ Overdraft occurs when the amount of water extracted from the underground basin exceeds its recharge rate. CVWD, 2010-2011 Annual Review at 2.

resulted in an average annual recharge deficit of 239,000 acre-feet, with cumulative overdraft estimated at 5.5 million acre-feet as of 2010.

The Tribe does not currently pump groundwater on its reservation. Rather, it purchases groundwater from Appellant water agencies. The Tribe also receives surface water from the Whitewater River System, particularly the Andreas and Tahquitz Creeks that sometimes flow nearby. The surface water received from this system is consistent with a 1938 California Superior Court adjudication—the Whitewater River Decree—which attempted to address state-law water rights for users of the river system. Because the United States held the lands in trust, it participated in the adjudication via a "Suggestion" on behalf of the Tribe and the resulting state court order included a water allotment for the Tribe's benefit.⁴ The amount of water reserved for the Tribe from this adjudication, however, is minimal, providing enough water to irrigate approximately 360 acres. Further, most of this allotment is filled outside of the growing season because the river system's flow peaks between [*8] December and March. Thus, groundwater supplied by the water agencies remains the main source of water for all types of consumption on the reservation throughout the year.

B

Given an ever-growing concern over diminishing groundwater resources, the *Agua Caliente* Tribe filed this action for declaratory and injunctive relief against the water agencies in May 2013. The Tribe's complaint requested a declaration that it has a federally reserved right and an aboriginal right to the groundwater underlying the reservation. In June 2014, the district court granted the United States' motion to intervene as a plaintiff. The United States also alleges that the Tribe has a reserved right to groundwater.

The parties stipulated to divide the litigation into three phases. Phase I, at issue here, seeks to address whether the Tribe has a reserved right and an aboriginal right to groundwater. According to the parties' stipulation, Phase II will address whether the Tribe beneficially owns the "pore space" of the groundwater

basin underlying the *Agua Caliente* Reservation and whether a tribal right to groundwater includes the right to receive water of a certain quality. Finally, Phase III will attempt to quantify [*9] any identified groundwater rights.

In March 2015, the district court granted in part and denied in part Plaintiffs' and Defendants' cross motions for partial summary judgment with respect to Phase I of the litigation. In its order, the district court held that the reserved rights doctrine applies to groundwater and that the United States reserved appurtenant groundwater when it established the Tribe's reservation.⁵ The district court then certified its order for interlocutory appeal pursuant to [28 U.S.C. § 1292\(b\)](#), and we granted the water agencies' petition for permission to prosecute this appeal.

II

[HN1](#)^[↑] The district court's grant of summary judgment is reviewed de novo. [Tohono O'odham Nation v. City of Glendale](#), 804 F.3d 1292, 1297 (9th Cir. 2015); [Lopez v. Smith](#), 203 F.3d 1122, 1131 (9th Cir. 2000) (en banc).

[HN2](#)^[↑] Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. [Fed. R. Civ. P. 56\(a\)](#); [Anderson v. Liberty Lobby, Inc.](#), 477 U.S. 242, 247-48, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). A court shall grant summary judgment when, "under the governing law, there can be but one reasonable conclusion as to the verdict." [Anderson](#), 477 U.S. at 250.

III

Due to the unusual trifurcation of this litigation, we are concerned on appeal only with Phase I—whether the Tribe has a federal reserved right to the groundwater underlying its reservation. This question, however, is best analyzed in three [*10] steps: whether the United States intended to reserve water when it created the Tribe's reservation; whether the reserved rights doctrine encompasses groundwater; and, finally, whether the Tribe's correlative rights under state law or the historic lack of drilling for groundwater on the reservation, or the

⁴ In providing this "Suggestion," the government maintained that it was not "submitting the rights of the United States . . . to the jurisdiction of the Department of Public Works of the State of California" and that the court lacked "jurisdiction [to adjudicate] the water rights of the United States." The federal government continues to maintain this position before us.

⁵ The district court also held that the Tribe does not have an aboriginal right to the groundwater. An aboriginal right is a type of property right that derives from territorial occupancy of land. See [United States ex rel. Chunie v. Ringrose](#), 788 F.2d 638, 641-42 (9th Cir. 1986). However, the Tribe did not appeal this issue, and we do not review it here.

water the Tribe receives pursuant to the Whitewater River Decree, impacts our answers to these questions. We address each in turn.

A

For over one hundred years, the Supreme Court has made clear that [HN3](#) when the United States "withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation." [Cappaert v. United States, 426 U.S. 128, 138, 96 S. Ct. 2062, 48 L. Ed. 2d 523 \(1976\)](#) (citing U.S. Const. art. I, § 8; U.S. Const. art. IV, § 3); see also [Winters v. United States, 207 U.S. 564, 575-78, 28 S. Ct. 207, 52 L. Ed. 340 \(1908\)](#); [Colville Confederated Tribes v. Walton, 647 F.2d 42, 46 \(9th Cir. 1981\)](#).

[HN4](#) In what has become known as the *Winters* doctrine, federal reserved water rights are directly applicable "to Indian reservations and other federal enclaves, encompassing water rights in navigable and nonnavigable streams." See [Cappaert, 426 U.S. at 138](#). The creation of these rights stems from the belief that the United States, when establishing reservations, "intended to deal fairly with the Indians by reserving for them the waters without [*11] which their lands would have been useless." [Arizona v. California, 373 U.S. 546, 600, 83 S. Ct. 1468, 10 L. Ed. 2d 542 \(1963\)](#); see also [id. at 598-99](#) ("It is impossible to believe that when Congress created the great Colorado River Indian Reservation and when the Executive Department of this Nation created the other reservations they were unaware that most of the lands were of the desert kind—hot, scorching sands—and that water from the river would be essential to the life of the Indian people and to the animals they hunted and the crops they raised.").

[HN5](#) Despite the longstanding recognition that Indian reservations, as well as other reserved lands, require access to water, the *Winters* doctrine only applies in certain situations: it only reserves water to the extent it is necessary to accomplish the purpose of the reservation, and it only reserves water if it is appurtenant to the withdrawn land. [Winters, 207 U.S. at 575-78](#); [Cappaert, 426 U.S. at 138](#). Once established, however, *Winters* rights "vest[] on the date of the reservation and [are] superior to the rights of future appropriators." [Cappaert, 426 U.S. at 138](#).

B

1

Given the limitations in the *Winters* doctrine, we must first decide whether the United States, in¹¹ establishing the *Agua Caliente* Reservation, impliedly reserved water. See [United States v. New Mexico, 438 U.S. 696, 701, 98 S. Ct. 3012, 57 L. Ed. 2d 1052 \(1978\)](#). We conclude that it did. And although the parties and the district [*12] court focused on the application of the *Winters* doctrine to groundwater specifically, their argument over the creation of a federal reserved right—and, in particular, the relevance of *New Mexico* to that question—depends on whether the *Agua Caliente* Reservation carried with it a reserved right to water generally. Whether the Tribe's reserved right extends to the groundwater underlying its reservation is a separate question from whether the establishment of the reservation contained an implicit right to use water.

[HN6](#) In *New Mexico*, the Supreme Court emphasized that, under the reserved rights doctrine, the government reserves only "that amount of water necessary to fulfill the purpose of the reservation, no more." *Id.* (quoting [Cappaert, 426 U.S. at 141](#)). "Where water is only valuable for a secondary use of the reservation, . . . the United States [must] acquire water in the same manner as any other public or private appropriator." *Id. at 702*. In other words, *New Mexico* established a "primary-secondary use" distinction. Water is impliedly reserved for primary purposes. It is not, however, reserved for secondary purposes.⁶

The water agencies argue that *New Mexico* requires us—when deciding if a reserved right [*13] exists at all—to determine whether water is necessary to fulfill the primary purpose of the *Agua Caliente* Reservation. If it is not, they argue, then we are to conclude that Congress did not intend any water to be impliedly reserved under a federal water right. Put differently, the water agencies argue that *New Mexico* stands for the proposition that water is impliedly reserved only if other sources of water then available cannot meet the reservation's water demands. According to the water agencies, if other sources of water exist—and the lack of a federal right would not entirely defeat the purpose of the reservation—then Congress intended to defer to state water law and require the United States to obtain

⁶ We have previously noted that [HN7](#) *New Mexico* is "not directly applicable to *Winters* doctrine rights on Indian reservations." [United States v. Adair, 723 F.2d 1394, 1408 \(9th Cir. 1983\)](#). However, it clearly "establish[es] several useful guidelines." *Id.* Thus, we consider its application here.

water rights like any other private user.

New Mexico, however, is not so narrow. [HN8](#)^[↑] Congress does not defer to state water law with respect to reserved rights. [Id. at 702, 715](#). Instead, Congress retains "its authority to reserve unappropriated water . . . for use on appurtenant lands withdrawn from the public domain for specific federal purposes." [Id. at 698](#).

[HN9](#)^[↑] The federal purpose for which land was reserved is the driving force behind the reserved rights doctrine. "Each time [the] Court has applied the 'implied-reservation-of-water-doctrine,' [*14] it has carefully examined both the asserted water right and the specific purposes for which the land was reserved, and concluded that without the water the purposes of the reservation would be entirely defeated." [Id. at 700](#). But the question is not whether water stemming from a federal right is necessary at some selected point in time to maintain the reservation; the question is whether the purpose underlying the reservation envisions water use.

Winters itself established that the purpose of the reservation is controlling. In *Winters*, the Supreme Court addressed whether the federal government reserved water for tribal usage at the Fort Belknap Indian Reservation, which had been reserved by the United States "as and for a permanent home" for several tribes. [207 U.S. at 565](#). The *Winters* Court observed that the arid tribal reservation would be "practically valueless," and that a civilized community "could not be established thereon," without irrigation. [Id. at 576](#). Thus, the Court held that, in creating the reservation, the United States simultaneously reserved water "for a use which would be necessarily continued through years." [Id. at 577](#). The reserved right turned on the purpose underlying the formation of the Fort Belknap Reservation. [*15]

Though it was decided seventy years after *Winters*, *New Mexico* remains faithful to this construction. In analyzing the reserved rights doctrine, the Court first sought to determine Congress' intent in creating the Gila National Forest. [New Mexico, 438 U.S. at 698](#). After reviewing the congressional act that established the forest, the Court determined that Congress intended only two purposes—"to conserve the water flows, and to furnish a continuous supply of timber for the people." [Id. at 707](#) (citation omitted). It did not, however, reserve the forest lands for aesthetic, environmental, recreational, or wildlife-preservation purposes. [Id. at 708](#). Thus, the Court deemed the latter uses "secondary," for which the reserved right did not attach, and held that only "to fulfill the very purposes for which a federal reservation was created . . . [did] the United States intend[] to reserve

the necessary water." [Id. at 702](#).

As such, *New Mexico's* primary-secondary use distinction did not alter the test envisioned by *Winters*. Rather, it added an important inquiry related to the question of *how much* water is reserved. It also answered that question by holding that water is reserved only for primary purposes, those directly associated with the reservation [*16] of land. It did not, however, eliminate the threshold issue—that a reserved right exists if the purposes underlying a reservation envision access to water.

2

[HN10](#)^[↑] Because *New Mexico* holds that water is reserved if the primary purpose of the reservation envisions water use, we now determine the primary purpose of the Tribe's reservation and whether that purpose contemplates water use. To do so, we consider "the document and circumstances surrounding [the reservation's] creation, and the history of the Indians for whom it was created." [Walton, 647 F.2d at 47](#).

The Executive Orders establishing the Tribe's reservation declared that the land was to be set aside for "the permanent use and occupancy of the Mission Indians" or, more generally, for "Indian purposes."⁷ See *supra* Part I. While imprecise, such a purpose is not indecipherable. Our precedent recognizes that [HN11](#)^[↑] "[t]he specific purposes of an Indian reservation . . . [are] often unarticulated. The general purpose, *to provide a home for the Indians*, is a broad one and must be liberally construed." [Walton, 647 F.2d at 47](#) (emphasis added). Moreover, "[m]ost of the land in these reservations is and always has been arid," and it is impossible to believe that the United States was unaware "that water . . . [*17] . . . would be essential to the life of the Indian people." [Arizona, 373 U.S. at 598-99](#).

The situation facing the *Agua Caliente* Tribe is no different. Water is inherently tied to the Tribe's ability to live permanently on the reservation. Without water, the underlying purpose—to establish a home and support an agrarian society—would be entirely defeated. Put differently, the primary purpose underlying the establishment of the reservation was to create a home for the Tribe, and water was necessarily implicated in

⁷ Additionally, government reports preceding the Executive Orders recognized the need to secure the Tribe "permanent homes, with land and water enough." See Comm'r of Indian Aff., Ann. Rep. 37 (1877).

that purpose. Thus, we hold that the United States implicitly reserved a right to water when it created the *Agua Caliente* Reservation.

C

While we conclude that the federal government envisioned water use when it established the Tribe's reservation, that does not end our inquiry. We must now determine whether the *Winters* doctrine, and the Tribe's reserved water right, extends to the groundwater underlying the reservation. And while we are unable to find controlling federal appellate authority explicitly holding that [HN12](#) the *Winters* doctrine applies to groundwater,⁸ we now expressly hold that it does.

[HN13](#) Apart from the requirement that the primary purpose of the reservation must [*18] intend water use, the other main limitation of the reserved rights doctrine is that the unappropriated water must be "appurtenant" to the reservation. See *Cappaert*, 426 U.S. at 138. Appurtenance, however, simply limits the reserved right to those waters which are attached to the reservation. It does not limit the right to surface water only. *Cappaert* itself hinted that impliedly reserved waters may include appurtenant groundwater when it held that "the United States can protect its water from subsequent diversion, whether the diversion is of surface or groundwater." *Id. at 143*. If the United States can protect against groundwater diversions, it follows that the government can protect the groundwater itself.⁹

⁸We previously held that the *Winters* doctrine applies "not only [to] surface water, but also to underground water." *United States v. Cappaert*, 508 F.2d 313, 317 (9th Cir. 1974), *aff'd on other grounds*, *Cappaert*, 426 U.S. at 142. But on appeal, the Supreme Court did not reach this question. See *Cappaert*, 426 U.S. at 142. In that case, the peculiarities of the hydrological forms led the Court to conclude as a question of fact that the reserved water in a cavern pool was surface water, not groundwater. *Id.*

⁹Although the district court found that the groundwater contained in the Coachella Valley aquifer "does not 'add to, contribute to or support' any surface stream from which the Tribe diverts water," that does not mean that the hydrological cycle in the Coachella Valley has been severed. See U.S. Geological Surv., *Ground Water and Surface Water: A Single Resource*, U.S.G.S. Circular 1139 at 9-10 (1998) (recognizing a connection between surface and groundwater even where the water table falls below the stream bed). Further, we note that surface water is used here to replenish groundwater sources. As such, the district court may wish to hear expert opinion on the interconnectedness of the waters in the valley

Further, many locations throughout the western United States rely on groundwater as their only viable water source. See, e.g., *In re Gen. Adjudication of All Rights to Use Water in Gila River Sys. & Source*, 195 Ariz. 411, 989 P.2d 739, 746 (Ariz. 1999) (en banc) ("The reservations considered in [*Winters* and *Arizona*] depended for their water on perennial streams. But some reservations lack perennial streams and depend for present and future survival substantially or entirely upon pumping of underground water. We find it no more thinkable in the latter circumstance than in the former that the United States reserved land for habitation [*19] without reserving the water necessary to sustain life."). More importantly, such reliance exists here, as surface water in the Coachella Valley is minimal or entirely lacking for most of the year. Thus, survival is conditioned on access to water— and a reservation without an adequate source of surface water must be able to access groundwater.

The *Winters* doctrine was developed in part to provide sustainable land for Indian tribes whose reservations were established in the arid parts of the country. And in many cases, those reservations lacked access to, or were unable to effectively capture, a regular supply of surface water. Given these realities, we can discern no reason to cabin the *Winters* doctrine to appurtenant surface water. As such, we hold that [HN14](#) the *Winters* doctrine encompasses both surface water and groundwater appurtenant to reserved land.¹⁰ The creation of the *Agua Caliente* Reservation therefore carried with it an implied right to use water from the Coachella Valley aquifer.

D

The final issue we must address is the contours of the Tribe's reserved right, including its relation to state water law and the Tribe's existing water rights.

[HN15](#) A "reserved right in unappropriated [*20] water . . . vests on the date of the reservation and is superior to the rights of future appropriators." *Cappaert*, 426 U.S. at 138. Further, reserved rights are not

in the later phases of this litigation. Proper factual findings on this issue will allow the district court to fashion appropriate relief during the quantification phase.

¹⁰The parties do not dispute appurtenance, nor could they. The Coachella Valley Groundwater Basin clearly underlies the Tribe's reservation. See *generally* CVWD, Engineer's Report on Water Supply and Replenishment Assessment (2016-2017).

analyzed "in terms of a balancing test." *Id.* Rather, they are federal water rights that preempt conflicting state law. See [Walton, 647 F.2d at 51-53](#); see also [New Mexico, 438 U.S. at 715](#) ("[T]he 'reserved rights doctrine' . . . is an exception to Congress' explicit deference to state water law in other areas."). Finally, the rights are not lost through non-use. See [Walton, 647 F.2d at 51](#). Instead, they are flexible and can change over time. See [Id. at 47-48](#); [United States v. Ahtanum Irrigation Dist., 236 F.2d 321, 326 \(9th Cir. 1956\)](#).

Despite the federal primacy of reserved water rights, the water agencies argue that because (1) the Tribe has a correlative right to groundwater under California law and (2) the Tribe has not drilled for groundwater on its reservation, and (3) because the Tribe is entitled to surface water from the Whitewater River Decree, the Tribe does not need a federal reserved right to prevent the purpose of the reservation from being entirely defeated. Put differently, the water agencies argue that, because the Tribe is already receiving water pursuant to California's correlative rights doctrine and the Whitewater River Decree, a federal reserved right is unnecessary.

However, the water agencies' [*21] arguments fail for three reasons. First, [HN16](#) state water rights are preempted by federal reserved rights. See [Walton, 647 F.2d at 51](#); see also [Ahtanum Irrigation Dist., 236 F.2d at 329 \(HN17\)](#) "Rights reserved by treaties such as this are not subject to appropriation under state law, nor has the state power to dispose of them."). Second, [HN18](#) the fact that the Tribe did not historically access groundwater does not destroy its right to groundwater now. See [Walton, 647 F.2d at 51](#). And third, [HN19](#) the *New Mexico* inquiry does not ask if water is currently needed to sustain the reservation; it asks whether water was envisioned as necessary for the reservation's purpose at the time the reservation was created. See *supra* Part III.B. Thus, state water entitlements do not affect our analysis with respect to the creation of the Tribe's federally reserved water right.

IV

In sum, the *Winters* doctrine does not distinguish between surface water and groundwater. Rather, its limits derive only from the government's intent in withdrawing land for a public purpose and the location of the water in relation to the reservation created. As such, because the United States intended to reserve water when it established a home for the [Agua Caliente](#) Band of Cahuilla Indians, we hold that the district court did

not [*22] err in determining that the government reserved appurtenant water sources—including groundwater—when it created the Tribe's reservation in the Coachella Valley.

Finally, we recognize that the district court's failure to conduct a thorough *New Mexico* analysis with respect to whether the Tribe needs access to groundwater was largely a function of the parties' decision to trifurcate this case. We also understand that a full analysis specifying the scope of the water reserved under *New Mexico* will be considered in the subsequent phases of this litigation.

Presumably, however, the water agencies will continue to argue in these later phases that the *Winters* doctrine is dependent upon the Tribe's demonstrated need—that is, need above and beyond what the Tribe is already receiving under state-law entitlements or could receive through a paramount surface water right. And while we express no opinion on how much water falls within the scope of the Tribe's federal groundwater right, there can be no question that water in some amount was necessarily reserved to support the reservation created. Thus, to guide the district court in its later analysis, we hold that the creation of the [Agua Caliente](#) [*23] Reservation carried with it an implied right to use water from the Coachella Valley aquifer.

Each party shall bear its own costs.

AFFIRMED.

End of Document

The following links and/or pages are support for agenda
Item 17d iii

https://www.doi.gov/sites/doi.gov/files/uploads/so_3353.pdf

The following links and/or pages are support for agenda
Item 17d iv

http://sagebrushco.nv.gov/About/Collaborative_Network/

The following links and/or pages are support for agenda Item 17e

Briefing Schedule

Plaintiffs' opening brief (35 pages) August 18, 2017

Defendants' brief in opposition to Plaintiffs' motion and in support of Defendants' cross-motion (40 pages) October 20, 2017

Defendant-Intervenors' brief in opposition to Plaintiffs' motion and in support of Defendant-Intervenors' cross-motion (20 pages) October 27, 2017

Plaintiffs' brief in reply and in opposition to Defendants' and Defendant-Intervenors' cross-motions (45 pages) December 15, 2017

Defendants' reply brief (25 pages) January 30, 2018

Defendant-Intervenors' reply brief (10 pages) February 6, 2018

Hearing March 9, 2018 (or earliest available date thereafter)