

## **Timeline of events in VVWD legal cases**

It's complex, convoluted, and complicated. Such is the case when you have multiple legal actions working all at once like those involving the Virgin Valley Water District and former District officials.

The Mesquite Citizen Journal has been reporting on the VVWD lawsuits for almost two and a half years with the intent to keep the public informed. One MCJ reader suggested a few weeks ago that we publish a synopsis and timeline to help make it easier to follow and understand what the lawsuits are all about. We agree so here is a list of the players, a brief outline of the two water right sale transactions at the heart of the legal actions, and a timeline of events spanning 13 years.

### **Players:**

Virgin Valley Water District (VVWD): alleges it lost almost \$8 million dollars in two separate water share transactions in 2005 and 2008.

Mike Winters: VVWD General Manager from 1993 to 2010.

Michael Johnson: VVWD Chief Hydrologist from 1999 to 2010.

John Lonetti, Jr: Wealthy landowner and businessman in Bunkerville who owned significant water share rights.

Robert Coache: Deputy State Water Engineer with Nevada Department of Water Resources from 1980 to 2010.

Jason King: State Water Engineer with Nevada Department of Water Resources; still employed.

George Benesch: VVWD general legal counsel from 1993 to 2009.

Bo Bingham: VVWD legal counsel from 2009 to present.

Dominic Gentile: Lawyer with Gordon Silver law firm in Las Vegas; legal counsel for Lonetti beginning in 2011.

Southern Nevada Water District (SNWA): Water authority in southern Nevada. Purchased water share rights associated with Permits #54383 and #3085.

Rio Virgin, LLC: Company formed by Johnson and Coache to accept \$1.3 million from Lonetti.

### **Why Water Shares and Dates are important**

Water is categorized by its origins. Groundwater is considered any water that originates from beneath the ground. That's where the bulk of Mesquite's drinking water comes from and is pumped up through wells.

Surface water is what you see flowing through the Virgin River. It's less valuable than groundwater because it's harder to prepare for human consumption. It's mainly used for irrigating farms and golf courses.

Part of the monetary value of water rights is set by the permit dates established by the State Engineer's office. Older water rights are more valuable than newer ones because whoever got those rights first has first priority for using the water. And there tends to be less restrictions

on use of water with older permit dates.

### **Synopsis of 2005 Water right purchase deal**

In August 2005, VVWD purchased just over 590 acre feet of ground water per year (afy) from Lonetti for \$8,866,500, according to the court documents. Lonetti was willing to sell the shares for \$10,000 each but Johnson convinced the Water District Board of Directors to sell them for \$15,000 per share. The Water District paid \$8,866,500, which was \$2,955,500 more than necessary. The 590-plus shares that Lonetti sold to the District in 2005 had a priority date of February 1, 1965.

In 2006 the VVWD issued a \$7.5 million dollar bond to pay for water right purchases the District had made.

Winters and Johnson were required to file appropriate paperwork with the State Water Engineer to change the use allocation on the water shares. They did not. VVWD's valuable February 1, 1965 priority date was lost and the 591.1 afy of water purchased by VVWD from Lonetti for \$8.866 was now essentially worthless.

*Legal Result* – Winters, Johnson, Coache, Lonetti charged in VVWD civil complaint

### **Winters Misconduct of a Public Officer Charges**

Winters was previously charged in a separate criminal case in June 2010 alleging Misconduct of a Public Officer, for his role in the Water District's purchase of land for a new arsenic treatment plant located on Hardy Way in Mesquite. The case charges that Winters recommended purchasing the land from Crescent Hardy even though he knew it was highly overpriced. Hardy was not charged in the case.

*Legal Result* – Winters charged with one count of Misconduct of a Public Officer

### **Synopsis of 2008 Water right purchase deal**

Allegedly, Winters, Johnson, Coache, and Lonetti conspired together to trade or sell water rights that Lonetti owned to the detriment of VVWD. Both complaints allege that Lonetti paid Johnson and Coache \$1.3 million dollars for their part in a water right deal in which Lonetti received \$8,416,506. Winters received \$15,000 from Johnson.

Lonetti owned two sets of water shares: Permit # 54383 that carried 1,200 acre feet with 1990 priority date, and Permit #3085 with 600 acre feet with priority date 1914.

SNWA was not interested in Permit #54383 but was interested in Permit #3085.

VVWD had 890 acre feet of water "with a valuable pre-1929 priority date." SNWA much preferred that water to the 1,200 afy with a 1990 priority date.

The agreement between SNWA and Johnson was for SNWA to purchase both permits from Lonetti. SNWA would keep Permit #3085. It would then swap Permit #54383 to VVWD in exchange for 890 acre feet of water VVWD owned in Bunkerville Irrigation Company that was more valuable.

Lonetti received \$8,416,506 from SNWA for the water share sale.

Johnson and Lonetti entered into a written financial agreement whereby Rio Virgin, LLC, a company owned and controlled by Johnson and Coache, would receive from Lonetti twenty five percent of the proceeds for the sale of Permit 54383 (1,200 afy of water) and ten

percent of the proceeds for the sale of Permit 3085 (600 afy of water), The agreement was signed by both men around February 2007 even though at the time Lonetti did not own the rights to Permit 54383.

Approximately six months after Permit 54383 was approved, Johnson initiated contact with Southern Nevada Water Authority (SNWA) to discuss SNWA's interest in purchasing Permits 54383 and 3085 from Lonetti."

According to the civil complaint filed by the Water District, "Johnson told SNWA that if SNWA would also purchase Permit 54383 from Lonetti, then Johnson would convince the VVWD Board to trade VVWD's 890 afy of surface water for Permit 54383 that SNWA would purchase from Lonetti."

At that point, "SNWA agreed that it would purchase Permit 54383 from Lonetti for approximately \$3.24 million contingent upon VVWD agreeing to the trade," allege the court documents.

*Legal Result* – Johnson, Coache, and Winters charged with multiple felony counts by Clark County DA. VVWD files civil complaint against those three men and Lonetti.

#### Timeline of events

2000 – Southern Nevada Water Authority (SNWA) and Virgin Valley Water District (VVWD) sign agreement restricting the ability of SNWA to remove or use water generated in the Virgin Valley and the Virgin River.

2005 – Aug. 10; VVWD agrees to purchase 591.1 acre feet a year of water shares from Lonetti for \$8,866,500 at \$15,000 per acre foot. Called Transaction 1. Later revealed Lonetti would have accepted \$10,000 per acre foot.

2005 – October; VVWD supposedly files a change application for water rights purchased from Lonetti with Nevada Dept of Water Resources (NDWR).

2006 – NDWR asks Lonetti to withdraw water permit application #54383 or explain why it should be granted. Lonetti requests Johnson's help in getting State to approve application. Johnson contacts State Deputy Engineer Coache to push Lonetti application through for approval.

2007 – Jan. 29; State approves Lonetti's permit application #54383.

2007 – Feb. 1; Lonetti and Rio Virgin, LLC sign secret agreement giving Rio Virgin consulting fee that is a percentage of two water permits (#54383 and #3085) once the permits are sold.

2007 – June; State engineer's office approve Lonetti's permit #54383. State Engineer Jason King signs permit.

2007 – July 30; Johnson and Coache officially form Rio Virgin, LLC.

2008 – January; Johnson allegedly contacts SNWA to determine possibility of the agency purchasing water permits #54383 and #3085 Lonetti owns. SNWA wants VVWD water instead. Johnson allegedly arranges three way change of water share right ownership.

2008 – March 11; Purchase agreement for Permit #54383 between VVWD and SNWA sent from Johnson to Benesch.

2008 – March 18; VVWD Board approves purchasing Permit #54383 from SNWA and trading 89 BIC water right shares to SNWA.

2008 – March 20; Water share sale transaction between SNWA and Lonetti signed; separate water share sale transaction between SNWA and VVWD signed. VVWD allegedly loses almost \$4 million dollars in the transactions. SNWA-VVWD transaction deletes SNWA's restrictions on removing water from Virgin Valley.

2008 – May 20; SNWA pays Lonetti \$8.4 million dollars for permits #54383 and #3085

2008 – May 21; Lonetti pays Rio Virgin, LLC (Johnson and Coache) \$1.3 million dollars for their alleged participation in aiding the two separate 2008 water share sale transactions.

2008 – Aug. 10; Johnson allegedly pays Winters \$15,000 for his participation in water sale transactions.

2008 – May through September; funds from Rio Virgin disbursed to a variety of accounts and real estate purchases.

2009 – Feb. 4; State Engineer notifies Johnson and Winters that Proof of Completion of the water share right transactions must be completed in 30 days.

2009 – Mar. 4; Deadline for Proof of Completion goes unmet by Johnson and Winters. Technically, VVWD loses rights to water shares it paid for.

2009 – Sept 10; Lonetti retains Benesch to provide legal services in connection with a possible acquisition by Lonetti of Arizona water rights.

2009 – Oct; Benesch is replaced as VVWD general counsel by Bingham, Snow, and Associates

2010 – Feb 2; VVWD General Manager Mike Winters is fired by Board of Directors.

2010 – April 14; Rio Virgin LLC dissolved.

2010 – May; Coache retires from his Deputy State Engineer, State of Nevada Division of Water Resources job.

2010 – June; Winters criminally charged with Misconduct of a Public Officer for his role in separate land purchase.

2010 – Aug. 17; VVWD Chief Hydrologist, Michael 'Boomer' Johnson allegedly confesses to Board of Directors that he accepted \$1.3 million from Lonetti as payment for his part in arranging 2008 water share sale transactions. Johnson resigns from Water District.

2010 – Oct; Las Vegas Metropolitan Police Dept begins criminal investigation against Johnson after presented evidence by VVWD.

2011 – Apr. 19; VVWD files civil complaint lawsuit against Johnson.

2011 – April; Lonetti retains Benesch in connection with dispute with Nevada State Engineer's office as to whether Lonetti still had rights to 92 acre feet per year of water shares.

2011 – May 25; Clark County District Attorney files Criminal Complaint against Johnson and Coache related to 2008 water transaction.

2011 – May; VVWD prepares amended complaint of the civil case to add Lonetti, Coache, and Winters; not yet filed with the court.

- 2011 – May; VVWD sends Lonetti cease and desist letter regarding Lonetti's use of irrigation shares associated with Permit #54383. Lonetti allegedly was selling the water from the permit that he had previously sold.
- 2011 – May; Lonetti retains Benesch in connection with cease and desist letter and in matters related to the 2008 water share transaction.
- 2011 – June 1; Lonetti retains Gordon Silver law firm, specifically Dominic Gentile, to represent him in connection with criminal proceedings. Even though Lonetti had not (and still hasn't been) been charged in criminal complaint, he had been interviewed by investigators and knew of criminal proceedings.
- 2011 – June 3; Clark County DA sends proffer letter to Lonetti that agrees not to charge Lonetti if he cooperates with investigation and prosecution.
- 2011 – May/June; Gentile hires Benesch in reference to Lonetti's legal issues.
- 2011 – June 16; Benesch has tele-conversation with Bingham about VVWD issues. Benesch calls Gentile same day allegedly transferring information from conversation with Bingham.
- 2011 – June 17; Bingham discusses civil complaint case with Gentile to allegedly deliberate out of court settlement with Lonetti.
- 2011 – June 21; Gentile meets with Benesch and Lonetti for three hours in Las Vegas. Gentile claims no discussion took place of VVWD civil case and claims Benesch did not disclose confidential information.
- 2011 – June 22; Benesch has telephone conversation with Gentile about SNWA/VVWD agreements.
- 2011 – June 23; Benesch contacts Lonetti regarding lease back issues associated with #54383 permit.
- 2011 – June 23; VVWD sends Gentile a copy of Second Amended Complaint it intends to file naming Lonetti as defendant.
- 2011 – June 23; Gentile claims it's the last time he and Benesch communicated when Benesch sent certain public contracts to him via email.
- 2011 – July 19; Benesch last billed Gentile/Lonetti for services performed for Lonetti based on email Benesch sent to Gentile regarding water share right sale transactions.
- 2011 – July 20; VVWD files Second Amended Complaint in civil case naming Lonetti, Coache, and Winters as parties that harmed the Water District in the 2005 and 2008 water rights sale transactions.
- 2011 – Oct; Clark County DA files forfeiture action against Johnson and Coache to claim money and property they allegedly received from Lonetti. VVWD soon files its own forfeiture action claiming it has the right to the money and property, not the County.
- 2011 – Dec 14; Former General Manager Mike Winters added to criminal complaint originally filed against Johnson and Coache in 2008 transaction.
- 2012 – Dec 14; VVWD files motion to disqualify legal counsel for Lonetti (Gordon Silver, Gentile) alleging ethical violations and disclosures of confidential information.

2013 – March; Evidentiary hearing in disqualification allegations held in Clark County District Court.

2013 – April 4; VVWD files legal complaint against Benesch alleging legal malpractice, Breach of fiduciary Duty of Care, and Constructive Fraud associated with 2008 water transaction.

2013 – April; Clark County District Court Judge rules against VVWD.

2013 – May; VVWD appeals disqualification ruling to Nevada Supreme Court.

2013 – July; Criminal trial delayed until after civil case is tried.

2013 – Sep 20; Nevada Supreme Court rules against VVWD and allows Gentile to continue representing Lonetti.

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For more information about the Supreme Court Appeal, see these Mesquite Citizen Journal stories:

[Water District Loses State Supreme Court Appeal](#)

[VVWD Disqualification Case Goes To State Supreme Court](#)

[VVWD Disqualification Case Goes to State Supreme Court - Part II](#)

[Opposition Calls VVWD Supreme Court Appeal Nonsense](#)

For courtroom video testimony during the evidentiary hearing, see these Mesquite Citizen Journal stories:

[Courtroom Videos Reveal Details Of Water District Lawsuits](#)

[Hafen Testifies in Water District Hearing-Video](#)

[Lonetti Testifies In Water District Hearing - Video](#)

[Gentile Testifies In Water District Hearing](#)

For more background information of the evidentiary hearing see these MCJ articles:

[Lawyers Clash In VVWD Civil Case](#)

[Lawyers Clash in VVWD Civil Case-Part II](#)

For more background information and details of all these legal cases, see the additional Mesquite Citizen Journal stories listed below:

[Former VVWD Officials and Business Owner Face Mounting Legal Woes](#)

[Former VVWD Officials Corruption Scandal Widens - Part II](#)

[Civil Court Documents Reveal Corruption in VVWD - Part III](#)

[VVWD Corruption Case: How They Allegedly Spent the Money-Part IV](#)

[Former VVWD GM Indicted in Criminal Bribery Case](#)

[VVWD Corruption Case Gains Two More Legal Actions](#)

[VVWD Corruption Case Gains Two More Legal Actions - Part II](#)

