



OFFICE OF THE DISTRICT ATTORNEY

CIVIL DIVISION

July 5, 2011

DAVID ROGER

District Attorney

Via U.S. Mail and Facsimile

CHRIS OWENS

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The Honorable Brian Sandoval
101 North Carson Street
Carson City, Nevada 89701
Via Facsimile 1-775-684-5683

The Honorable Catherine Cortez Masto
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701
Via Facsimile 1-775-684-1108

The Honorable Ross Miller
Nevada Secretary of State
101 North Carson Street, #3
Carson City, Nevada 89701
Via Facsimile 1-775-684-5725

Re: Return of Unconstitutional Diversion of Local Revenue

Dear Members of the Nevada State Board of Examiners:

Attached please find a summary of tax revenue diverted from the County of Clark to the State of Nevada General Fund pursuant to AB 543 of the 2009 Nevada Legislature. A review of the recent Nevada Supreme Court decision in *Clean Water Coalition v. The M. Resort*, 127 Nev. Adv. Op. No. 24 (May 26, 2011), establishes that AB 543 is a local and special law which violates Article 4, Sections 20 and 21 of the Nevada Constitution. Because AB 543 unconstitutionally diverted money from the County of Clark and deprived its citizens from its intended beneficial use, those funds must be returned to the County. Demand was made for the return of these funds to Treasurer Kate Marshall, and copied to General Masto and the State Comptroller. The recipients refused to act on that demand or to refer the matter to the Board of Examiners. By this correspondence, the County of Clark renews its demand for the return of this money to you, in both your official capacities and your joint duties as members of the Board of Examiners. Nothing in this demand should be construed as waiving a demand for any other inappropriately diverted monies; however, the County is open to a final resolution of all potential demands if the State and the County can reach agreement on an appropriate method of

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recompensing the County for the loss of these funds. I am informed that the County of Washoe has indicated an intent to offset diverted funds from taxes currently due for distribution to the State. I remain available to discuss both that possible remedy and this claim.

Sincerely,

DAVID ROGER
DISTRICT ATTORNEY

By: 

MARY-ANNE MILLER
County Counsel

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Attachment

2009 Legislative Session (AB 543)			
	FY 2010	FY 2011	TOTAL
4 cents ad valorem tax revenue - diverted from the Clark County operating rate to the State General Fund	\$ 30,328,198	\$ 24,183,795 ⁽¹⁾	\$ 54,511,993
5 cents ad valorem tax revenue - eliminated all available funding for capital projects from Clark County to the State General Fund ⁽²⁾⁽³⁾	\$ 28,812,283	\$ 19,208,757 ⁽¹⁾	\$ 48,021,040
TOTAL TAX REVENUE DIVERTED TO THE STATE GENERAL FUND			\$ 102,533,033

SOURCE: Clark County Treasurer monthly State of Nevada distribution account.

⁽¹⁾ For FY 2011, this amount does not reflect the final revenue distribution to the State. The distribution amounts as reported by the Clark County Treasurer are as of June 6, 2011 and are subject to audit.

⁽²⁾ AB 595 of the 2007 Legislative Session diverted up to 3 cents of the 5 cents ad valorem tax revenue for capital projects from Clark County to pay for State transportation projects. The diversion of the 3 cents was phased over a five-year period beginning July 1, 2008 and ending July 1, 2012.

⁽³⁾ AB 543 of the 2009 Legislative Session diverted the remaining 2 cents of the 5 cents ad valorem tax revenue for capital projects from Clark County to the State General Fund.