

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 85039
FILED BY Moapa Valley Water District
ON April 3rd, 20 15



PROTEST

FILED
JUN 08 2015
STATE ENGINEER'S OFFICE

Comes now USDI - Bureau of Land Management, Southern Nevada District Office

Printed or typed name of protestant

whose post office address is 4701 N. Torrey Pines Drive, Las Vegas Nevada 89130

Street No. or PO Box, City, State and ZIP Code

whose occupation is Public Land Management

and protests the granting

of Application Number 85039, filed on April 3rd, 20 15

by Moapa Valley Water District for the

waters of Surface - Colored Magnesite Spring situated in Clark

an underground source or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Attached

RECEIVED
2015 JUN 11 AM 10:56
STATE ENGINEERS OFFICE

THEREFORE the Protestant requests that the application be Denied

Denied, issued subject to prior rights, etc., as the case may be

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed

Timothy Z. Smith
Agent or protestant

Timothy Z. Smith

Printed or typed name, if agent

Address

4701 North Torrey Pines Drive

Street No. or PO Box

Las Vegas, Nevada 89130

City, State and ZIP Code

702-515-5000

Phone Number

E-mail

State of Nevada

County of Clark

Subscribed and sworn to before me on 6/11/15

by Shannon Hecht

Shannon Hecht
Signature of Notary Public Required

SHANNON HECHT
Notary Public State of Nevada
No. 01-68941-1
My Appt. Exp. June 3, 2017
Notary Stamp or Seal Required

+ \$30 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Southern Nevada District Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
<http://www.blm.gov/nv/st/en/fo/lvfo.1.html>



In Reply Refer To:
7200 (NVS0000)

JUL 13 2015

Nevada Division of Water Resources
State Engineer
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701-5250

9171 9690 0935 0003 7184 42

Mr. Jason King:

The Bureau of Land Management, BLM, is concerned about the following water rights application numbers: 85037, 85038, 85039, 85040, 85041, 85042, and 85043. These aforementioned water right applications listed above were filed by the Moapa Valley Water District, to appropriate surface water at the following locations:

California Wash (Hydrographic Basin 218):

- Surface – Upper ERG-1 Spring (Application 85037)
- Surface – Lower ERG-1 Spring (Application 85038)
- Surface – ERG-2 Spring (Application 85043)

Lower Moapa Valley (Hydrographic Basin 220):

- Surface – Colored Magnesite Spring (a.k.a. Kaolin Spring) (Application 85039)
- Surface – Lon's Spring (Application 85041)
- Surface – Magnesite Spring (Application 85042)

Upper Moapa Valley (Hydrographic Basin 219):

- Surface – Jackass Spring (Application 85040)

While the BLM appreciates the Moapa Valley Water District's concern for wildlife, neither the Water District nor any other private entity has any jurisdiction or ownership over wildlife or public lands which the wildlife occupies. The Nevada Department of Wildlife and the BLM exclusively own and manage the wildlife and public lands, respectively. In addition in the case of Application 85042 Nevada State Parks also co-manages those public lands.

Should the public water utility at any point in the future choose to place any kind of diversion on these springs, a right-of-way (ROW) must be applied for, approved and issued by the BLM to the public water utility; no such ROW or any type of agreement currently exists and is unlikely to be granted in the future, given the sensitivity and importance of these habitats.

It is not in the purview of public water utility's to manage wildlife or wildlife habitat, such as riparian areas, wetlands or mesquite bosques, without a stipulated conservation strategy

agreement for mitigation purposes. It is not in the public interest for the Moapa Valley Water District to hold water rights for wildlife. That approach may in fact interfere with critical management strategies and best practice approaches to include state and federal policies that have been scientifically tested for wildlife management, such as developing refugia for species like the relict leopard frog. The leopard frog, as you may be aware, is a candidate species for federal listing. In addition, if no additional habitats can be identified for the leopard frog, Kaolin or Colored Magnesite Spring is such a refugia. This spring is currently being evaluated by interagency Relict Leopard Frog Conservation Teams.

For these rationales' listed above, the BLM urges the State Engineer to deny the applications . . . , enumerated in this letter.

If you have additional questions, please do not hesitate to contact Boris Poff, Ph.D., District Hydrologist. His office number is 702-515-5154 or Boris can be reached by email at boris_poff@blm.gov

Sincerely



Timothy Z Smith
District Manager

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