

FILED

MAY 25 1979

STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION
NUMBER 36700, FILED BY
Bureau of Land Management,
on Feb 12 1979, to APPROPRIATE
THE WATERS OF Silver Spring

PROTEST OF STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

Comes now Thomas W. Ballow

whose post-office address is P. O. Box 11100, Reno, Nevada 89510

whose occupation is Executive Director, and protests

the granting of application number 36700, filed on

February 12, 1979 by Bureau of Land Management-U.S. Dept. Interior

to appropriate the waters of Silver Spring

situated in Nye County, State of Nevada, for the

following reasons and on the following grounds, to wit:

SEE ATTACHED

WHEREFORE protestant prays that the application

be DENIED

(Denied, or issued subject to prior rights, as the case may be)

for Nevada citizens and that the use of water herein claimed by protestant/ be confirmed

and that an order be entered establishing said right and for such

other relief as the State Engineer deems just and proper.

Thomas W. Ballow
Protestant.

STATE OF NEVADA

COUNTY OF WASHOE

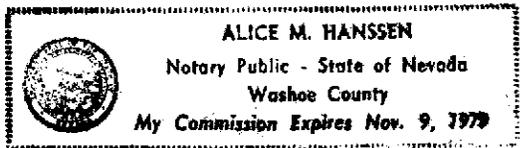
ss.

Thomas W. Ballow, being first duly sworn, deposes and says, that he has read the foregoing protest and knows the contents thereof and that the same is true of his own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters he believes them to be true.

Thomas W. Ballow

Subscribed and sworn to before me this 24 day of May 19 79.

Alice M. Hanssen
Notary Public



\$10 FILING FEE MUST ACCOMPANY PROTEST.
PROTEST MUST BE FILED IN DUPLICATE.

To Wit:

The State Director of the Bureau of Land Management has stated that they intend filing approximately 7 to 9,000 applications to appropriate waters on the public lands of the State of Nevada which clearly indicates their intent to appropriate virtually all of the remaining waters of the State of Nevada. To grant these applications would be clearly contrary to the interests of the State of Nevada and its citizens. Since land in an arid state is almost unusable without water, the granting of these applications would prohibit the future development of the lands of the State of Nevada and jeopardize the future welfare of its citizens.

The applicant does not have a permit to graze livestock in the area and in fact does not own any livestock and since it is the policy of the state to deny applications for livestock water to applicants who do not have a livestock grazing permit, the application should be denied. Since the applicant does not own any livestock, then it logically follows that the applicant could not make beneficial use of water for livestock, and the application should be denied.

Livestock grazing in this area was common prior to the enactment of state law requiring the filing of applications with the State Engineer to obtain livestock watering rights. The present owners and operators of livestock have vested rights to water livestock obtained from their predecessors on this land, even though the exact numbers of livestock and amounts of water may be lost to record or not of record.

Clearly, the Bureau of Land Management does not intend to consume these waters themselves, but rather to control or prohibit the future use of these waters by others. Of course, the control of the use of waters by others is the responsibility of the State Engineer, in accordance with definite provisions set forth in Statutes of the State of Nevada. The granting of these applications would in effect delegate the future control of these waters to the Bureau of Land Management and would be contrary to the public policy of the State of Nevada.

The Federal Land Management Policy Act provides that use of the resources on the public lands shall be charged for at market value. This is contrary to Nevada law which does not charge for the use of state waters by its citizens. The granting of these applications can, and we believe will, lead to the charging by the federal government for use of these waters which would be free if granted direct from the state to the citizen, and therefore these applications should be denied.

The people of the State of Nevada were unlawfully denied the right to develop the agricultural lands of the state by the Secretary of Interior who placed a moratorium on filings under the Act from June 4, 1964 until January 1, 1979. Present and future filings under the Desert Land Entry Act are dependent on available water sources both underground and surface. The granting of these applications to appropriate waters by the Bureau of Land Management would unreasonably interfere with the development of land by entrymen under the Desert Land Act.

The wildlife who drink or exist on or in these waters are resident species under the control and responsibility of the State of Nevada. The granting of these applications would allow the Bureau of Land Management to control the watering or use of this water by wildlife and unreasonably interfere with the state's authority and responsibility for wildlife management. The state's wildlife has used these waters on these lands since Statehood and the state has a vested right to have water for its wildlife.

The granting of these applications by the Bureau of Land Management to appropriate the waters of the State of Nevada would allow the federal government to interfere with the sovereignty and dominion of the State of Nevada over the use and control of the natural resources within its borders.

In view of the vast magnitude of these filings and the permanent severe adverse effects that the granting of these applications would have on the future development of the state and the welfare of its citizens, we are hopeful that we will be allowed to appear before the State Engineer to present evidence and further oral arguments in opposition to the granting of these applications.