



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF THE SOLICITOR
Pacific Southwest Region
2800 Cottage Way
Room E-2753
Sacramento, California 95825-1898

TAKE
PRIDE IN
AMERICA

FWS.PS.5004

September 3, 1992

R. Michael Turnipseed
Nevada State Engineer
State Department of Conservation and
Natural Resources
Division of Water Resources
123 W. Nye Lane
Carson City, NV 89710

Subject: Applications by Las Vegas Valley Water District

Dear Mr. Turnipseed:

On behalf of the U.S. Fish and Wildlife Service (Service), I am requesting that the protests previously filed by the Service in the subject matter be amended to include two additional refuges. These are the Fish Springs National Wildlife Refuge in Utah and the Ruby Lake National Wildlife Refuge in Nevada. A brief description of each follows.

Fish Springs National Wildlife Refuge. This refuge, established in 1959, is located in Juab County, Utah and comprises 17,992 acres, more or less. The primary purpose of the refuge is migratory waterfowl resting and nesting. The water supply for the refuge is from thermal springs that emanate from the Fish Springs Mountain Range. These springs are critical to maintaining the habitat necessary for the waterfowl.

Ruby Lake National Wildlife Refuge. This refuge is located in Elko and White Pine Counties, Nevada, comprising over 37,000 acres. The refuge was established in 1938 to provide a breeding ground for migratory waterfowl and other wildlife. Water supply for the refuge is provided by numerous springs located along the base of the Ruby Mountains. Other water dependent uses include fishing, hunting and boating as well as livestock watering and grazing, farming and power generation.

If we can provide any additional information, please call the undersigned at (916) 978-4832.

Sincerely,

John W. Burke III
Regional Solicitor
Pacific Southwest Region


By: Stephen R. Palmer
Assistant Regional Solicitor

cc: See distribution list

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

IN THE MATTER OF APPLICATION NUMBER 53947
FILED BY Las Vegas Valley Water District
ON October 17 19 89, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

Comes now U.S. Fish and Wildlife Service

Printed or typed name of protestant

whose post office address is 1002 NE Holladay Street, Portland, OR 97232-4181

Street No. or P.O. Box, City, State and Zip Code

whose occupation is conservation, protection, and enhancement of fish, wildlife and their habitats and protests the granting

of Application Number 53947, filed on October 17, 19 89

by Las Vegas Valley Water District

Printed or typed name of applicant

to appropriate the

waters of Underground

Underground or name of stream, lake, spring or other source

situated in Lincoln

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

See Attached

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

Marvin L. Plenert

Agent or protestant

Marvin L. Plenert, Regional Director

U.S. Fish and Wildlife Service
Address 1002 NE Holladay St.

Street No. or P.O. Box No.

Portland, OR 97232-4181

City, State and Zip Code No.

Subscribed and sworn to before me this 25th day of June 19 90

Maureen A. Halvay

Notary Public

State of Oregon

County of Multnomah

My Commission Expires 11/17/92

\$10 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

The U.S. Fish and Wildlife Service (Service) protests water right applications 53947 through 54036, 54038 through 54066, 54068 through 54092, 54105, and 54106, of which this protest is a part, which were filed by the Las Vegas Valley Water District (LVVWD). Granting the above applications would not be in the public interest and, in addition, would injure the Service's senior water rights.

The currently available information indicates that the impacts, both short and long term, which would result from withdrawal (extraction) of underground water as proposed by LVVWD, would adversely affect the water rights held by the Service and the water available to wildlife and plants in general.

The "underground source" of the water proposed to be appropriated by LVVWD will intercept the source of the water that now maintains the numerous springs, seeps, marshes, streams, and riparian and mesquite habitats that support the wildlife and plant resources including endangered and threatened species in the state of Nevada. These water resources are dependent on the ground water systems from which applicant proposes to tap.

The Service's mission is to conserve, protect, and enhance fish, wildlife, and their habitats for the continuing benefit of the American people. In southern Nevada, the Service manages four National Wildlife Refuges (NWR):

- Ash Meadows NWR. This refuge was established in June 1984 and comprises approximately 23,500 acres of spring-fed wetlands and alkaline desert uplands that provide habitat for numerous plants and animals found nowhere else in the world. Five species at the refuge are listed under the Endangered Species Act, and seven species are threatened. Twenty other species are candidates for listing.
- Desert National Wildlife Range. This refuge was established in 1936 and encompasses over 2,200 square miles. The most important objective is perpetuating the desert bighorn sheep and its habitat. Dependable, year-round water sources located throughout bighorn habitat enable the sheep to use all available habitat which reduces competition for food, cover, water, and space. The Corn Creek Spring ponds on the refuge are the home of the endangered Pahrump poolfish.
- Moapa NWR. This refuge was established in 1979 to secure habitat for the Moapa dace, an endangered minnow endemic to the headwaters of the Muddy River. Historically, the dace was common throughout the headwaters of the Muddy River but in the last decade populations have declined sharply due to habitat destruction and alterations and competition with introduced non-native species.

- Pahranaagat NWR. This refuge was established in 1964 to provide a stopping point for waterfowl and other migratory birds as they migrate south in the fall and back north in the early spring. These waterfowl are attracted by the refuge's 5,380 acres of marshes, open water, native grass meadows, and cultivated croplands. The refuge is the home of the endangered bald eagle and five candidate species.

These four southern Nevada refuges support migratory birds, endangered and threatened species, and other plant and wildlife species. Loss of sufficient water supply to the refuges would eliminate or degrade critical wildlife habitat and could eliminate some or all of the migratory birds, endangered and threatened species, and other wildlife the refuges have been established to protect. This would defeat the very purposes of the refuges and interfere with the Service's mandated responsibilities under the Migratory Bird Treaty Act, 16 U.S.C § 703 et seq., (MBTA) and the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., among other federal laws. Reducing the refuges' water supply through approval of the applications could also constitute violations of the ESA and MBTA.

In addition to the endangered and threatened species found on the refuges, endangered and threatened species are found at numerous other sites in southern Nevada. Significantly reducing water supplies at these locations would also adversely affect these species. The preamble to the Endangered Species Act states that endangered and threatened species of fish, wildlife and plants . . . "are of aesthetic, ecological, educational, historical, recreational and scientific value to the Nation and its people." Congress, through enactment of the Endangered Species Act, has clearly expressed a national public interest in preserving endangered and threatened plant and animal species.

The Service also has water rights for surface and ground water at each of the four southern Nevada National Wildlife Refuges. Approval of the applications would significantly reduce the water available at the refuges and injure the Service's water rights.

The Fish and Wildlife Service strongly urges the State Engineer to undertake a comprehensive study of the environmental impacts to southern Nevada that the withdrawing of approximately 860,000 acre-feet of water, the amount applied for by the Las Vegas Valley Water District, would have on the hydrologically connected basins in this area of the state prior to approving any of the applications.