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

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JUL 20 1990
Div. of Water Resources
Branch Office - Las Vegas, NV

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

PROTEST

Comes now U.S. Department of the Interior
Printed or typed name of protestant
whose post office address is 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126
Street No. or P.O. Box, City, State and Zip Code
whose occupation is Land Management Agency, and protests the granting
of Application Number 53947, filed on October 17, 1989
by Las Vegas Valley Water District to appropriate the
Printed or typed name of applicant
waters of an underground source situated in Lincoln
Underground 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 SHEET

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 Ben F. Collins
Agent or protestant
BEN F. COLLINS
Printed or typed name, if agent
Address 4765 Vegas Drive, P.O. Box 26569
Street No. or P.O. Box No.
Las Vegas, Nevada 89126
City, State and Zip Code No.

Subscribed and sworn to before me this 20th day of July 19 90

Carolyn J. Spoon
Notary Public
State of Nevada
County of Clark

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CAROLYN J. SPOON
My Appointment Expires Oct. 9, 1990

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

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The U.S. Department of the Interior, Bureau of Land Management protests the granting of the subject application for the following reasons and on the following grounds, to wit:

BLM is directed to implement water rights policy by: 1) "cooperating with the State Governments under the umbrella of State Law to protect water uses identified for public land management purposes", and 2) "to comply with the applicable state laws except as specifically mandated by Congress". The purposes mandated by Congress are defined by the Federal Land Management Policy Act (FLPMA) and includes "multiple use" which is defined as "... the management of public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people". Uses associated with multiple use include but are not limited to "recreation, range, wildlife, minerals, watershed and fish...". The Wild Horse and Burro Act, FLPMA, and the National Environmental Policy Act also recognize free wild horses and burros as resource uses under BLM management responsibility. Any application to the State Engineer of Nevada for a water permit, on BLM land, that interferes with the capability of the agency to provide water for the afore stated uses, within the legislated responsibilities of the agency, will be protested.

The Endangered Species Act requires all Federal departments and agencies to utilize their authorities to conserve species listed by the Secretary of the Interior or Secretary of Commerce as threatened or endangered. It further requires Federal agencies to ensure that the continued existence of listed species is not jeopardized and that designated critical habitat of listed species is not destroyed or adversely modified.

Tikapoo Valley, in which this well is proposed, is part of the Ash Meadows regional ground water system. This system supplies water to Ash Meadows, in the Amargosa Desert. Ash Meadows contains many species of flora and fauna listed as endangered, threatened or, are candidate species for listing under the Endangered Species Act. Those species listed or, are candidates for listing, are identified below.

Devil's Hole pupfish, Cyprinodon diabolis (Endangered)
Ash Meadows Amargosa pupfish, Cyprinodon nevadensis mionectes (Endangered)
Warm Springs pupfish, Cyprinodon nevadensis pectoralis (Endangered)
Ash Meadows speckled dace, Rhinichthys osculus nevadensis (Endangered)
Ash Meadows naucorid bug, Ambrysus amargosus (Threatened)
Amargosa niterwort, Nitrophila mohavensis (Endangered)
Ash Meadows milkvetck, Astragulus phoenix (Threatened)
Spring-loving centuary, Centarium namophilum (Threatened)
Ash Meadows sunray, Enceliopsis nudicaulis currugata (Threatened)
Ash Meadows gumplant, Grindelia fraxino-pratensis (Threatened)
Ash Meadows ivesia, Ivesia eremica (Threatened)
Ash Meadows blazing star, Mentzelia leucophylla (Threatened)
Ash Meadows montane vole, Microtus montanus nevadensis (Candidate)
Virile Amargosa snail, (undescribed) (Candidate)

Death Valley agabus diving beetle, Agabus rumppi (Candidate)
Amargosa naucorid bug, Pelocoris shoshone (Candidate)
Devils Hole warm spring riffle beetle, Stenelmis calida calida (Candidate)
Crystal Spring springsnail, Pyrgulopsis cristalis (Candidate)
Ash Meadows pebblesnail, Fluminicola erythopoma (Candidate)
Fairbanks springsnail, Pyrgulopsis fairbanksensis (Candidate)
Elongate-gland springsnail, Pyrgulopsis isolatus (Candidate)
Distal-gland springsnail, pyrgulopsis nanus (Candidate)
Median-gland Nevada springsnail, Pyrgulopsis pisteri (Candidate)
Oasis Valley springsnail, Pyrgulopsis micrococcus (Candidate)
Sportinggoods tryonia snail, Tryonia angulata (Candidate)

It is proposed that 4,344 acre-feet per year will be extracted from this well. This is 1,744 acre-feet more than the total recharge (2,600 acre-feet per year) to the northern part of Tikapoo Valley as identified in the State of Nevada Water Planning Report, 1971. The addition of the other two wells, proposed within this part of the basin, further exacerbates the potential impacts with a total withdrawal of 18,823 acre-feet per year, far above the annual recharge. Moreover, this withdrawal figure far exceeds the annual recharge to the entire Tikapoo Valley (6,000 acre-feet).

Pumping of this single well, far above the annual recharge, will have an impact on ground water and surface waters within Tikapoo Valley, as well as, on the springs in Ash Meadows. When the impact of pumping this single well is added to the other fifteen (15) wells proposed within the Ash Meadows regional ground water system, five (5) of which are in Tikapoo Valley, a noticeable reduction in spring flow is a reasonable expectation. This well could intercept ground water that would otherwise discharge at Ash Meadows. This reduction in flow and possibly quality of the springs, could very well threaten the endangered and candidate species identified. The Water District has proposed temporary mining of ground water within several basins. This mining further increases the probability of adversely impacting the listed species, perhaps to a level from which they can not recover.

By Executive Order 11990 (Protection of Wetlands) federal agencies are directed to take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial value of wetlands in carrying out programs affecting land use. An adverse impact on the flow of the springs in Ash Meadows could result in a reduction of associated riparian vegetation which, in turn, may impact those endangered and candidate species previously discussed.

Water sources on the public lands, within this basin, contribute to the watering of 7,351 AUMs (Animal Unit Month) of cattle and 651 AUMs of deer. Any adverse impacts to these water sources could have a detrimental affect on BLM's ability to properly manage livestock grazing, wildlife habitat and wild horses.

Currently, there is insufficient information to ascertain the actual impacts to the various resources for which the BLM has management responsibility. Neither the Nevada State Engineer nor the Las Vegas Valley Water District has prepared an analysis of all anticipated impacts associated with the Water Districts filings. Until sufficient data is gathered and analysis performed, the extent of the impacts resulting from the pumping of this well, as well as, the cumulative impacts of pumping multiple wells can not be realized.

Because of the impacts discussed above and those not identifiable at this time, due to insufficient information and analysis, the BLM protests the granting of this water appropriation.

The Bureau is currently preparing notices of Public Water Reserves (PWR) within the area of protest. These notices will be based only on the needs appropriate under PWR 107 and, will be sent to the State Engineer over the next several months prior to adjudication.