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

RECEIVED
JUL 06 1990
Div. of Water Resources
Branch Office • Las Vegas, NV

IN THE MATTER OF APPLICATION NUMBER 53963,
FILED BY Las Vegas Valley Water District,
ON October 17, 1989, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

Comes now LINCOLN COUNTY, NEVADA, By and Through the Board of County Commissioners
(Printed or typed name of protestant)
whose post office address is P.O. Box 90, Pioche, Nevada 89043
(Street No. or P.O. Box, City, State and Zip Code)
whose occupation is Government of Lincoln County and Subdivision, and protests the granting
of Application Number 53963, filed on October 17, 1989
by Las Vegas Valley Water District
(Printed or typed name of applicant) to appropriate the
waters of Underground - Basin # 172 - 1R
(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 EXHIBIT "1"

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.

ATTEST:

Corrine Walker
CORRINE WALKER
Lincoln County Clerk

Signed BOARD OF LINCOLN COUNTY COMMISSIONERS
(Agent or protestant)
Keith Whipple KEITH WHIPPLE, Chairman
(Printed or typed name, if agent)
Address P.O. Box 90
(Street No. or P.O. Box No.)
Pioche, Nevada 89043
(City, State and Zip Code No.)

Subscribed and sworn to before me this 5TH day of July 1990.

Judy A. Etchart
(Notary Public)

JUDY A. ETCHART
NOTARY PUBLIC • STATE OF NEVADA
PRINCIPAL OFFICE • LINCOLN CO. • NV
APPT. EXP. 1-21-94

State of NEVADA
County of LINCOLN

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

2434 (Revised 6-80) 6

O-3035

EXHIBIT "1"

1. This application should be denied on the basis that rights to the use of the public waters of the State of Nevada are restricted to so much water as may be necessary, when reasonably and economically used for beneficial purposes. Las Vegas Valley Water District has allowed the water to be used for waste and purposes other than reasonable and economic beneficial use.

2. The Statutes of Nevada provide the beneficial use shall be the basis, the measure and the limit of the right to the use of water in this State. Actual consumption is the measure of beneficial use and water that is wasted is not put to such use. This applicaiton should be denied based on the long history of applicant allowing water to be wasted.

3. This application should be denied because the State Engineer is restricted to allowing only that quantity of water to a user which shall reasonably be required for the beneficial use to be served. The State Engineer must, therefore, make his determinations of quantity based on all water now available to applicant and requested in all applications of record.

4. This application should be denied unless the applicant can clearly and with scientific certainty demonstrate that vested rights shall not be impaired or affected.

5. This application is one of 147 applications filed by the Las Vegas Valley Water District seeking a combined appropriation of some 860,000 acre feet of ground and surface water for municipal use in the Las Vegas Valley Artesian Basin. Diversion and export of such a quantity of water will deprive the county and area of origin of the water needed for its environment and economic well being and will unnecessarily destroy environmental, ecological, scenic and recreational values that the State hold in trust for all its citizens.

6. The granting or approving of the subject application in the absence of comprehensive planning, including but not limited to environmental impact considerations, socioeconomic impact considerations, and a water resource plan consideration for the general Las Vegas Valley area such as has been required by the Public Service Commission of private purveyors of water, is detrimental to the public welfare and interest.

7. The granting or approving of the subject application in the absence of comprehensive water resource development planning, including but not limited to, environmental impacts, socioeconomic impacts, and long term impacts on the water resource, threatens to prove detrimental to the public interest.

8. The granting or approval of the above-referenced application would conflict with or tend to impair all existing rights the source of which is the deep carbonate aquifier of eastern Nevada because it would exceed the safe yield of the subject aquifier, lower the pressure within the aquifier which accounts for hundred of seeps, springs and artesion water sources such as Panaca Big springs, Crystal Springs, etc. (Special mention of these dwo does not limit the reference), would lower the static water level and would sanction water mining.

9. Granting or approval of the above-referenced Application would be detrimental to the public interest in that it individually and cumulatively with other applications of the water exploration project would:

(1) Likely jeopardize the continued existence of endangered and threatened species recognized under the Endangered Species Act and realted state statutes;

(2) Prevent or interfere with the conservation of those threatened or endangered species;

(3) Take or harm those endangered species; and

(4) Interfere with the purpose for which the Federal lands are managed under Federal statutes including, but not limited to, the Federal Land Use Policy Act of 1976.

10. The approval of the subject application will sanction and enhance the willful waste of water allowed, if not encouraged, by the Las Vegas Valley Water District.

11. The subject Application seeks to develop the water resources of, and transport water across, lands of the United States under the jurisdiction of the United States Department of Interior, Bureau of Land Management. This application should be denied because the Las Vegas Valley Water District has not obtained right-or-way for water development on public lands and the transportation of water from the proposed point of diversion to the service area of the Las Vegas Valley Water District in Clark County.

12. The Application should be denied because it individually and cumulatively will increase the waste of water and lack of effective conservation efforts in the Las Vegas Valley Water District service area.

13. The Las Vegas Valley Water District lacks the financial capability of transporting water under the subject permit as a prerequisite to putting the water to beneficial use and accordingly, the subject Application should be denied.

14. The above-referenced Application should be denied beacuse the application fails to include the statutorily required:

(1) Description of proposed works;

(2) The estimated cost of such works;

(3) The estimated time required to construct the works and the estimated time required to complete the application of water to beneficial use; and

(4) The approximate number of persons to be served and the approximate future requirement.

15. The subject application should be denied because it individually and cumulatively with other Applications will exceed the safe yield of the 172-1R Basin thereby adversely affecting phreatophytes and create air contamination and air pollution in violation of State and Federal Statutes, including but not limited to, the Clean Air Act and Chapter 445 of the Nevada Revised Statutes.

16. The application cannot be granted because the applicant has failed to provide information to enable the State Engineer to grant the public interest properly. This application and related applications associated with this major withdrawal out in the basin transfer project cannot properly be determined without an independent, formal and publicly-reviewable assessment of:

a. cumulative impacts of the proposed extractions;

b. mitigation measures that will reduce the impacts of the proposed extractions;

c. alternatives to the proposed extractions, including but not limited to, the alternatives of no extraction and mandatory and effective water conservation in the LVVWD service area.

17. The undersigned additionally incorporates by reference as though fully set forth herein and adopts as its own, each and every other protest to the aforementioned applications filed pursuant to NRS 533.365.

18. Inasmuch as a water extraction and trans basin conveyance project of this magnitude has never been considered by the State Engineer, it is therefore impossible to anticipate all potential adverse affects without further study. Accordingly, the protestant reserves the right to amend the subject protest to include such issues as they develop as a result of further study.

ADDENDUM 1

By ruling #3398 dated November 20, 1986, In the Matter of Additionally Applications 49333 and 49334, by ruling #3173 dated April 15, 1985 In the Matter of Application 48075, and similar rulings to which reference is made, the Nevada State Engineer adopted as policy that applicants furnish data concerning water conservation measures and amount of water to be recycled. Unless the same is demanded of and furnished by the applicant herein an unconstitutional unequal application of law and public policy will have occurred. This application should be denied for failure to furnish the information or at least held in abeyance until the information is furnished.

EXHIBIT "1A"

This applicaiton is in Lake Valley Nevada. By decision dated September 10, 1981, the State Engineer denied applications No. 38520, 38525, 38569, 40363 and 43592. The Decision in part reads:

> ". . . The estimated annual recharge of the ground water reservoir in Lake Vally is 13,000 acre-feet.
> . . . The total amount of water currently appropriated in Lake Valley is 24,173 acre-feet per year.
> . . . Pumpage in excess of 12,000 acre-feet will eventually result in storage depletion from principal aquifiers, substantial water level declines, and land subsidence.
>
> Should additional water be allowed for appropriation . . . (it would) detrimentally affect prior ground water rights, the State Engineer is required by law to order withdrawals (of water) be restricted to conform with priority rights."