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

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| IN THE MATTER OF APPLICATION NUMBER 53976<br><br>FILED BY the Las Vegas Valley Water District<br><br>ON Oct 17, 1989 TO APPROPRIATE THE WATERS OF Railroad Valley Basin | ) | PROTEST |

RECEIVED
JUL 13 1990
Div. of Water Resources
Branch Office - Las Vegas, NV

Comes now Citizen Alert whose post office address is P.O. Box 1681, Las Vegas, Nevada 89125, whose occupation is nonprofit, community-based organization, State of Nevada, and protests the granting of Application Number 53976 filed on Oct. 17, 1989, by the Las Vegas Valley Water District to appropriate the waters of Railroad Valley Basin situated in Nye County, State of Nevada, for the following reasons and on the following grounds, to wit:

1. This application is one of 146 applications filed by the Las Vegas Valley Water District seeking a combined appropriation of some 864,195 acre feet of ground and surface water primarily for municipal use in Clark County. Diversion and export of such a quantity of water will deprive the area of origin of the water needed to protect and enhance its environment, and the diversion will unnecessarily destroy environmental, ecological, scenic and recreational values that the State holds in trust for all its citizens.

2. The subject application should be denied because Railroad Valley's underground aquifers lie upgradient from the Death Valley National Monument, diversion of water here could result in drawdown of the water table in the Death Valley National Monument and Ash Meadows. Railroad Valley is also an extremely arid valley and drawdown of the water table will have irreversible effects on its fragile ecosystem. On information and belief the negative effects will occur to migratory birds and the plant and animal species inhabiting and dependent on water resources in the National Monument and the Railroad Valley Basin, including some sensitive species and some species protected under the federal Endangered Species Act and related state statutes. These would include but not be limited to the Desert Pupfish, the Nevada Primrose, and the Hitchcock's Bladderpod.

3. This application should be denied because the current per capita water consumption rate for the Las Vegas Valley Water District is double that of similarly situated southwestern municipalities. This suggests enormous potential for more cost-effective supply alternatives, including but not limited to demand management and effluent reuse. These alternatives have not been seriously studied by the Las Vegas Valley Water District.

4. The granting or approving of the subject Application in the absence of comprehensive planning, including but not limited to environmental impact considerations, costs considerations, socioeconomic impact considerations, and a water resource plan(such as is required by the Public Service Commission of private purveyors of water) for the Las Vegas Valley Water District service area is detrimental to the public welfare and interest.

5. The granting or approval of the above-referenced Application would be detrimental to the public interest in that it, individually and together with the other applications of the water importation project, would:

(a) Likely jeapordize the continued existence of endangered and threatened species recognized under the federal Endangered Species Act and related state statutes;

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

(c) Take or harm those those endangered or threatened species;

(d) 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.

6. The subject application seeks to develop water resources on and 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 the necessary legal interest (e.g. right-of-way) in the federal land such that the applicant may extract, develop and transport water resources from the proposed point of diversion to the proposed point of use.

7. The subject Application should be denied because it individually and cumulatively with other applications of the proposed project will exceed the safe yield of the Railroad Valley Basin thereby adversely affecting phreatophytes and creating 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 Nevada Revised Statutes.

8. The subject Application is deficient and should be denied. Insuficient data exists to support the Las Vegas Valley Water District's claim that such water exists. Upon information and belief there is not sufficient unappropriated water available in the Railroad Valley Basin to provide the water being sought. Due to cyclical drought, and long term climatic change the water resource in this basin and all connecting basins is diminishing. Withdrawal in excess of perennial yield will cause a decline in the static water level beyond reasonable limits.

9. The subject Application should be denied because it is located near others with pre-existing water rights and the water sought cannot be removed without detriment to current users.

10. The subject Application should be denied because it lies within the boundaries of land covered by the Treaty of Ruby Valley of 1863. Land claims under this Treaty are currently under litigation in federal court. On information and belief granting or approving Application Number 53976 would conflict with the prior and paramount reserved water rights of the Western Shoshone Tribes subject to the Treaty of Ruby Valley and Federal Statutes affecting aboriginal peoples of the United States.

11. The subject Application should be denied because it individually and cumulatively with other applications of the proposed project will encourage and enable the continued uncontrolled population growth in the Las Vegas Valley. The Las Vegas valley is a desert valley, surrounded by mountains, inhabited by the endangered species, the Desert Tortoise, and already has existing air quality, traffic and crime problems. Uncontrolled growth will result in overcrowding, thus exacerbating existing problems. The air quality already violates federal standards from the Clean Air Act, and will worsen as vehicle miles increase. The subject Application should be denied because it is not in the public interest of those who live in the Las Vegas Valley Water District service area.

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

13. The undersigned additionally incorporates by reference as though fully set forth herein and adopts as his own, each and every other protest to the subject application filed pursuant to NRS 533.365.

THEREFORE the protestant requests the the application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

Signed Christopher A. Brown
(agent)
Christopher A. Brown

Address 2014 Crawford Street, Apt. 1

North Las Vegas, NV 89030

Phone 648-8982

Subscribed and sworn before me this 13th day of July, 1990

My Commission Expires

Teresa L. Cost
Notary Public
State of Nevada
County of Clark

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
TERESA L. COST
My Appointment Expires Jan. 22, 1994

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