

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

IN THE MATTER OF APPLICATION NUMBER 53996
FILED BY Las Vegas Valley Water District
ON October 17, 19 89, TO APPROPRIATE THE
WATERS OF Underground Well

PROTEST

Comes now U.S. Government, Bureau of Land Management

Printed or typed name of protestant

whose post office address is Star Route 5, Box 1, Ely, Nevada 89301

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

whose occupation is Land Management Agency

and protests the granting

of Application Number 53996, filed on October 17, 19 89

by Las Vegas Valley Water District

Printed or typed name of applicant

Underground Source (Well) to appropriate the

waters of T. 6 N., R. 67 E., Sec. 26, SE 1/4 SE 1/4 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 Attachment for Application #53996

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

Kenneth G. Walker

Agent or protestant

Kenneth G. Walker, District Manager

Printed or typed name, if agent

Address SR 5, Box 1

Street No. or P.O. Box No.

Ely, Nevada 89301

City, State and Zip Code No.

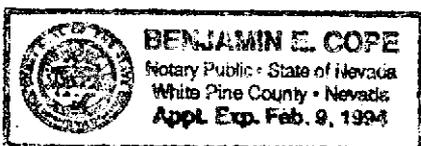
Subscribed and sworn to before me this 2nd day of July 19 90

Benjamin E. Cope

Notary Public

State of Nevada

County of White Pine



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

ATTACHMENT FOR FILING #53996

The Bureau of Land Management (BLM), United States Department of the Interior has been directed by Congress through law to protect and manage certain public lands of the United States. Specifically, Congress instructed the BLM in the Federal Land Policy and Management Act (FLPMA) "...that management be on the basis of multiple use and sustained yield...public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use..."

The multiple uses mentioned in FLPMA include, but are not limited, to recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values.

In addition to FLPMA, the Taylor Grazing Act, The Recreation and Public Purposes Act, The Wild and Free Roaming Horse and Burro Act, The Endangered Species Act, The Public Rangelands Improvement Act, The Water Resources Act, and various other laws give the BLM the authority to manage the public lands and their various resources so that they are utilized in the combination that will best meet the present and future needs of the American people.

The application of the Las Vegas Valley Water District (LVVWD) to the State Engineer of Nevada to appropriate water on BLM administered land, if approved, will prove to be detrimental to the public interest by eliminating the capability to fulfill the legislated management responsibilities and is being protested under NRS 533.365.

SPECIFIC IMPACTS FROM APPLICATION #53996

There are nineteen (19) waters that could be potentially impacted if this application is granted. The demand which the BLM has recognized on these waters where the BLM has a responsibility to manage is: 1) 936 AUMs for deer, 2) 219 AUMs for antelope, 3) 18,250 AUMs for livestock and wild horses 528. The total AUM demand is 19933. Also two candidate T/E species will be affected. These are the ferruginous hawk (3 nest sites) and Astragalus oophorus var. lonchocalyx, a plant. Both are Category 2 species.

Of these 19 waters deer use 7, antelope use 11, blue grouse use 1, livestock 11 and wild horses 6. The ability of the BLM to meet this demand will be impaired by the granting of an appropriation to LVVWD; therefore, granting this application will be detrimental to the public interest.

CUMULATIVE AFFECTS OF APPLICATION #53996

1. Application number 53996 in conjunction with applications 53994, 53995, 53993, and 53997 will withdraw 27,510 acre feet (AF) of water if pumping occurs at the rates applied for, 24 hours per day, 365 days per year. This withdrawal rate is 14,510 AF per year more than occurs through natural recharge from

precipitation. According to Dettinger (1989) the perennial yield of an aquifer is the quantity of water which can be extracted for use each year without depleting the groundwater reservoir. The perennial yield is no greater than the total rate of flow through the aquifer and is probably less (Dettinger 1989). Because more water will be withdrawn from the Lake Valley hydrographic area than is recharged, a slow but continuous decline in groundwater levels will occur. Also, groundwater withdrawal from the Cave Valley hydrographic area that exceeds natural recharge will preclude the underground flow of 3,000 AF per year from the Cave Valley hydrographic area to the Patterson Wash hydrographic area. According to the Department of Conservation and Natural Resources, of the 13,000 AF of annual recharge about 5,000 AF may be available from the principal springs in the northwest part of the valley. The remainder of the 8,000 AF is available to wells in the valley fill to the south and east of the spring areas; therefore, approximately 60% of the annual recharge is available for well withdrawal. The amount applied for in this hydrographic area is about 3.5 times the amount available. Because of these impacts and others not identifiable at this time, the granting of this application will be detrimental to the public interest.

2. Application 53996 in conjunction with applications, 53993, 53994, and 53997 are positioned within the fringe of or just outside of a phreatic zone. Groundwater withdrawal of almost three times the amount used by the phreatic vegetation, both at individual points of diversion and cumulative from all the points of diversion will lower the water table below the rooting zone of the phreatic vegetation. Soils in the basin floor of Lake Valley are very alkaline; therefore, little or no vegetation will replace the salt tolerant phreatophytes. Desertification will reduce the forage and habitat base for livestock and wildlife. Also, the aesthetic and biologic quality of the air resource will decline because desertification increases airborne particulates, and acute problems will occur during periods of high winds. Well log reports indicate the presence of water in unconsolidated valley fill. Estimates of the thickness of this zone ranges from the surface to several hundred feet. Due to the formation's generally unconsolidated nature, the role of the groundwater mass in support of the valley fill may be significant. Removal of groundwater by this application and the cumulative affects of groundwater removal by those mentioned above will likely induce contraction, subsidence, and failure of the structural integrity of the valley floor. Crack formation and subduction of normally ephemeral surface waters will significantly alter the area's ecosystem. Because of these impacts and others not identifiable at this time, the granting of this application will be detrimental to the public interest.

3. The cumulative impact of application 53996 in conjunction with the applications mentioned in the above paragraphs will reduce the groundwater which will impact Wilson Creek, the springs at the Geyser Ranch and the associated riparian habitat thereby negatively impacting the Ferruginous hawk, a category 1 candidate species. Reduction in interbasin flows will result in long-term negative impacts to springs, stream, and riparian habitats of Patterson and Meadow Valley Washes which will negatively affect the Big Spring spinedace, a listed threatened species, and the Meadow Valley Wash desert sucker and the Meadow Valley Wash speckled dace, both category 2 candidate species. Because of these impacts and others not identifiable at this time, the granting of this application will be detrimental to the public interest.

ADDITIONAL INFORMATION MANDATORY

At this time, there is insufficient information available to completely analyze and determine the full impacts to the various resources that the BLM is responsible to protect and manage. The actual impacts of the pumping of this well in conjunction with the cumulative impacts of the Las Vegas Valley Water Districts' other proposed wells cannot be fully determined until sufficient data has been collected and analyzed.

We, therefore, protest the granting of the water appropriation because neither the State Engineer nor the Las Vegas Valley Water Department (LVVWD) has prepared an analysis of all anticipated impacts associated with LVVWD's applications. If an analysis has been done, it has not been made available to the public and affected parties, and the failure to do so is not in the public interest as per NRS 535.370.3. Because it is impossible to anticipate all impacts at this time, the BLM reserves the right to amend this protest as other issues develop and as additional studies provide further information.

The Bureau is preparing notices of PWRs 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 Water Engineer over the next several months prior to adjudication.