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

IN THE MATTER OF APPLICATION NUMBER **54007**

FILED BY **the Las Vegas Valley Water District**

ON **October 17, 1989** TO APPROPRIATE THE

WATERS OF **Underground**

PROTEST

Comes now **the County of Nye, State of Nevada**, whose post office address is **P.O. Box 1767, Tonopah, NV, 89049**, whose occupation is **Political Subdivision, State of Nevada**, and protests the granting of Application Number **54007**, filed on **October 17, 1989**, by **the Las Vegas Valley Water District** to appropriate the waters of **Underground** situated in **White Pine** County, State of Nevada, for the following reasons and on the following grounds, to wit:

See attached.

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

Signed Stephen T. Bradhurst

Stephen T. Bradhurst, Agent

Address: **P.O. Box 1510, Reno, NV 89505**

Subscribed and sworn to before me this 6th day of **July** ___, **1990**.

Sandra A. Hadlock

Notary Public

State of **Nevada**

County of **Washoe**

SANDRA A. HADLOCK
NOTARY PUBLIC
STATE OF NEVADA
WASHOE COUNTY
My Appnt. Expires JULY 15, 1990

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.

- Pahranagat 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.