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

IN THE MATTER OF APPLICATION NUMBER 54009,

FILED BY Las Vegas Valley Water District,

ON October 17, 19 89, TO APPROPRIATE THE

WATERS OF Underground Sources

} **PROTEST**

Comes now Richard W. Forman, Agent for Kirkeby Ranch
Printed or typed name of protestant

whose post office address is S.R. 5, Box 21, Ely, Nevada 89301
Street No. or P. O. Box, City, State and Zip Code

whose occupation is Ranching and protests the granting

of Application Number 54009, filed on October 17, 19 89

by the Las Vegas Valley Water District to appropriate the
Printed or typed name of applicant

waters of Underground Sources situated in White Pine
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:

Please See Attachments.

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 [signature]
Agent or protestant

Name Richard W. Forman, Agent
Printed or typed name, if agent

Address P. O. Box 150
Street No. or P. O. Box No.

Address Ely, Nevada 89301
City, State and Zip Code No.

Subscribed and sworn to before me this 11th day of July, 19 90.

[signature]
Notary Public

RENEE E. KNUTSON
Notary Public - State of Nevada
Appointment Recorded in White Pine County
MY APPOINTMENT EXPIRES DEC. 14, 1992

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

REASONS AND GROUNDS FOR PROTEST

1. The granting of this application, in conjunction with any other applications filed by the Las Vegas Valley Water District in this basin, will impair, conflict and interfere with all existing water rights, sources and uses.

2. If granted, the allocation of ALL unappropriated waters in this ground water basin would adversely affect all agricultural operations, including but not limited to the following:

   a. It will adversely affect the economic welfare of all farms and ranches.

   b. It will destroy the environmental balance by eliminating the natural surface moistures and reducing the humidity levels which creates the natural growing environment of the surrounding areas, thereby destroying the grazing lands, wetlands and farm lands.

   c. It will halt all potential agricultural growth.

   d. It will destroy each agricultural operation because they will be unable to continue to operate or expand.

3. Eastern Nevada has had severe drought conditions for the past three (3) years which has created the following hardships on all cattlemen:

   a. The grazing areas do not have sufficient feed to support the cattle.

   b. The surface waters are insufficient for irrigation and stockwatering.

   c. The water tables are lowering making it very difficult and expensive to pump any water.

   d. The cattlemen will have to cut their herds, which affects the economic welfare of everyone within the State of Nevada, especially the surrounding communities.

   If the drought creates this many hardships, the continual removal of the periennial yield by the Las Vegas Valley Water District WILL destroy all ranching operations as well as the whole environment of each basin.

4. There are different flow systems that underlie the State of Nevada. "These flow systems link the ground water beneath many of the hydrolgic basins over distances greater than 200 miles. The implications of this linkage are immense. While the water taken from a basin may be within the perennial yield of that basin, areas as far away as 200 miles may experience drawdown, and the negative impacts associated with this phenomenon (Intertech Consultants, Inc. 1990).

5. Clark County must grow only within the limits of their natural resources or the environmental and socioeconomic balance of the State of Nevada will be destroyed.

6. The State Engineer must consider all of the future environmental and socioeconomic ramifications of the trans-basin transfer of ground waters in order to protect the State of Nevada by not allowing these transfers.

7. The State Engineer has a responsibility to all of the people of Nevada and must consider all adverse affects which the granting of these applications will have on all areas in the State of Nevada.

REASONS AND GROUNDS FOR PROTEST

1. This Application is one of over 140 applications filed by the Las Vegas Valley Water District seeking to appropriate over 810,000 acre-feet of ground water for municipal use within the service area of the District in Clark County. Diversion and export of such a quantity of water will lower the static water level in this basin, will adversely affect the quality of remaining ground water and will further threaten springs, seeds and phreatophytes which provide water and habitat critical to the survival of wildlife, grazing livestock and other surface area existing uses.

2. The appropriation of this water when added to the already approved appropriations and dedicated users in this basin will exceed the safe yield of the basin. Appropriation and use of this magnitude will lower the water table and degrade the quality of water from existing wells, cause negative hydraulic gradient influences, further cause other negative impacts and will adversely affect existing rights adverse to the public interest.

3. This Application is one of over 140 applications filed by the Las Vegas Valley Water District seeking a combined appropriation of over 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 holds in trust for all its citizens.

4. 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 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.

5. 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.

6. The 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:

   a. Likely jeopardize the continued existence of endangered and threatened species recognized under the 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 endangered species; and

   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.

8. 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.

9. 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.

10. This 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.

11. 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.

(over)

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

    a. Description of proposed works;

    b. The estimated cost of such works;

    c. The estimated time required to construct the works and the estimated time required to complete the application of water to beneficial use; and

    d. The approximate number of persons to be served and the approximate future requirement.

13. The subject Application should be denied because it individually and cumulatively with other Applications will exceed the safe yield of this 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.

14. This 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 of 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.

15. 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.

16. In as much 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.

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