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 MARCH 19, 1990, TO APPROPRIATE UNDERGROUND WATER IN WHITE PINE COUNTY	**PROTEST**

The Moapa Band of Paiute Indians, P.O. Box 340, Moapa, NV 89025, a federally recognized Indian tribe, hereby protests the granting of Application Number 54009 filed on March 19, 1990, by the Las Vegas Valley Water District to appropriate underground water situated in White Pine County, State of Nevada, on the grounds set forth in Exhibit A attached.

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

MOAPA BAND OF PAIUTE INDIANS

By: Marc Slonim

Marc D. Slonim, Attorney
ZIONTZ, CHESTNUT, VARNELL, BERLEY & SLONIM
2101 Fourth Ave., Suite 1230
Seattle, WA 98121
(206) 448-1230

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

Rose Segman

Notary Public
State of Washington
King County

a:nf:wp5:fal:
protest.doc

CB

EXHIBIT A

This application is one of 147 applications filed by the Las Vegas Valley Water District ("LVVWD") seeking to appropriate approximately 865,000 acre feet of water for municipal and domestic use. The Moapa Band of Paiute Indians protests this application on the following grounds:

1. No Authority. The application seeks a permit to extract and export ground water from federal lands on which LVVWD holds no interest. The State Engineer has no authority to issue a permit under these circumstances.

2. Application Deficient. The application is deficient under NRS 533.335 and 340 because it does not include:

a. an adequate description of the proposed works;

b. an adequate estimate of the costs of such works;

c. an adequate estimate of the time required to construct the works and to apply the water to beneficial use;

d. adequate approximations of the number of persons to be served and future requirements; and

e. the dimension of the proposed resevoirs and a description of the land to be submerged by the impounded waters.

3. Application Otherwise Incomplete. The application, by itself and in combination with the other LVVWD applications, raises enormous and unprecedented environmental and socio-economic issues. It would be detrimental to the public interest to approve the application before these issues are carefully considered. The application contains no information to enable such consideration. The State Engineer should exercise his authority under NRS 532.120, 165 and 170, NRS 533.350 and other applicable law to obtain the following additional information:

a. an independent assessment of the environmental and socio-economic impacts of the proposed extractions, associated structures and transportation systems, and uses, and alternatives thereto, prepared in accordance with standards similar to those for environmental impact statements under the National Environmental Policy Act and its implementing regulations; and

b. a water resource plan for the Las Vegas Valley area similar to the water resource plans required by the Public Service

Commission from private purveyors of water.

4. Conflict with Existing Rights. The proposed use, by itself and in combination with those under the other LVVWD applications, conflicts with existing water rights, including but not limited to the prior and paramount rights of the Moapa Band of Paiute Indians to the waters of the Muddy River and to ground water underlying the Moapa Indian Reservation.

5. Other Legal Defects and Detriments to the Public Interest. The proposed use, by itself and in combination with those under the other LVVWD applications, is both unlawful and threatening to the public interest for the following reasons:

a. LVVWD holds no rights to enter upon the subject lands, extract the water, transport the water to its intended place of use (including proposed transportation across the Moapa Indian Reservation), or otherwise exercise the water rights it seeks. Moreover, LVVWD lacks the financial capability to construct the necessary works and transport the water to its intended place of use. Under these circumstances, it would disserve the public interest to grant LVVWD control (for decades or more) over the massive quantities of water covered by its applications. In addition, according such control to LVVWD would conflict with federal law and policy regarding the use or disposition of the federal lands covered by the applications.

b. Such use will exceed the annual recharge and safe yield of each basin and result in the permanent depletion or mining of ground water, the lowering of the water table and static water level, negative hydraulic gradient influences, and other adverse impacts on the location and quantity of water resources.

c. Such use will adversely affect water quality, and thus impair existing municipal and other uses.

d. Such use will degrade wetlands and riparian habitats, including these on public lands and in Death Valley National Monument, Great Basin National Park, Lake Mead National Recreation Area, and national wildlife refuge units.

e. Such use will damage wetlands, springs, seeps and phreatophytes which provide water and habitat for migratory species, other wildlife, grazing livestock, and other existing uses.

f. Such use will jeopardize the existence of endangered and threatened species, including but not limited to the desert tortoise, prevent or interfere with the conservation of such species, and take or harm such species.

g. Such use will impair environmental, scenic and recreational values that the State holds in trust for all of its citizens.

h. Such use will encourage waste and discourage reasonable conservation measures within LVVWD's service area.

i. Such use will lead to regional air pollution (particularly carbon monoxide and particulates) in violation of law.

6. Other Grounds. We incorporate by reference and adopt all other grounds set forth in every other protest filed with respect to this application. In addition, we reserve the right to amend this protest to assert additional grounds on the basis of new or as yet undisclosed information regarding these applications and the effects thereof.

a:nf:wp5:fal:
exhibit.a