

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,

} PROTEST

ON October 17, 1989, TO APPROPRIATE THE

WATERS OF Underground Sources

Comes now the County of White Pine and the City of Ely, State of Nevada

Printed or typed name of protestant

whose post office address is P. O. Box 1002, Ely, Nevada 89301

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

whose occupation is Political Subdivision, State of Nevada and protests the granting

of Application Number 54009, filed on October 17, 1989

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:

See Attached

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 Dan L. Papez

Agent or protestant

Name Dan L. Papez, Agent

Printed or typed name, if agent

Address P. O. Box 240

Street No. or P. O. Box No.

Address Ely, Nevada 89301

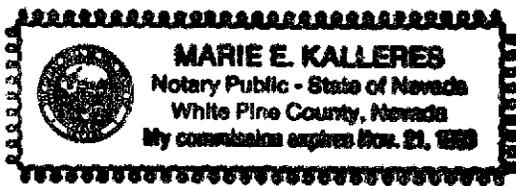
City, State and Zip Code No.

Subscribed and sworn to before me this 3rd day of July, 1990.

Marie E. Kalleres
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

CB

REASONS AND GROUNDS FOR PROTEST

The City of Ely and The Board of County Commissioners, White Pine County, State of Nevada, do hereby protest the above referenced application upon the following grounds:

1. Upon information and belief Protestant asserts that there is not sufficient unappropriated groundwater in Spring Valley to provide the water sought in Application Number 54009 and all other pending applications involving the utilization of surface and ground water from that Basin.

2. Upon information and belief Protestant asserts that the appropriation of this water when added to the already approved appropriations to dedicated users in the Spring Valley Basin will exceed the annual recharge and 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. That the groundwater sought in Application Number 54009 will conflict with and interfere with groundwater sought in previously filed Applications in the Spring Valley Basin as set out a State Engineer's abstract which is hereto as Exhibit "A" fully incorporated herein, said Applications being prior in time to the instant Application and which have not been acted upon by the State Engineer.

4. The granting or approval of the instant Application would conflict with or tend to impair existing water rights in the Spring Valley Basin in that it would exceed the safe yield of the subject basin and unreasonably lower the static water level and sanction water mining which is contrary to public policy in the State of Nevada.

5. That the appropriation of the water sought in the instant Application, when added to the other pending Applications and to the already approved appropriations and dedicated uses in the Spring Valley Basin, will lower the static water level in Spring Valley Basin, will adversely affect the quality of the remaining ground water and will further threaten springs, seeps and phreatophytes which provide water and habitat critical to the use and survival of wildlife, grazing livestock and other surface existing uses.

6. This Application is one of approximately 147 applications filed by the Las Vegas Valley Water District seeking a combined appropriation of approximately 360,000 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 or damage environmental, ecological, scenic and recreational values that the State holds in trust for all its citizens.

7. 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 a 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.

8. 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 impact, and long term impacts on the water resource, threatens to prove detrimental to the public interest.

9. 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:

- (1) Likely jeopardize the continued existence of endangered and threatened species recognized under the Endangered Species Act and related state statutes;
- (2) Prevent or interfere with the conservation and management of those threatened or endangered species;
- (3) Take or harm those endangered species; and
- (4) 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.

10. That the withdrawal of the ground water sought in this Application and/or in conjunction with withdrawal of groundwaters sought in other Applications in Spring Valley included in the water importation project will exceed the annual recharge and safe yield of the basin and will cause the loss of surface plant communities that provide forage and habitat for wildlife and forage for livestock, thus eliminating those uses of the basin.

11. That the granting of this Application together with the companion Applications filed as part of the water importation project will necessitate the Applicant to locate well sites, build road and power lines to each well site, causing surface disturbance and degradation of the environment, including loss of wildlife habitat, wildlife populations, and grazing lands for livestock.

12. 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, and that such waste of water is contrary to public policy in the State of Nevada.

13. 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 or demonstrated that it can obtain right-of-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, and therefore cannot show that the water will ever be placed in beneficial use.

14. The Application should be denied because it individually and cumulatively with other Applications of the water importation project will perpetuate and may increase the inefficient use of water and frustrate efforts of water demand management in the Las Vegas Valley Water District service area.

15. The Las Vegas Valley Water District lacks the financial capability of transporting water under the subject permit as a prerequisite to placing the water to beneficial use and accordingly, the subject Application should be denied.

16. The above-reference Application should be denied because the Application fails to adequately include the statutorily required information, to wit;

- (1) Description of proposed works;
- (2) The estimated cost of such works;
- (3) The estimated time required to construct the works and the estimated time required to complete the application of water to beneficial use; and
- (4) The approximate number of persons to be served and the approximate future requirement.

17. The subject Application should be denied because it individually and cumulatively with other Applications will exceed the safe yield of the Spring Valley Basin thereby adversely affect 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.

18. The Application cannot be granted because the applicant has failed to provide information to enable the State Engineer to guard the public interest properly. This Application and related applications associated with this major withdrawal of groundwater out of the basin cannot properly be determined without an independent, formal and publicly-reviewable assessment of:

- a. cumulative environmental and socioeconomic impacts of the proposed extractions;
- b. mitigation measures that will reduce such 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 Las Vegas Valley Water District service area.

19. That this Application should be denied because the Applicant has failed to provide to Protestant relevant information regarding this Application and other Applications which comprise this project as required by N.R.S. 533.363. That the failure to provide such relevant information denies Protestant due process of law under Chapter 533, N.R.S., in that said relevant information may provide Protestant with further meaningful grounds of protest, and that Protestant may be forever barred from submitting such further grounds of protest because the protest period may run before Applicant provides such required information. That the failure of Applicant to provide such information denies Protestant with meaningful opportunity to submit protests to this Application and other Applications included in this project as allowed by Chapter 533, N.R.S.

20. The subject Application should be denied because the population projections upon which the water demand projections are based are unrealistic and ignore numerous constraints to growth, including traffic congestion, increase costs of infrastructure and services, degraded air quality, etc.

21. The subject Application should be denied because previous and current conservation programs instituted by the Las Vegas Water District are ineffective, public-relations oriented efforts that are unlikely to achieve substantial water savings. Public policy and public interest considerations should preclude the negative environmental and socioeconomic consequences of the proposed transfers on areas of origin when the potential water importer has failed to make a good-faith effort to efficiently use currently available supplies.

22. The subject Application should be denied because the enormous costs of the project likely will result in water rate increases of such a magnitude that demand will be substantially reduced, thereby rendering the water transfer unnecessary.

23. The granting or approval of the above-referenced Application would be detrimental to the public interest and is not made in good faith since it would allow the Las Vegas Valley Water District to lock up vital water resources for possible use sometime in the distant future beyond current planning horizons.

24. The subject Application should be denied because current and developing trends in housing, landscaping, national plumbing fixture stands, and demographic patterns all suggest that the simplistic water demand forecasts upon which the proposed transfers are based substantially overstate future water demand needs.

25. The subject 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 demand management and effluent re-use. These alternatives have not been seriously considered by the Las Vegas Valley Water District.

26. The subject Application should be denied because the enormous costs of the project likely will result in water rate increases of such a magnitude that demand will be substantially reduced, thereby rendering the transfers unnecessary.

27. The subject Application should be denied because the current per capita water consumption rate for the the Las Vegas Valley Water District currently is double that of similarly situated southwestern municipalities. This suggests enormous potential for more cost-effective supply alternatives, including demand management and effluent re-use, which avoid the negative impacts on rural areas of origin and have not been considered.

28. That the State Engineer has previously denied other groundwater Applications submitted by other Applicants in the subject basin, said Applications having been prior in time to the instant Application and those associated with the water importation project. That the grounds of denial for prior Applications should apply equally to the instant Application and if appropriate, should provide grounds to deny the instant Application.

29. Inasmuch as water extraction and the 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.

30. The undersigned additionally incorporates by reference as though fully set forth herein and adopts as its own, each and every other protest to this Application and/or to any Application filed that is included in this project and filed pursuant to N.R.S. 533.365.

WATER RIGHTS SUCCESSION SYSTEM
HYDROGRAPHIC BASIN ABSTRACT
GROUND WATER

HYDROGRAPHIC AREA: 10-134 SPRING

APP#	CHANGE OF APP#	CERT#	FILING DATE	STAT SRC	POINT OF DIVERSION	RATE (CFS)	TYPE OF USE	ACRES IRRIGATED	ANNUAL DI
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45312			02/10/82	RFA UG	SE SE 7 13N	67E	0.000	IRD	0.00	0.00
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45496		11065	04/02/82	CER UG	SE NW 23 3N	63E	0.120	STK	28.30	
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45648			05/10/82	PER UG	NW SE 16 13N	67E	4.500	IRR	270.00	1,080.00
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45798			06/16/82	RFA UG	SW NE 36 17N	67E	1.000	IND		0.00
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45799			06/16/82	RFA UG	LT 03 1 16N	67E	1.000	IND		0.00
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45800			06/16/82	RFA UG	SE SE 2 16N	67E	1.000	IND		0.00
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45801			06/16/82	RFA UG	NW SE 11 16N	67E	1.000	IND		0.00
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45802			06/16/82	RFA UG	NE SW 14 16N	67E	1.000	IND		0.00
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45803			06/16/82	RFA UG	NW SW 23 16N	67E	1.000	IND		0.00
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45804			06/16/82	RFA UG	SE SE 34 15N	67E	1.000	IND		0.00
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45805			06/16/82	RFA UG	NE SE 2 15N	67E	1.000	IND		0.00
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45806			06/16/82	RFA UG	SW SE 11 15N	67E	1.000	IND		0.00
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45807			06/16/82	RFA UG	SW SE 14 15N	67E	1.000	IND		0.00
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45808			06/16/82	RFA UG	NE NE 35 16N	66E	1.000	IND		0.00
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45809			06/16/82	RFA UG	SE SE 35 16N	66E	1.000	IND		0.00
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EXHIBIT

"A"

4520851

WATER RIGHTS SYSTEM
HYDROGRAPHIC BASIN ABSTRACT
GROUND WATER

HYDROGRAPHIC AREA: 10-134 SPRING

APP#	CHANGE OF APP#	CERT#	FILING DATE	STAT SRC	POINT OF DIVERSION	DIV RATE (CFS)	TYPE OF USE	ACRES IRRIGATED	ANNUAL DI
45810	43436		06/16/82	RFA UG	SE SE 35 15N 66E	1.000	IND		0.00
45811	43436		06/16/82	RFA UG	SE SE 2 14N 66E	1.000	IND		0.00
45812	43436		06/16/82	RFA UG	SE SE 11 14N 66E	1.000	IND		0.00
45813	43436		06/16/82	RFA UG	SE SE 14 14N 66E	1.000	IND		0.00
45814	43436		06/16/82	RFA UG	SE SW 23 14N 66E	1.000	IND		0.00
45815	43436		06/16/82	RFA UG	SW SW 26 14N 66E	1.000	IND		0.00
45816	43437		06/16/82	RFA UG	SE SW 1 15N 66E	1.000	IND		0.00
45817	43437		06/16/82	RFA UG	SE SW 12 15N 66E	1.000	IND		0.00
45818	43437		06/16/82	RFA UG	1W SW 13 15N 66E	1.000	IND		0.00
45819	43437		06/16/82	RFA UG	SE NE 23 15N 66E	1.000	IND		0.00
45820	43437		06/16/82	RFA UG	NE SE 25 15N 66E	1.000	IND		0.00
45821	43437		06/16/82	RFA UG	NW SE 25 15N 66E	1.000	IND		0.00
45822	43438		06/16/82	RFA UG	SE SE 34 14N 66E	1.000	IND		0.00
45823	43438		06/16/82	RFA UG	NW NW 11 13N 66E	1.000	IND		0.00

45814 43438 06/16/82 RFA UG NW NW 11 13N 66E 1.000 IND 0.00

4520851

WATER RESOURCES
WATER RIGHTS SYSTEM
HYDROGRAPHIC BASIN ABSTRACT
GROUND WATER

HYDROGRAPHIC AREA: 10-134 SPRING V

APP#	CHANGE OF APP#	CERT#	FILING DATE	STAT SRC	Q	POINT OF DIVERSION	Q	SEC TWP	RNG	DIV RATE (CFS)	TYPE OF USE	ACRES IRRIGATED	ANNUAL DU
45825		43438	06/16/82	RFA UG	SW SE	14 13N	65E			1.000	IND		0.00
45826		43433	06/16/82	RFA UG	SW SW	24 13N	55E			1.000	IND		0.00
45827		43438	06/16/82	RFA UG	SW SW	25 13N	66E			1.000	IND		0.00
45828		43439	06/16/82	RFA UG	NW SW	12 12N	66E			1.000	IND		0.00
45829		43439	06/16/82	RFA UG	SW NW	13 12N	66E			1.000	IND		0.00
45830		43439	06/16/82	RFA UG	NW NE	24 12N	66E			1.000	IND		0.00
45831		43439	06/16/82	RFA UG	NE NW	4 13N	67E			1.000	IND		0.00
45832		43439	06/16/82	RFA UG	NE NE	9 13N	67E			1.000	IND		0.00
45833		43439	06/16/82	RFA UG	SE SE	9 13N	67E			1.000	IND		0.00
46097			08/27/82	RFA UG	LT 03	7 14N	67E			2.700	IRD	160.00	640.00
46098			09/27/82	RFA UG	LT 02	7 14N	67E			2.700	IRD	160.00	640.00
46099		42248	08/27/82	RFA UG	NW NW	23 11N	67E			5.400	IRD	0.00	0.00
46100		42251	08/27/82	RFA UG	SE SE	23 11N	67E			5.400	IRD	0.00	0.00
46101		42249	08/27/82	RFA UG	SW SW	23 11N	67E			5.400	IRD	0.00	0.00
46102		42250	08/27/82	RFA UG	NE NE	23 11N	67E			5.400	IRD	0.00	0.00

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N A T E R R E S O U R C E S
W A T E R R I G H T S S Y S T E M

HYDROGRAPHIC BASIN ABSTRACT
GROUND WATER

HYDROGRAPHIC AREA: 10-134 SPRING

APP#	CHANGE OF APP#	CERT#	FILING DATE	STAT	SPC	Q	SEC	TWP	RNG	POINT OF DIVERSION	DIV RATE (CFS)	TYPE OF USE	ACRES IRRIGATED	ANNUAL D
42293			03/28/80	RFA	UG	NE	NE	5	12N	67E	0.000	IRR	0.00	0.00
42294			03/28/80	RFA	UG	SW	SE	5	12N	67E	0.000	IRR	0.00	0.00
42295			08/28/80	RFA	UG	SW	NE	5	12N	67E	0.000	IRR	0.00	0.00
42296			03/28/80	RFA	UG	SE	NE	12	11N	66E	0.000	IRR	0.00	0.00
42297			08/28/80	RFA	UG	SE	SE	12	11N	66E	0.000	IRR	0.00	0.00
42298			08/28/80	RFA	UG	SW	NE	30	12N	67E	0.000	IRR	0.00	0.00
42299			09/28/80	RFA	UG	SW	SE	30	12N	67E	0.000	IRR	0.00	0.00
42300			08/28/80	RFA	UG	SW	SW	30	12N	67E	0.000	IRR	0.00	0.00
42301			08/28/80	RFA	UG	SW	NW	30	12N	67E	0.000	IRR	0.00	0.00
43434			03/30/81	RFA	UG	NE	NE	1	14N	65E	5.000	IND	0.00	0.00
43435			03/30/81	RFA	UG	NE	NE	2	14N	65E	6.000	IND	0.00	0.00

45798
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A T E R R E S U R C E S
WATER-RIGHTS SYSTEM
HYDROGRAPHIC BASIN ABSTRACT
GROUND WATER

HYDROGRAPHIC AREA: 10-184 SPRING

APP#	CHANGE OF APP#	CERT#	FILING DATE	STAT SRC	POINT OF DIVERSION	DIV RATE (CFS)	TYPE OF USE	ACRES IRRIGATED	ANNUAL D
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43436	CHG BY	45821	03/30/81	RFA UG	NE NE 11 14N 66E	5.000	IND		0.00
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43437	CHG BY	45821	03/30/81	RFA UG	NE NE 12 14N 66E	5.000	IND		0.00
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43435	CHG BY	45822	03/30/81	RFA UG	NE NE 13 14N 66E	5.000	IND		0.00
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43439	CHG BY	45823	03/30/81	RFA UG	NE NE 14 14N 65E	5.000	IND		0.00
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45287		29967	1101Z	C2/35/82	CER UG	NE SW 12 12N 67E	1.350	IRR	78.20	312.80
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45311		02/10/P	RFA UG	NE NE 12 13N 67E	0.000	IRR	0.00		0.00
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45175		12/31/81	RFA UG	SE SW 15 14N 67E	5.560	IRR	320.00		0.00
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45175		12/31/81	RFA UG	SE SW 15 14N 67E	5.560	IRR	320.00		0.00
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45287		29967	1101Z	C2/35/82	CER UG	NE SW 12 12N 67E	1.350	IRR	78.20	312.80
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45311		02/10/P	RFA UG	NE NE 12 13N 67E	0.000	IRR	0.00		0.00
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45175		12/31/81	RFA UG	SE SW 15 14N 67E	5.560	IRR	320.00		0.00
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