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

IN THE MATTER OF APPLICATION NUMBER 54026,

FILED BY Las Vegas Valley Water District,

ON October 17 1989, TO APPROPRIATE THE

WATERS OF Underground

PROTEST

Comes now DONALD TERRY FACKRELL
Printed or typed name of protestant

whose post office address is P.O. BOX 454 RUTH, NEVADA 89319
Street No. or P.O. Box, City, State and Zip Code

whose occupation is MINER, and protests the granting

of Application Number 54026, filed on October 17, 1989

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

waters of Underground situated in White Pine County
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 [signature]
Agent or protestant

DONALD TERRY FACKRELL
Printed or typed name, if agent

Address P.O. BOX 454
Street No. or P.O. Box No.

RUTH, NEVADA 89319
City, State and Zip Code No.

Subscribed and sworn to before me this ____ day of ____ 19__

[signature]
Notary Public

CAROL MORGROSS VLAHOS
Notary Public - State of Nevada
White Pine County - Nevada
Appt. Exp. Jan. 9, 1994

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. 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.