

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

IN THE MATTER OF APPLICATION NUMBER 54057
FILED BY Las Vegas Valley Water District
ON October 17 19 89, TO APPROPRIATE THE
WATERS OF an underground source

PROTEST

RECEIVED

JUL 12 1990

Div. of Water Resources
Branch Office - Las Vegas, NV

Comes now U.S. Department of the Interior, Bureau of Land Management
Printed or typed name of protestant
whose post office address is 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126
Street No. or P.O. Box, City, State and Zip Code
whose occupation is Land Management Agency, and protests the granting
of Application Number 54057, filed on October 17, 1989
by Las Vegas Valley Water District
Printed or typed name of applicant
to appropriate the
waters of an underground source
Underground or name of stream, lake, spring or other source
situated in Clark
County, State of Nevada, for the following reasons and on the following grounds, to wit:

SEE ATTACHED SHEET

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 Ben F. Collins
Agent or protestant
Ben F. Collins, District Manager
Printed or typed name, if agent
Address 4765 Vegas Drive, P.O. Box 26569
Street No. or P.O. Box No.
Las Vegas, Nevada 89126
City, State and Zip Code No.

Subscribed and sworn to before me this 17th day of July 19 90



NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CAROLYN J. SPOON

My Appointment Expires Oct. 9, 1990

Carolyn J. Spoon
Notary Public
State of Nevada
County of Clark

\$10 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

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Div. of Water Resources
Branch Office - Las Vegas, NV

The U.S. Department of the Interior, Bureau of Land Management protests the granting of the subject application for the following reasons and on the following grounds, to wit:

BLM is directed to implement water rights policy by: 1) "cooperating with the State Governments under the umbrella of State Law to protect water uses identified for public land management purposes", and 2) "to comply with the applicable state laws except as specifically mandated by Congress". The purposes mandated by Congress are defined by the Federal Land Management Policy Act (FLPMA) and includes "multiple use" which is defined as "... the management of public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people". Uses associated with multiple use include but are not limited to "recreation, range, wildlife, minerals, watershed and fish...". The Wild Horse and Burro Act, FLPMA, and the National Environmental Policy Act also recognize free wild horses and burros as resource uses under BLM management responsibility. Any application to the State Engineer of Nevada for a water permit, on BLM land, that interferes with the capability of the agency to provide water for the afore stated uses, within the legislated responsibilities of the agency, will be protested.

The Endangered Species Act requires all Federal departments and agencies to utilize their authorities to conserve species listed by the Secretary of the Interior or Secretary of Commerce as threatened or endangered. It further requires Federal agencies to ensure that the continued existence of listed species is not jeopardized and that designated critical habitat of listed species is not destroyed or adversely modified.

Coyote Springs Valley, in which this well is proposed, drains to the Muddy River Springs, the source of the Muddy River. The Moapa dace (Moapa coriacea), which has been listed as an endangered species, is endemic to the Muddy River and its source springs. In addition, the Moapa White River springfish (Crenichthys baileyi moapae), Moapa roundtail chub (Gila robusta ssp.), Moapa speckled dace (Rhinichthys osculus moape), Moapa pebblesnail (Fluminicola avernalis) and the Moapa warm spring riffle beetle (Stenelmis calida moapa) which have been identified as candidate species for listing, inhabit the springs and river.

The most current information on the Coyote Springs Valley Basin (State of Nevada, Report 25) indicates that the Muddy River Springs are probably supplied from both precipitation recharge and regional, interbasin ground water flow within the carbonate aquifer. Generally, precipitation recharge occurs north of the springs with the primary contributor believed to be the Sheep Range along the west side of the valley. Water, within the carbonate system, is believed to be derived from movement between valleys and generally, flows in a southerly direction towards the Muddy River Springs.

The proposed well is located between the Muddy River Springs and the primary area of recharge, the Sheep Range. Although impacts to the spring sources may be minimal, under normal pumping of this single well, when its impact is added to the other four wells proposed within the same area and those wells pumping in adjacent basins, from which interbasin flow is received, a noticeable reduction in spring flow is a reasonable expectation. This well could intercept ground water that would otherwise discharge at the Muddy River Springs. This reduction in flow and possibly quality of the springs, could very well threaten the endangered and candidate species identified.

By Executive Order 11990 (Protection of Wetlands) federal agencies are directed to take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial value of wetlands in carrying out programs affecting land use. An adverse impact on the flow of the Muddy River and its source springs could result in a reduction of associated riparian vegetation which in turn may impact those endangered and candidate species previously discussed.

As a result of reductions in surface water and vegetation, wildlife can be expected to be adversely impacted. The degree to which phreatophyte dependent wildlife are impacted will depend on the extent of vegetation alteration or destruction. It is reasonable to expect a reduction in species diversity and numbers resulting from habitat degradation. In the event of the total destruction of a vegetative community or water supply, elimination of species from the affected area is a possibility. The desert tortoise (Gopherus agassizii), listed as threatened under the Endangered Species Act, inhabits the location of the proposed well and can be expected to be adversely impacted if degradation of the existing vegetation occurs.

The proposed well is located within Wilderness Study Area NV-050-216 (Fish and Wildlife No.2). This area is currently under review for potential inclusion in the National Wilderness Preservation System. FLPMA requires the Secretary of the Interior to review areas of the public lands to determine wilderness characteristics and report to the President as to the suitability of each area. During the period of review and until Congress acts on the President's recommendations, these lands are managed as Wilderness Study Areas (WSAs) so as not to impair their suitability for preservation as wilderness, under the Interim Management Policy and Guidelines for Lands Under Wilderness Review (BLM Manual H-8550-1, p. 1). This policy is referred to as the Interim Management Policy (IMP).

Lands under wilderness review may not be disposed of through any means. New rights-of-way may be approved for temporary uses that satisfy the nonimpairment criteria. Rights-of-way under the temporary criteria would not be approved for uses that would extend after the President makes his recommendation to Congress, October 21, 1993, or which would impair the areas suitability for

wilderness. Approval of a right-of-way for drilling of the proposed well, would not satisfy the nonimpairment criteria and would not be temporary in nature, therefore, the BLM can not grant a right-of-way while the land is under wilderness review (H-8550-1, p.36-37). Granting of this water appropriation would place the Bureau in a position of having to deny an application for a right-of-way.

Within this basin, there are two (2) water sources, on public land, that could be impacted by the granting of this application. These sources include Jackass Spring and Perkins Well No.1. Both of these sources are located within the Arrow Canyon Allotment and contribute to the watering of 105 AUM's (Animal Unit Month) of cattle. Adverse impacts to these water sources, due to pumping of the proposed well, as well as the cumulative impact of multiple wells, could have a detrimental affect on BLM's ability to properly manage livestock.

Currently, there is insufficient information to ascertain the actual impacts to the various resources for which the BLM has management responsibility. Neither the Nevada State Engineer nor the Las Vegas Valley Water District has prepared an analysis of all anticipated impacts associated with the Water Districts filings. Until sufficient data is gathered and analysis performed, the extent of the impacts resulting from the pumping of this well, as well as, the cumulative impacts of pumping multiple wells can not be realized.

Because of the impacts discussed above and those not identifiable at this time, due to insufficient information and analysis, the BLM protests the granting of this water appropriation.

The Bureau is currently preparing notices of Public Water Reserves (PWR) within the area of protest. These notices will be based only on the needs appropriate under PWR 107 and, will be sent to the State Engineer over the next several months prior to adjudication.