

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

RECEIVED

JUL 13 1990

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

IN THE MATTER OF APPLICATION NUMBER 54064  
FILED BY Las Vegas Valley Water District  
ON October 17, 1989, TO APPROPRIATE THE  
WATERS OF an underground source

PROTEST

Comes now U.S. Department of the Interior

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 54064, filed on October 17, 1989

by Las Vegas Valley Water District to appropriate the

Printed or typed name of applicant

waters of an underground source situated in Clark

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 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 Colin P. Christensen

Agent or protestant

Colin P. Christensen, Acting 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 13<sup>th</sup> day of July 1990

Carolyn J. Spoon  
Notary Public

State of Nevada

County of Clark



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

My Appointment Expires Oct. 9, 1990

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

RECEIVED

JUL 13 1990

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.

Three Lakes Valley (Southern Part), in which this well is proposed, is part of the Ash Meadows regional ground water system. This system supplies water to Ash Meadows, in the Amargosa Desert. Ash Meadows contains many species of flora and fauna listed as endangered, threatened or, are candidate species for listing under the Endangered Species Act. Those species listed or, are candidates for listing, are identified below.

Devil's Hole pupfish, Cyprinodon diabolis (Endangered)  
Ash Meadows Amargosa pupfish, Cyprinodon nevadensis mionectes (Endangered)  
Warm Springs pupfish, Cyprinodon nevadensis pectoralis (Endangered)  
Ash Meadows speckled dace, Rhinichthys osculus nevadensis (Endangered)  
Ash Meadows naucorid bug, Ambrysus amargosus (Threatened)  
Amargosa niterwort, Nitrophila mohavensis (Endangered)  
Ash Meadows milkvetck, Astragalus phoenix (Threatened)  
Spring-loving centuary, Centarium namophilum (Threatened)  
Ash Meadows sunray, Enceliopsis nudicaulis currugata (Threatened)  
Ash Meadows gumplant, Grindelia fraxino-pratensis (Threatened)  
Ash Meadows ivesia, Ivesia eremica (Threatened)  
Ash Meadows blazing star, Mentzelia leucophylla (Threatened)  
Ash Meadows montane vole, Microtus montanus nevadensis (Candidate)  
Virile Amargosa snail, (undescribed) (Candidate)

Death Valley agabus diving beetle, Agabus rumppi (Candidate)  
Amargosa naucorid bug, Pelocoris shoshone (Candidate)  
Devils Hole warm spring riffle beetle, Stenelmis calida calida (Candidate)  
Crystal Spring springsnail, Pyrgulopsis cristalis (Candidate)  
Ash Meadows pebblesnail, Fluminicola erythropoma (Candidate)  
Fairbanks springsnail, Pyrgulopsis fairbanksensis (Candidate)  
Elongate-gland springsnail, Pyrgulopsis isolatus (Candidate)  
Distal-gland springsnail, pyrgulopsis nanus (Candidate)  
Median-gland Nevada springsnail, Pyrgulopsis plsteri (Candidate)  
Oasis Valley springsnail, Pyrgulopsis micrococcus (Candidate)  
Sportinggoods tryonia snail, Tryonia angulata (Candidate)

Although impacts to the springs in Ash Meadows may be minimal under normal pumping of this single well, when its impact is added to the other fifteen (15) wells proposed within the same regional ground water system, five (5) of which are in the same basin, a noticeable reduction in spring flow is a reasonable expectation. This well could intercept ground water that would otherwise discharge at Ash Meadows. This reduction in flow and possibly quality of the springs, could very well threaten the endangered and candidate species identified. The Water District has proposed temporary mining of ground water within several basins. This mining further increases the probability of adversely impacting the listed species, perhaps to a level from which they can not recover.

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 springs in Ash Meadows could result in a reduction of associated riparian vegetation which, in turn, may impact those endangered and candidate species previously discussed.

Lowering of the ground water table is a reasonable expectation considering the volume of water planned for withdrawal. This, in turn, could result in a reduction of vegetation dependent on the subsurface water supply. The degree to which phreatophyte dependent wildlife are impacted, will depend on the extent of vegetation alteration or destruction. A reduction in species diversity and numbers, resulting from habitat degradation, can be expected. 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 proposed temporary mining of ground water further increases the probability of lowering the water table, perhaps to a level from which dependent vegetation can not recover. 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 the Lucky Strike Allotment.

Currently, 204 AUMs (Animal Unit Month) of domestic horses run in this allotment. In addition, this area is within the Lucky Strike Herd Use Area which is occupied by 50 AUMs of wild horses and 50 AUMs of wild burros. Available surface water is very limited within the basin and any reduction will adversely impact BLMs ability to properly manage these animals. There are two (2) springs located within that portion of the basin utilized by the afore mentioned animals. Both springs (East Mud and Mud Hole) produce minimal discharge and any impact, from ground water pumping, could greatly reduce available water or even dry them up totally.

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.