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

IN THE MATTER OF APPLICATION NUMBER 54088,

FILED BY Las Vegas Valley Water District,

ON October 17, 19 89, TO APPROPRIATE THE

WATERS OF an underground source

PROTEST

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 54088, filed on October 17, 19 89

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

RECEIVED

JUL 03 1990

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

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 29th day of June 19 90.

Carolyn J. Spoon
Notary Public

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CAROLYN J. SPOON
My Appointment Expires Oct. 8, 1990

State of Nevada

County of Clark

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

OK CB

2454 (Revised 6-80)

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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.

There are two fish species, endemic to the Virgin River, that are listed as endangered, the Virgin River roundtail chub (Gila robusta seminuda) and the woundfin minnow (Plagopterus argentissimus). In addition, the Virgin River spinedace (Lepidomeda mollispinis mollispinis) has been listed as a candidate for listing. The loss of aquatic habitat, construction of dams and reservoirs, water withdrawals, reduction in water quality and competition from non-native fish species are the major threats to the continuation of the species. Although these species are not currently inhabiting the location of the proposed withdrawal, they did historically range over the whole length of the river.

There is currently a potential to recover the lost habitat of the three fishes through riparian enhancement and stream flow improvement, resulting in their reestablishment along the Virgin River. If however, withdrawal of surface waters from the Virgin River is allowed, particularly the quantity applied for (the 500 cfs is twice the average discharge of 242 cfs recorded at Littlefield), the elimination of surface flow, below the diversion, is a reasonable expectation and would preclude any possibility of habitat recovery. This expectation is further

exacerbated when the cumulative impact of the additional proposed 15 wells (6 cfs each), in the immediate area, is considered. A withdrawal of this magnitude will surely result in the total dewatering of the river for a considerable distance, possibly resulting in a reduction of what remains of the current range of the listed species, as well as, adversely impacting existing water wells and nearby spring sources.

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. As previously mentioned, there is currently a potential for the improvement of the riparian area associated with the Virgin River. Through riparian recovery/improvement, prolonging and increasing streamflow is a reasonable expectation. Withdrawal of the waters of the Virgin River can be expected to have an adverse impact and when combined with the other proposed withdrawals, will definitely result in the dewatering of the river and total loss of the associated riparian area.

The Virgin River flows through the Bunkerville Allotment. Within this allotment, the BLM has management responsibility for an annual average of 2,841 Animal Unit Months (AUM's) which will be adversely impacted by a reduction in the flow of the river. The cattle presently utilize upland water sources, as well as, the river.

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.