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

IN THE MATTER OF APPLICATION NUMBER 54106,
FILED BY Las Vegas Valley Water District,
ON October 17 1989, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

Comes now County of Inyo, California
Printed or typed name of protestant
whose post office address is P.O. Box M, Independence, California 93526
Street No. or P.O. Box, City, State and Zip Code
whose occupation is Political Subdivision, State of California, and protests the granting
of Application Number 54106, 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 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.

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 Gregory L. James
Agent for protestant
Gregory L. James, Inyo County Counsel (Agent)
Printed or typed name, if agent
Address P.O. Box M
Street No. or P.O. Box No.
Independence, California 93526
City, State and Zip Code No.

Subscribed and sworn to before me this 10th day of July 1990.

Dale J. O'Connor
Notary Public
State of California
County of Inyo

OFFICIAL SEAL
DALE J. O'CONNOR
NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
INYO COUNTY
My Commission Exp. Jan 22, 1993

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

2454 (Revised 6-80)

O-2035

REASONS AND GROUNDS FOR PROTEST BY INYO COUNTY

The County of Inyo, State of California, protests the granting of the above referenced Application for the following reasons and on the following grounds:

1. If this Application is granted, the appropriation and diversion under this permit will eventually reduce or eliminate the flows in springs, and the supplies of groundwater, in several areas and communities (including Death Valley National Monument) in eastern Inyo County which are dependent upon recharge from regional carbonate rock aquifers.

   The diversion proposed by this Application is located in the carbonate rock province of Nevada. The carbonate rock province is typified by complex interbasin regional flow systems that include both basin-fill and carbonate rock aquifers, or both, from basin to another. Groundwater flow system boundaries, and thus interbasin groundwater flows, are poorly defined for most of the carbonate rock province (Harrill, et al., 1988). The proposed diversion is expected to reduce interbasin flows and modify the direction of groundwater movement in adjoining hydraulically connected basins, reduce or eliminate spring and stream flows, and cause land subsidence and fissuring.

   A central corridor of the carbonate rock aquifers in southern Nevada (Dettinger, 1989) occurs within the carbonate rock province. The corridor consists of a north-south "block" of thick, laterally continuous carbonate rocks and probably contains the principal conduits for regional groundwater flow from east-central Nevada into southern Nevada, with flow ultimately discharging through regional springs in Inyo County, California, including Death Valley, Death Valley Junction, Shoshone, Tecopa, Tecopa Hot Springs, China Ranch, and Charleston View. (Dettinger, 1989, p.13).

   Parts of east-central Nevada are a recharge area for the central corridor of the carbonate rock and valley fill aquifers in southern Nevada (Dettinger, 1989, Mifflin, 1988). The appropriation and diversion proposed by this application is located within a basin which may be part of the central corridor, the recharge area for the central corridor, and/or other parts of the regional flow system which discharge groundwater within the boundaries of Inyo County, California (Harrill, et al.). Thus, the diversion is expected to reduce the flow from springs and reduce the availability of groundwater in Inyo County, California, including Death Valley

National Monument, Death Valley Junction, Shoshone, Tecopa, Tecopa Hot Springs, China Ranch, Charleston View, and other areas.

Some zones within the central corridor are highly transmissive, and act as large-scale drains which ultimately conduct much of the flow that discharges at large regional springs such as those in Inyo County, California. It has been hypothesized (Dettinger, 1989, p.16) that the highly transmissive zones may stay highly transmissive only if large volumes of water continue to flow through them. Otherwise, openings in the rocks gradually fill with minerals and the rocks resolidify. The appropriation and diversion proposed by this application is expected to reduce the volume and velocity of groundwater flowing through the drains which could begin the process of closing connected fractures and solution cavities, substantially impairing the capacity of the aquifer to transmit water.

Available scientific literature indicates that a large area of east-central and southern Nevada is part of a regional groundwater flow system that discharges through springs and maintains groundwater supplies in Inyo County, California. This literature indicates that springs and groundwater supplies in eastern Inyo County, California are hydrologically connected to a regional carbonate rock aquifer that can be affected by groundwater pumping (an upgradient groundwater diversion).

Exhibit A lists eighty-one (81) applications by the Las Vegas Valley Water District that may impair the water resources of eastern Inyo County, California. (Essington, 1990). These 81 applications are located within or west of the White River Flow System and north of the Pahranagat Shear Zone--an area identified in available scientific literature as critical to the groundwater resources of eastern Inyo County, California. Accordingly, Inyo County has protested each of these 81 applications.

2. Upon information and belief protestant asserts that there is not sufficient unappropriated groundwater in host water basin to provide the water sought in the above-referenced Application and all other pending applications involving the utilization of surface and groundwater from the basin.

3. The appropriation of this water when added to the already approved appropriations and existing uses and water rights in host water basin will exceed the annual recharge and safe yield of the basin. Appropriation and use of this magnitude

will lower the water table, degrade the quality of water from existing wells, cause negative hydraulic gradient influences, and threaten springs, seeps and phreatophytes which provide water and habitat that are critical to the survival of wildlife and grazing livestock.

4. The granting or approval of the above-referenced Application would unreasonably lower the water table and sanction water mining, which is contrary to Nevada law and public policy.

5. This Application is one of 146 applications filed by the Las Vegas Valley Water District seeking a combined appropriation of some 864,195 acre feet of ground and surface water primarily for municipal use in Clark County. Diversion and export of such a quantity of water will deprive many areas of the water needed to protect and enhance their environment and well being, and the diversion will unnecessarily destroy environmental, ecological, scenic, and recreational values.

6. The granting or approval of the above-referenced Application in the absence of comprehensive water resource development planning, including, but not limited to, environmental impact considerations, socioeconomic impact considerations, cost/benefit considerations, water resource evaluation by an independent entity, and a water resource plan for the Las Vegas Valley Water District (such as is required by the Nevada Public Service Commission of water purveyors) is detrimental to the public welfare and interest.

7. The granting or approval of the above-referenced Application would be detrimental to the public interest in that it, individually and together with other applications of the water importation project, would:

   a. Likely jeopardize the continued existence of endangered and threatened species recognized under the federal 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 or threatened 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 granting or approval of the above-referenced Application will sanction and encourage the willful waste of water that

has been allowed, if not encouraged, by the Las Vegas Valley Water District. Said waste of water is contrary to Nevada law and public policy.

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. This Application should be denied because the Las Vegas Valley water District has not obtained or demonstrated that it can obtain the necessary legal interest (right-of-way) on said lands to extract, develop, and transport water from the point of diversion to the point of use in the Las Vegas Valley Water District service area. Therefore, the Las Vegas Valley Water District cannot show that the water will ever be placed in beneficial use.

10. 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 in the Las Vegas Valley Water District service area.

11. The Las Vegas Valley Water District lacks the financial capability for developing and transporting water under the subject permit, which is a prerequisite to putting the water to beneficial use, and accordingly, the subject Application should be denied.

12. The above-referenced Application should be denied because it fails to adequately include the statutorily required information, it wit:

    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;

    d. The approximate number of persons to be served and the future requirement; and

    e. The dimensions and location of proposed water storage reservoirs, the capacity of the proposed reservoirs, and a description of the lands to be submerged by impounded waters.

13. The subject Application should be denied because it individually and cumulatively with other applications of the

proposed project will exceed the safe yield of host water basin, thereby adversely affecting phreatophytes and creating 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. The Application cannot be granted because the applicant has failed to provide information to enable the State Engineer to properly safeguard the public interest. The adverse effects of this Application and related applications associated with the proposed water appropriation and transportation project (largest appropriation of groundwater in the history of the State of Nevada) cannot properly be evaluated without an independent, formal, and publicly reviewable assessment of the following:

    a. The water resources of the proposed area of diversion and the cumulative effects of the proposed diversions;

    b. Mitigation measures that will reduce the impacts of the proposed extraction; and

    c. Alternatives to the proposed extraction, including, but not limited to, the alternatives of no extraction and aggressive implementation of all proven and cost effective water demand management strategies.

15. The above-referenced Application should be denied because the applicant has failed to provide the protestant relevant information regarding this Application and other applications which comprise the proposed importation project (works) as required by N.R.S. 533.363. 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 end before applicant provides such required information. The failure of applicant to provide such information denies protestant the meaningful opportunity to submit protests to this Application and other applications associated with the water importation project as allowed by Chapter 533, N.R.S.

16. 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, increased costs of infrastructure and services, degraded air quality, protection

of rare and endangered species, etc.

17. The subject Application should be denied because previous and current conservation programs instituted by the Las Vegas Valley Water District are inefficient 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 when the potential water importer has failed to make a good faith effort to efficiently use currently available supplies.

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

19. The granting or approval of the above-referenced Application would be detrimental to the public interest and 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.

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

21. 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 most 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.

22. The above-referenced Application should be denied because the State Engineer has previously denied other applications for water from the host water basin, said applications having been prior in time to the instant Application, and those applications associated with the water importation project. The grounds for denial (e.g., applicant does not own or control the land on which the water is to be diverted, approval would be detrimental to the public welfare, etc.) of the prior applications should apply equally to the instant

Applicant and provide grounds to deny the instant Application.

23. Las Vegas Valley Water District public statements and written material indicate that approximately 61 percent of the water rights sought by the District (via the 146 applications) are to be temporary water rights. But, the applications (146) state the water is to be used on a permanent basis. Therefore, the subject applications, including the above-referenced Application, should be denied because the public has been denied relevant information and due process.

24. Inasmuch as a water extraction and transbasin conveyance project of this magnitude has never been considered by the State Engineer, it is therefore impossible to anticipate all potential adverse effects without further information and study. Accordingly, the protestant reserves the right to amend the subject protest to include such issues as they may develop as a result of further information and study.

25. 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 any application filed that is associated with the water importation project and filed pursuant to N.R.S. 533.365.

EXHIBIT A

Permit	Map Sheet	Permit	Map Sheet
53947	Caliente	53988	Lund
53948	Caliente	53990	Caliente
53949	Caliente	53991	Caliente
53950	Las Vegas	53992	Caliente
53951	Las Vegas	53998	Ely
53952	Caliente	55399	Ely
53953	Caliente	54000	Ely
53954	Caliente	54001	Ely
53955	Caliente	54002	Ely
53956	Lund	54038	Lund
53957	Caliente	54039	Lund
53958	Lund	54040	Lund
53959	Caliente	54041	Lund
53960	Caliente	54042	Lund
53961	Lund	54043	Lund
53962	Lund	54044	Lund
53963	Caliente	54045	Caliente
53964	Lund	54046	Caliente
53965	Lund	54047	Caliente
53966	Lund	54048	Lund
53967	Lund	54049	Caliente
53968	Lund	54050	Caliente
53969	Lund	54051	Caliente
53970	Lund	54052	Caliente
53971	Lund	54053	Caliente
53972	Lund	54054	Caliente
53973	Lund	54060	Las Vegas
53974	Lund	54061	Las Vegas
53975	Lund	54062	Las Vegas
53976	Lund	54063	Las Vegas
53977	Lund	54064	Las Vegas
53978	Lund	54065	Las Vegas
53979	Lund	54066	Las Vegas
53980	Lund	54067	Ely
53981	Goldfield	54068	Las Vegas
53982	Goldfield	54069	Las Vegas
53983	Goldfield	54070	Las Vegas
53984	Goldfield	54071	Las Vegas
53985	Lund	54072	Las Vegas
53986	Lund	54106	Las Vegas
53987	Lund		

REFERENCES CITED

Dettinger, M. D., 1989. Distribution of carbonate rock aquifers in southern Nevada and the potential for their development, Summary of Findings, 1985-88: Program for the Study and Testing of Carbonate Rock Aquifers in Eastern and Southern Nevada Summary Report No. 1, 37 p.

Essington, G. M., 1990. Death Valley National Monument, Outside Threats, Regional Hydrology Issues. National Park Service, 38 p.

Harrill, J. R., Gates, J. S., and Thomas, J. M., 1988. Major groundwater flow systems in the Great Basin region of Nevada, Utah, and adjacent states: U. S. Geological Survey Hydrologic Investigations Atlas HA-694-C, 2 sheets.

Mifflin, M. D., 1988. Region 5, Great Basin, in Back, W., Rosenhein, J. S., and Seaber, P. R., eds. Hydrogeology. The Geology of North America, v. 0-2, Geological Society of America, Boulder, CO.