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

FILED
MAR 5 - 1991
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 55289,
FILED BY CITY OF MESQUITE, NEVADA,
ON September 18 19 90, TO APPROPRIATE THE
WATERS OF 222

PROTEST

Comes now BOARD OF COUNTY COMMISSIONERS, Ex Rel LINCOLN COUNTY, NEVADA
Printed or typed name of protestant
whose post office address is P.O. Box 90, Pioche, Nevada 89043
Street No. or P.O. Box, City, State and Zip Code
whose occupation is Local County Government, and protests the granting
of Application Number 55289, filed on September 18, 19.90.
by The City of Mesquite, Nevada to appropriate the
Printed or typed name of applicant
waters of Underground waters Basin 222 situated in Lincoln
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 Exhibit "1"

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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 James L. Wadsworth
Agent or protestant
JAMES L. WADSWORTH, District Attorney
Printed or typed name, if agent
Address P.O. Box 60
Street No. or P.O. Box No.
Pioche, Nevada 89043
City, State and Zip Code No.

Subscribed and sworn to before me this 1st day of March 1991.

Judy A. Etchart
Notary Public
State of Nevada
County of Lincoln

JUDY A. ETCHART
NOTARY PUBLIC • STATE OF NEVADA
PRINCIPAL OFFICE • LINCOLN CO. • NV
APPT. EXP. 1-21-94

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

2454 (Revised 6-80)

O-3035

OK CB

EXHIBIT "1"

1. The Statutes of Nevada provide the beneficial use shall be the basis, the measure and the limit of the right to the use of water in this State. Actual consumption is the measure of beneficial use and water that is wasted is not put to such use. This applicaiton should be denied based on the long history of applicant allowing domestic use water to be used for agricultural purposes.

2. This application should be denied because the State Engineer is restricted to allowing only that quantity of water to a user which shall reasonably be required for the beneficial use to be served. The State Engineer must, therefore, make his determinations of quantity based on all water now available to applicant and requested in all applications of record.

3. This application should be denied unless the applicant can clearly and with scientific certainty demonstrate that vested rights shall not be impaired or affected.

4. This application is one of 13 applications filed by the City of Mesquite seeking to appropriate 135 C.F.S. of water from underground sources. The applicant has made public statement that 20 C.F.S. is the maximum water that could be beneficially used by applicant.

5. 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 a water resource plan consideration for the City of Mesquite and planned airport as has been required by the Public Service Commission of private purveyors of water, is detrimental to the public welfare and interest.

6. 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.

7. The granting or approval of the above-referenced application would conflict with or tend to impair all existing rights the source of which is the deep carbonate aquifier of eastern Nevada because it would exceed the safe yield of the subject aquifier, lower the pressure within the aquifier which accounts for hundred of seeps, springs and artesion water sources such as headwaters of Beaver Dam Creek, artesian flow of Pine Park Creek. All game and stock watering sources in Bull Valley and environs.

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8. 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:

(1) Likely jeopardize the continued existence of endangered and threatened species recognized under the Endangered Species Act and realted state statutes;

(2) Prevent or interfere with the conservation of those threatened or endangered species;

(3) Take or harm those endangered species; and

(4) 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.

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 City of Mesquite 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 City of Mesquite.

10. The above-referenced application should be denied because the application fails to include the statutorily required:

(1) Description of proposed works;

(2) The estimated cost of such works;

(3) The estimated time required to construct the works and the estimated time required to complete the application of water to beneficial use; and

(4) The approximate number of persons to be served and the approximate future requirement.

15. The subject application should be denied because it individually and cumulatively with other applications will exceed the safe yield of Beaver Dam Creek and tributaries and Bull Valley 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.

16. The 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 in 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 City of Mesquite service area.

17. 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.

18. Inasmuch 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.

19. Beaver Damm State Park is a valuable economic resource to Lincoln County. The public in general has a vested interest in said park as a recreational site. The granting of this applicaiton would tend to destroy or be harmful to the state park.

20. The Southeastern Lincoln County and Bull Valley areas are critical to over 20 ranchers with grazing rights in the area. The proposed appropriation will dry up the natural water seeps and cause great economic harm to Lincoln County.

21. That water works such as well sites, transmission lines, pumping stations, etc. might be detrimental to the land and all users, both human and domestic and wild animals.

22. That construction and maintenance of these waterworks could be detrimental to the wildlife habitat and might result in loss of this habitat and grazing AUM's and so infringe on these existing rights.

23. That subsistence of the ground will be very deterimental to the existing works, ditches, reservoirs, and water delivery systems, and will stop the soil from having the ability to be able to soak up water.