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

FILED
SEP 19 1991
STATE ENGINEER'S OFFICE

RECEIVED
SEP 19 1991
Div. of Water Resources
Branch Office - Las Vegas, NV

IN THE MATTER OF APPLICATION NUMBER 55988,
FILED BY Mesquite Farmstead Water Association, PROTEST
ON March 15 19 91, TO APPROPRIATE THE
WATERS OF Beaver Dam Wash

Comes now U.S. Dept. of the Interior, Bureau of Land Management
(Printed or typed name of protestant)
whose post office address is 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 55988, filed on March 15, 1991
by Mesquite Farmstead Water Association to appropriate the
(Printed or typed name of applicant)
waters of Beaver Dam Wash 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 Attachment

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 [signature]
(Agent or protestant)
for Ben F. Collins, District Manager
(Printed or typed name, if agent)
Address 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 19th day of September 19 91.

[signature]
Notary Public

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
PATRICIA L. HALL
My Appointment Expires Feb. 22, 1993

State of Nevada
County of Clark

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

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 Policy and Management 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 mon-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 improvements, resulting in their reestablishment along the Virgin River. If however, reduction of surface waters in the Beaver Dam Wash and consequently the Virgin River is allowed, the possibility of habitat recovery will be greatly reduced, if not eliminated. This expectation is further exacerbated when the cumulative impact of the applicants second 500 cfs surface water filing (55987), as well as, additional proposed wells by the City of Mesquite and the Las Vegas Valley Water District is considered. A withdrawal of this magnitude will surely result in a reduction or elimination of flow in the Beaver Dam Wash and ultimately the Virgin River resulting in a reduction of what remains of the range of the listed species.

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 caring out programs affecting land use. As previously mentioned, the large surface and ground water withdrawals proposed will surely have an adverse impact on the surface flow in the Beaver Dam Wash, Virgin River and nearby spring sources resulting in the loss of associated riparian areas.

The Beaver Dam Wash flows through the Barkley allotment. Within this allotment, the BLM has management responsibility for an annual average of 4,185 Animal Unit Months (AUM's) which will be adversely impacted by a reduction in the flow of the wash. Cattle (1,971 AUMs) and wildlife (2,214 AUMs) presently utilize the upland water sources, as well as, the wash.

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 Mesquite Farmstead Water Association has prepared an analysis of all anticipated impacts associated with this filing and other large withdrawals in the basin. Until sufficient data is gathered and analysis preformed, the extent of the impacts resulting from this surface withdrawal, as well as, the cumulative impacts of pumping multiple wells within the wash cannot 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.