

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

FILED
SEP 19 1991
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 55988
FILED BY Mesquite Farmstead Water Association
ON March 15, 1991, TO APPROPRIATE THE
WATERS OF Beaver Dam Wash at Schroeder Lake

PROTEST

Comes now U.S. Fish and Wildlife Service

Printed or typed name of protestant

whose post office address is 4600 Kietzke Lane, C-125, Reno, NV 89502-5093

Street No. or P.O. Box, City, State and Zip Code

whose occupation is conservation, protection, and enhancement of fish, and wildlife and their habitats and protests the granting of Application Number 55988, filed on March 15, 1991,

by Mesquite Farmstead Water Association

Printed or typed name of applicant

to appropriate the

waters of Beaver Dam Wash at the outlet at Schroeder Lake 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:

Please 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

David L. Harlow

Agent or protestant

David L. Harlow, Agent, U.S. Fish & Wildlife Service

Printed or typed name, if agent

Address 4600 Kietzke Lane, C-125,

Street No. or P.O. Box No.

Reno, NV 89502-5093

City, State and Zip Code No.

Subscribed and sworn to before me this 12th day of September 1991

Linda Sue Hope

Notary Public

State of NEVADA
LINDA SUE HOPE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES JUNE 26, 1994

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

The U. S. Fish and Wildlife Service (Service) protests water right applications 55987 and 55988 which were filed by Mesquite Farmstead Water Association. The Service does not believe that granting the above applications would be in the public interest.

Application 55987 proposes to construct an impoundment, diversion structure, and pipeline above the Beaver Dam narrows in Washington County, Utah. The applicants have applied for a duty of 26,000 acre-feet of water from this structure. Application 55988 proposes to construct a diversion structure and pipeline in Beaver Dam Wash at the outlet of Schroeder Lake and capture 2,000 acre-feet of water. Both applications are for municipal and domestic use in the Mesquite and Bunkerville area.

Both areas are upstream of known populations of the Virgin River spinedace, *Lepidomeda mollispinis mollispinis*. The federal government lists the Virgin River spinedace as a category 2 candidate species under the Endangered Species Act. The Service defines Category 2 taxa as:

... taxa for which information now in the possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support proposed rules (54 F.R. 554).

Additionally, Beaver Dam Wash is a major tributary to the Virgin River in Arizona and Nevada. This portion of the river contains two federally endangered species, the woundfin (*Plagopterus argentissimus*) and the Virgin River roundtail chub (*Gila robusta seminuda*). Although not a listed species, the only remaining populations of the flannelmouth sucker, (*Catostomus latipinnis*) in the lower Colorado River Basin are found in the Virgin River and the Grand Canyon portion of the Colorado River. Water diversions throughout the last century have been implicated as a major cause in the decline of the fauna of the Virgin River basin.

Furthermore, the Las Vegas Valley Water District (LVVWD) has filed 16 applications for surface and groundwater from the Virgin River Basin. The Service has protested those applications for the similar reasons as this current protest. It is not known now whether the District's senior applications will be granted, and as a result, what additional stress will be placed on the basin.

It may be that some appropriation of water as applied for by this applicant, the LVVWD, or any other applicant requesting an appropriation from this basin is possible without adversely impacting the public interest concerns expressed by the Service in this protest and by the Service and others in protests of the applications by LVVWD. However, before any permit is approved, additional information is required. The Service requests that the State Engineer not approve any permits until it is conclusively determined that water is available for appropriation without such adverse impacts.