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

FILED
MAY 12 1993
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 58589 FILED BY **SOUTHERN NEVADA WATER AUTHORITY** ON **MARCH 9, 1993,** TO APPROPRIATE THE WATERS OF THE STATE OF NEVADA	**PROTEST**

COMES NOW **THE MESQUITE FARMSTEAD WATER ASSOCIATION**, by and through its agent GEORGE N. BENESCH, whose Post Office address is P.O. Box 3197, Reno, Nevada 89505, and protests the granting of Application No. 58589, filed on March 9, 1993, by the **SOUTHERN NEVADA WATER AUTHORITY,** to appropriate the surface waters of the Muddy River situated in Clark County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Attached Exhibit "A"

THEREFORE: the Protestant requests that the Application be **denied** and that an order be entered for such relief as the State Engineer deems just and proper.

Signed _____

GEORGE N. BENESCH
BENESCH & FERMOILE
Agent for Protestant
427 Ridge Street
P.O. Box 3197
Reno, Nevada 89505
(702) 322-3676

STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

SUBSCRIBED and sworn to before me this 12th day of May, 1993.

_____
NOTARY PUBLIC

EXHIBIT "A"

IN THE MATTER OF APPLICATION NO. 58589 FILED BY THE SOUTHERN NEVADA WATER AUTHORITY TO APPROPRIATE WATERS OF THE STATE OF NEVADA

The Mesquite Farmstead Water Association hereby protests the granting of Application No. 58589 filed on March 9, 1993, by the Southern Nevada Water Authority to appropriate surface water of the Muddy River situated in Clark County, Nevada for the following reasons and on the following grounds:

1. Upon information and belief, protestant asserts there is not sufficient unappropriated water in the proposed source to provide the water sought in its above-referenced application and all other decreed rights, permits and other pending applications to waters in the Muddy River Basin which may affect the flows of the Muddy River.

2. Upon information and belief, Protestant asserts that there is not sufficient unappropriated water in the Muddy River and host basin to provide the water sought in the above-referenced application and all other pending applications seeking the utilization of surface and groundwater from the basin.

3. This application is one of a series of applications filed in conjunction with the Las Vegas Valley Water District seeking a combined appropriation of some 864, 195 acre feet of ground and surface water for use primarily in the Las Vegas area. Diversion and use of such a large quantity of water will deprive the area of origin of water needed to protect and enhance its environmental and economic well-being.

4. 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 area (such as is required by the Public Service Commission of water purveyors) is detrimental to the public welfare and interest.

5. 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.

6. 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.

7. 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 the Interior. This application should be denied because the Southern Nevada Water Authority has not obtained or demonstrated that it can obtain the necessary legal interest 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 Southern Nevada Water Authority cannot show that the water will ever be placed in beneficial use.

8. 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 Southern Nevada.

9. 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.

10. The application should properly be denied 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 ground water 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.

11. 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 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 of the Nevada Revised Statutes.

12. 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.

13. The subject application should be denied because previous and current conservation programs instituted by the Las Vegas Valley Water District are inefficient public relations oriented 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 on areas of origin when the potential water importer has failed to make a good faith effort to efficiently use currently available supplies.

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

15. The granting or approval of the above-referenced applications would be detrimental to the public interest and not made in good faith since it would allow the Southern Nevada Water Authority to lock up vital water resources for possible use sometime in the distant future beyond current planning horizons.

16. 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.

17. The subject application should be denied because the current per capita water consumption rate for the Las Vegas Valley area 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.

18. The above-referenced application should be denied because the State Engineer has previously denied other applications for water from the source with said applications being prior

in time to the instant application. The grounds for denial of the prior applications should apply equally to the instant application and provide grounds to deny the instant application.

19. The State Engineer is a member of the State of Nevada Environmental Commission (N.R.S. 445.451). This entity has the duty to prevent, abate and control air pollution in the State of Nevada, including Las Vegas Valley. Air pollution in Las Vegas Valley is so bad that the Valley has been classified a non-attainment area for national and state ambient air quality standards for CO and PMIO. The Southern Nevada Water Authority applications for water from the Virgin and Muddy Rivers will encourage and support future growth in the Las Vegas Valley. The State Engineer should deny the above-referenced application and the other applications associated with the water importation project since more water means more growth - therefore, more air pollution. The State Engineer should be taking steps to ameliorate the air quality problem in Las Vegas Valley, not exacerbate it. The State Engineer, along with the other members of the Environmental Commission, has the legal and moral responsibility to prevent air pollution in Las Vegas Valley. Therefore, the Commission should protest the subject application and the other applications associated with the growth-inducing project.

20. The above-referenced application should be denied because economic activity in the area of the proposed point of diversion is water-dependent (e.g. grazing, recreation, etc.), and a reduction in the quantity and/or quality of water in the area would adversely impact said activity and the way of life of the area's residents.

21. Inasmuch as a water importation 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 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.

22. 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.