

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

IN THE MATTER OF APPLICATION NUMBER 64040  
FILED BY DRY LAKE WATER LLC  
OF LAS VEGAS NEVADA,  
ON APRIL 17, 1998, TO APPROPRIATE  
THE WATERS OF UNDERGROUND

PROTEST

Comes now David G Barneby, on behalf of the Nevada Power Company, whose post office address is P. O. Box 230, Las Vegas, Nevada 89151, whose occupation is Vice President, Power Delivery, and protests the granting of Application Number 64040 filed on APRIL 17, 1998, by Dry Lake Water LLC of LAS VEGAS NEVADA, to appropriate the waters of Underground, situated in Clark County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Exhibit A Attached

THEREFORE the Protestant requests that the application be denied, unless it can be reasonably demonstrated the proposed appropriation would not affect the priority applications of Nevada Power Company in the Dry Lake Basin.

Signed David G. Barneby  
Agent or Protestant

David G. Barneby  
Printed or typed, if agent

Address P.O. Box 230  
Street No. or P.O. Box No.

Las Vegas, Nevada 89151  
City, State and Zip Code No.

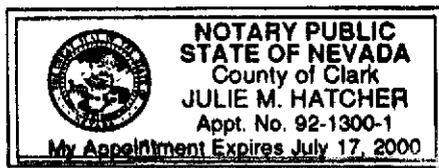
Subscribed and sworn to before me this 6th day of August, 1998

Julie M. Hatcher  
Notary Public

State of NEVADA

County of CLARK

My Commission expires 7/17/2000



Handwritten initials

**IN THE MATTER OF APPLICATION 64040  
EXHIBIT A**

Protest by David G. Barneby  
on behalf of the Nevada Power Company, Las Vegas, Nevada

**INTRODUCTION**

Nevada Power Company (NPC) is an investor-owned electric utility serving a population of more than a million people in portions of Clark and Nye Counties in Southern Nevada. Nevada Power's service territory continues to be one of the fastest growing areas in the nation with rates below the national average and substantially below other areas in the Southwest. The continued population growth, increasing electricity needs during the summer months, infrastructure financing needs, and the transition to a competitive industry have played a significant role in the way Nevada Power plans for its customers' increasing electric energy needs.

Dry Lake Water LLC General Corporate General of LAS VEGAS NEVADA has applications filed with the State Engineer for water for in Garner Valley (more commonly referred to as Dry Lake Valley and hereafter referred to as Dry Lake Basin) as follow:

App #	Filing Date	Point of Diversion					Div Rate (cfs)	Type of Use	Annual Duty
		QQ	Qtr	Sec	Twp	Rng			
64040	4/17/98	NW	NW	29	17S	64E	10	Q-MUN	
64045	4/17/98	NE	NE	32	17S	63E	10	Q-MUN	

The State Engineer issued a ruling which described and designated the Dry Lake Valley Groundwater Basin on August 21 1985, under the provisions of Nevada Revised Statute 534.030, as a basin in need of additional administration.

The total annual duty sought under Application 64040 assuming continuous pumping would be 7239 acre-feet per year.

The total annual duty sought under Application 64045 assuming continuous pumping would be an additional 7239 acre-feet per year.

The total for both applications therefore is 14478 acre-feet per year.

**POTENTIAL ADVERSE EFFECTS**

<sup>1</sup>DWR commonly defines the availability of ground water for appropriation on the basis of "perennial yield." In essences, perennial yield is equivalent to the long-term recharge of each hydrographic basin. By precedent, basin recharge in Nevada has been calculated using the "Maxey-Eakin approach" which is based on an altitude-precipitation-runoff-

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<sup>1</sup> Investigation for Alternate Water Resource for the Harry Allen Power Station, Kennedy / Jenks Consultants in Association with Converse Consultants SW, January 1997

recharge relationship thought to be generally valid for Nevada desert basins. Perennial yields designated by DWR for Garnet Valley is 400 AFY or 0.55 cfs.

There are several certificated and perfected applications in Garnet Valley. These amount to 1.9 cfs, or nearly four times the perennial yield defined by DWR. In addition there are a number of applications, including one filled by the Las Vegas Valley Water District in October 1989 for 10 cfs, ahead of the earliest NPC filing of Application 54484 filed in 1990.

Since the Dry Lake Basin Valley Groundwater Basin may already be overappropriated issuance of an additional 10 cfs diversion requested under Application 64040 from the carbonate aquifer in the Dry Lake Basin Valley Groundwater Basin could result in groundwater mining.

## **CONCLUSIONS**

1. The combined permitted groundwater rights in the Dry Lake Basin Valley Groundwater Basin is 1878 AFY which exceeds the combined total estimate perennial yield of 400 AFY
2. There is no unappropriated water in the Dry Lake Basin Valley Groundwater Basin assuming the priority applications are properly addressed.

## **RECOMMENDATIONS**

The public interest would not be served by granting a permit to application 64040 since it would result in overappropriation from the carbonate aquifer in the Dry Lake Basin Valley Groundwater Basin. Furthermore, no additional permits should be issued by the State Engineer until such time as an approved monitoring plan has been established. Said plan should identify trigger points as determined by the State Engineer and an appropriate method of determining which permitted withdrawal is culpable for the measured, quantitative adverse effects.