FILED
AUG 1 0 1998
STATE ENGINEER'S OFFICE

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

IN THE MATTER OF APPLICATION NUMBER 64045
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 64045 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

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
JULIE M. HATCHER
Appt. No. 92-1300-1
My Appointment Expires July 17, 2000

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4-Aug-98

IN THE MATTER OF APPLICATION 64045
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 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 QQ	Qtr	Sec	Twp	Rng	Div Rate (cfs)	Type of Use	Annual Duty
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 continuos pumping would be 7239 acre-feet per year.

The total annual duty sought under Application 64045 assuming continuos 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

[1]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 hydrograpic basin. By precedent, basin recharge in Nevada has been calculated using the "Maxey-Eakin approach" which is based on an altitude-precipitation-runoff-

[1] 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 overapproiated issuance of an additional 10 cfs diversion requested under Application 64045 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 64045 since it would result in overapproiation 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.