FILED
NOV 18 1998
STATE ENGINEER'S OFFICE

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

IN THE MATTER OF APPLICATION NUMBER 64189
FILED BY COYOTE SPRINGS INVESTMENT, LLC
OF RENO NEVADA,
ON JUNE 3, 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 64189 filed on JUNE 3, 1998, by COYOTE SPRINGS INVESTMENT, LLC of RENO NEVADA, to appropriate the waters of Underground, situated in Lincoln 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 Muddy Springs Area Groundwater Basin, and in the Coyote Springs Valley Groundwater 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 13th day of November, 1998

Julie M. Hatcher
Notary Public

State of NEVADA

County of CLARK

My Commission expires July 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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IN THE MATTER OF APPLICATION 64189
EXHIBIT A

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

INTRODUCTION

Nevada Power Company (Nevada Power or Company) 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.

The State Engineer issued a ruling on permit 46777 on June 19, 1997. Said ruling identifies that [i]the State Engineer initially described and designated the Coyote Springs 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 Applications 64186 through 64192, assuming continuos pumping would be an additional 50677 acre-feet per year assuming continuos pumping.

PERTINENT FINDINGS OF FACTS FROM RULING 4542

1. [ii]The State Engineer finds that in the Coyote Springs Valley Groundwater Basin the perennial yield (recharge) as a direct result of precipitation above the 6,000 foot elevation in the basin's watershed is estimated at 1,900 AFY.

2. [iii]Based on the underflow, it has been estimated that the perennial yield of the Coyote Springs Groundwater is 18,000 AFY.

3. [iv]The State Engineer finds that the carbonate aquifer is the source of water for the Muddy River, springs in the Muddy River Springs Area Groundwater Basin, and an additional source of recharge, from beyond the drainage area, to the underground source of water known as the alluvial aquifer in the Muddy River Springs Area Groundwater Basin.

POTENTIAL ADVERSE EFFECTS

Nevada Power Company has filled a "REVISED DRAFT" Monitoring Program identifying Nevada Power's commitment to continue to collect data to ensure that actions

taken by others or itself do not adversely affect the priority water rights in the Muddy River Springs Area Groundwater Basin. Any additional withdrawals from the Coyote Springs Valley Groundwater Basin must be reviewed to make sure that any effects can be defined and delineated so that the curtailment, if necessary, can be directed to the party causing the adverse action.

Since the issuance of Ruling No. 4542 the State Engineer has issued permits for groundwater rights in Coyote Springs Valley Groundwater Basin. Said permits are as follows:

App #	Filing Date	Point of Diversion QQ	Qtr	Sec	Twp	Rng	Div Rate (cfs)	Type of Use	Annual Duty
				NEVADA POWER					
46777	3/31/83	SE	SE	23	13S	63E	10.00	IND	5000.00 AFY
49608	12/30/85	NW	NE	26	13S	63E	10.00	IND	5000.00 AFY
The combined total duty combined for 46777 & 49608 shall not exceed 7500 AFY									
				AEROJET					
49414	9/27/85	SE	SE	23	13S	63E	6.000	IND	1415.46 MGA
49660	1/27/86	SW	NW	13	11S	63E	0.138	IND	32.56 MGA
49661	1/27/86	SE	NE	10	12S	63E	0.138	IND	32.56 MGA
49662	1/27/86	SE	NE	10	13S	63E	0.138	IND	32.56 MGA
49978	7/15/86	SW	NW	13	11S	63E	2.000	IND	471.82 MGA
49979	7/15/86	SE	SE	28	11S	63E	2.000	IND	471.82 MGA
49980	7/15/86	NE	NE	03	12S	63E	2.000	IND	471.82 MGA
49981	7/15/86	SE	NE	10	12S	63E	2.000	IND	471.82 MGA
49982	7/15/86	NW	SE	29	12S	63E	2.000	IND	471.82 MGA
49983	7/15/86	NW	NW	03	13S	63E	2.000	IND	1447.93 MGA
49984	7/15/86	SE	NE	10	13S	63E	2.000	IND	1447.93 MGA
	SUB TOTAL								6768.10 MGA
	SUB TOTAL ACRE FEET/YEAR								20771.95 AFY
	TOTAL APPROPRIATION THIS BASIN							**28271.95**	**AFY**

Since the Coyote Springs Valley Groundwater Basin may already be overapproiated issuance of an additional 10 cfs diversion requested under Application 64189 from the carbonate aquifer in the Coyote Springs Valley Groundwater Basin could reduce the spring flow and the inflow to the alluvial aquifer in the Muddy River Springs Area. Said reduction to the Groundwater Basin could interfere with existing water rights within the Muddy River Springs Area Groundwater Basin. A reduction in spring flow could also adversely effect the habitat of the Moapa Dace an endangered species.

CONCLUSIONS

Based on Ruling No. 4542 and the information provided in this protest a reasonable person would conclude the following:

1. The source of water for Application 64189 is the carbonate aquifer, not the alluvial system.

2. The point of diversion under application 64189 is within Coyote Springs Valley Groundwater Basin and just upgradient of the Muddy River Springs Area Groundwater Basin.

3. The combined permitted groundwater rights in the Coyote Springs Valley Groundwater Basin is 28271.95 AFY which exceeds the combined total estimate perennial yield of 19900 AFY (1900 AFY+ 18000 AFY).

4. There is no unappropriated water in the Coyote Springs Valley Groundwater Basin.

RECOMMENDATIONS

The public interest would not be served by granting a permit to application 64189 since it would result in overapproiation from the carbonate aquifer in the Coyote Springs 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.

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[i] State Engineer's Order No. 905, dated August 21, 1985, official records in the office of the State Engineer.

[ii] Eakin, Thomas E., ***GROUND-WATER RESOURCES - RECONNAISSANCE SERIES REPORT 25, GROUND-WATER APPRAISAL OF COYOTE SPRINGS AND KANE SPRINGS VALLEYS AND MUDDY RIVER SPRINGS AREA, LINCOLN AND CLARK COUNTIES, NEVADA,*** Nevada Department of Conservation and Natural Resources, pp. 22-26, Feb. 1964.

[iii] Nowlin, Jon, ***GROUND-WATER QUALITY IN NEVADA - A PROPOSED MONITORING PROGRAM, OPEN FILE REPORT*** 78-768, U.S.G.S. , P. 203

[iv] State Engineer's Order No. 4552, dated June 19, 1997, official records in the office of the State Engineer. p5.