

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

FILED
AUG 07 2001
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 67371
FILED BY Joshua Tree Energy, LLC
ON March 23, 2001, TO APPROPRIATE THE
WATERS OF an underground source

PROTEST

Comes now U.S. Department of Interior, Bureau of Land Management
Printed or typed name of protestant

whose post office address is 4765 Vegas Drive, Las Vegas, Nevada 89108
Street No. or P.O. Box, City, State and Zip Code

whose occupation is a land management agency, and protests the granting
of Application Number 67371, filed on March 23, 2001, 19

by Joshua Tree Energy, LLC of Tulsa, Oklahoma to appropriate the
Printed or typed name of applicant

waters of an underground source situated in Clark
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:

SEE ATTACHED SHEET

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 Mark T. Morse
Agent or protestant

Mark T. Morse
Printed or typed name, if agent

Address 4765 Vegas Drive
Street No. or P.O. Box No.

Las Vegas, Nevada 89108
City, State and Zip Code No.

Subscribed and sworn to before me this 7th day of August 2001

 Notary Public-State Of Nevada
COUNTY OF CLARK
CAROLA McDERMOTT
My Appointment Expires
September 16, 2002
No. 94-4886-1

Carol G. McDermott
Notary Public

State of Nevada

County of Clark

\$25

**FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.**

The U.S. Department of the Interior, Bureau of Land Management (BLM) protests the granting of the subject application for the following reasons and on the following grounds, to wit:

The proposed location is on public lands administered by the BLM. Joshua Tree Energy, LLC of Tulsa, Oklahoma currently has no authorization nor have they applied for any authorization to drill a well upon the public lands. Also, there is no authorization to place the water, to the beneficial use (power generation) identified in their application, upon the public lands administered by the BLM.

BLM is directed to implement water rights policy by: 1) "cooperating with the State Governments under the umbrella of State Law to protect water uses identified for the public land management purposes", and 2) "to comply with the applicable state laws except as specifically mandated by Congress". The purposes mandated by Congress are defined by the Federal Land Management Policy Act (FLPMA) and includes "multiple use" which is defined as "...the management of public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people". Uses associated with multiple use include but are not limited to "recreation, range, wildlife, minerals, watershed and fish...". The Wild Horse and Burro Act, FLPMA, and the National Environmental Policy Act (NEPA) also recognize free wild horses and burros as resource uses under BLM management responsibility. Any application to the State Engineer of Nevada for a water permit, on BLM land, that interferes with the capability of the agency to provide water for the afore stated uses, within the legislated responsibilities of the agency, will be protested.

Within Basin 167 (Eldorado V.), there are 3 springs and 4 wells located on public land that could be impacted by the granting of this and, the other proposed wells within this basin. The name and location of the springs and wells, currently known to be located on the public lands, are listed below.

Cow Spring	T.27S., R.62E. Section 26 SWNE
Highland Spring	T.27S., R.62E. Section 16 NWSW
Ora Hanna Spring	T.27S., R.62E. Section 5 SENE
Ten Mile Well	T.27S., R.63E. Section 10 SWSW
Tom Curley Well	T.28S., R.63E. Section 23 SWNE
Unnamed Well	T.28S., R.63E. Section 23 SENW
Unnamed Well	T. 26S., R.63E. Section 33 NESW



These water sources contribute to the watering of a wide variety of wildlife in the area. Any adverse impact to these water sources could have a detrimental affect on BLM's ability to property manage wildlife habitat. Although impacts to the listed spring sources could be minimal, under normal pumping of this single well, when its impact is added to other wells proposed within this same area and those wells existing, a noticeable reduction in spring flow is a reasonable expectation.

By Executive Order 11990 (Protection of Wetlands) federal agencies are directed to take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial value of wetlands in carrying out programs affecting land use. An adverse impact to the flow of the springs listed could result in a reduction of associated riparian vegetation.

Lowering of the ground water table is a reasonable expectation considering the volume of water planned for withdrawal in the area. Currently, there is insufficient information to ascertain the actual impacts to the various resources for which the BLM has management responsibility. Neither the Nevada State Engineer nor the applicant has prepared an analysis of all anticipated impacts associated with this filing. Until sufficient data is gathered and analysis performed, the extent of the impacts resulting from this water withdrawal, as well as, the cumulative impacts of the many other proposed withdrawals can not be realized.

Because of the impacts discussed above and those not identifiable at this time, due to insufficient information and analysis, the BLM protests the granting of this water appropriation.