FILED
NOV 13 2001
STATE ENGINEER'S OFFICE

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

IN THE MATTER OF APPLICATION NUMBER 67893, FILED BY DRY LAKE WATER, LLC, ON AUGUST 8, 2001, TO APPROPRIATE UNDERGROUND WATER IN CLARK COUNTY	)	**PROTEST**

The Moapa Band of Paiutes, P.O. Box 340, Moapa, NV 89025, a federally recognized Indian tribe, hereby protests Application Number 67893 filed on August 8, 2001, by Dry Lake Water, LLC, to appropriate underground water in Clark County, State of Nevada, on the grounds set forth in Exhibit A attached.

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.

RECEIVED
01 NOV 14 AM 1:03
STATE ENGINEER'S OFFICE

MOAPA BAND OF PAIUTE INDIANS

By: Richard Berley

Richard M. Berley, Attorney
ZIONTZ, CHESTNUT, VARNELL, BERLEY & SLONIM
2101 Fourth Avenue, Suite 1230
Seattle, WA 98121
(206) 448-1230

Subscribed and sworn to before me this 12th day of November, 2001.

Kathryn L. Wyman
Notary Public
State of Washington
King County

RECEIVED
2001
STATE ENGINEER'S OFFICE

EXHIBIT A

This application is one of five applications simultaneously filed by Dry Lake Water, LLC, to withdraw a total of up to 40,000 afy from the deep carbonate aquifer beneath multiple groundwater basins in southern Nevada. The five applications, nos. 67892 through 67896 inclusive, were submitted as part of a single project and should be evaluated as such. The groundwater basins involved in the project include 210 (Coyote Springs), 215 (Black Mountain), 216 (Garnet Valley) and 217 (Hidden Valley). The Moapa Band of Paiutes ("Band") protests this and the other four applications on the following grounds:

1. Unavailability of Supply. The application, both by itself and as part of the series filed by applicant, seeks a very large quantity of groundwater from the regional carbonate aquifer. There is no evidence that a water supply of the size sought exists, or can be developed in a manner that would be compatible with applicable law and the senior rights of others.

2. Conflict with Existing Rights. The application, both on its own and as part of the series filed by applicant, would, if granted, conflict with and impair multiple existing water rights, including but not limited to unquantified senior federally reserved rights of the Band in the waters of the Muddy River and the groundwater underlying the Band's Reservation.

3. Detriment to Public Interest. The application, both on its own and as part of the series filed by applicant, would, if granted, be detrimental to the public interest, both because of the reasons set forth in paragraphs 1 and 2 above, and also because the applications appear to be redundant with applications previously filed by the applicant in 1998 (applications 64039, 64041, 64045 and 66162), as well as applications 54073 and 54074 granted to Las Vegas Valley Water District to serve the Apex Industrial Park in Ruling 5008 by the State Engineer. These latter applications are the subject of litigation (*Dry Lake Water, et al. v. Hugh Ricci, et al.,* No. A440627 in Clark County District Court). To the extent the current applications seek a redundant supply, granting them would be wasteful and would impair the rights of others in the region.

4. Interbasin Transfer Issues. The proposed application, both on its own and as part of the series filed by applicant, contemplates an interbasin transfer of water which may be unjustified under NRS 533.370(4). The proposed export of water may be environmentally unsound, and impair the Band's ability to put its own water rights to use.