

FILED
NOV 26 2001
STATE ENGINEER'S OFFICE

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

IN THE MATTER OF APPLICATION NUMBER 67894
FILED BY DRY LAKE WATER LLC
OF LAS VEGAS NEVADA,
ON August 8, 2001, TO APPROPRIATE
THE WATERS OF UNDERGROUND

PROTEST

Comes now Craig York, on behalf of the Nevada Power Company, whose post office address is P. O. Box 98910, Las Vegas, Nevada 89151, whose occupation is Director Engineering & Joint Projects, and protests the granting of Application Number 67894 filed on August 8, 2001, 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

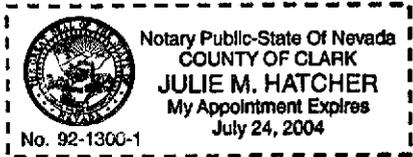
THEREFORE the Protestant requests that the application be denied

Signed [Signature]
Agent or Protestant
Craig York PE
Printed or typed, if agent

Address P.O. Box 98910
Street No. or P.O. Box No.
Las Vegas, Nevada 89151
City, State and Zip Code No.

Subscribed and sworn to before me this 20th day of November, 2001

[Signature]
Notary Public



State of NEVADA

County of CLARK

My Commission expires July 24, 2004

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STATE ENGINEER'S OFFICE

**IN THE MATTER OF APPLICATION 67894
EXHIBIT A**

Protest by Craig York
on behalf of the Nevada Power Company, Las Vegas, Nevada

INTRODUCTION

Nevada Power 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 and its rates are below the national average and substantially below other areas in the Southwest. The continued population growth, increasing electricity needs, especially 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.

Nevada Power has permits and pending applications for water from the carbonate aquifer for existing and future power generation purposes. A dependable water supply is critical to the power generation process.

Dry Lake Water LLC, LAS VEGAS NEVADA 89128 has applications filed with the State Engineer for water as follow:

App #	Filing Date	Point of Diversion					Div Rate (cfs)	Type of Use	Annual Duty
		QQ	Qtr	Sec	Twp	Rng			
67896	8/8/01	NE	NE	33	17S	63E	10	Q-MUN	
67892	8/8/01	NE	SE	28	14S	63E	10	Q-MUN	
67893	8/8/01	NE	NW	36	19S	63E	10	Q-MUN	
67894	8/8/01	NE	NE	32	17S	63E	10	Q-MUN	
67895	8/8/01	SW	SW	21	17S	63E	10	Q-MUN	

The total annual duty sought under Application 67894 assuming continuous pumping would be 7239 acre-feet per year.

REASONS FOR PROTEST

Given the permits already issued and the pending applications that were filed before Application 67894 for ground water from the carbonate aquifer, it is likely that there is no unappropriated water available in the carbonate aquifer for this junior application.

The proposed use, in combination with the existing rights and pending, more senior, applications in the carbonate aquifer, conflicts with Nevada Power's senior water rights.

The proposed appropriation threatens to prove detrimental to the public interest because:

- (1) it's duplicative and unnecessary, as Dry Lake has pending applications for the very same purpose in the same hydrographic area¹;
- (2) Dry Lake cannot demonstrate a beneficial use for the water as Apex Industrial Park already has secured the water necessary to gain its subdivision approval and the power generation plants to be located at the Apex Industrial Park already have a water supply;
- (3) Dry Lake has not demonstrated the financial capability to develop the water and place it to beneficial use; and
- (4) granting this application is contrary to the approach adopted by the State Engineer in Ruling 5008 which requires a gradual, staged development of the carbonate aquifer.

RECOMMENDATIONS

Nevada Power requests that Application 67894] be denied for the foregoing reasons. However, if all or any portion of the water requested under Application 67894 is granted, Nevada Power requests that a stringent monitoring plan be required as a condition of the permit.

¹ Dry Lake's stated reason for filing this application is its theory that the earlier filed application became void when not acted upon within one year after the final date for filing a protest. Dry Lake has asserted this theory in *Dry Lake v. Ricci*, Case No. A433479. Thus, inasmuch as Dry Lake is in a sense "wagering" on the outcome of that litigation, these applications are speculative.