

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

**FILED**  
MAY 01 2002  
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 68501  
FILED BY DRY LAKE WATER LLC  
OF LAS VEGAS NEVADA,  
ON 02/15/2002, 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 Strategic Projects, and protests the granting of Application Number 68501 filed on 02/15/2002, 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 *Craig York*  
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 21<sup>st</sup> day of April, 2002  
Linda M. Melvin  
Notary Public

~~RECEIVED  
02 APR 30 AM 12:30  
STATE ENGINEER'S OFFICE~~

Notary Public-State Of Nevada  
COUNTY OF CLARK  
LINDA M. MELVIN  
My Appointment Expires  
November 16, 2004  
No. 92-4287-1

State of NEVADA  
County of CLARK  
My Commission expires 11-16-04

RECEIVED

**IN THE MATTER OF APPLICATION 68501  
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. #	Location	Date	Amount Cubic Feet Per Second	Amount	
68350	SW1/4 NW1/4 18-19S64E	01/11/2002	0.165	119	AFY
68351	NE1/4 NE1/4 13-19S-63E	01/11/2002	0.75	542	AFY
68352	NE1/4 NE1/4 13-19S-63E	01/11/2002	0.19	137	AFY
68353	NW1/4 NE1/4 13-19S-63E	01/11/2002	2	1448	AFY
68501	SW1/4 SE1/4 21-17S-63E	02/15/2002	10	7239	AFY

The total annual duty sought under Application 68501 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 68501 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 area<sup>7</sup>;

- (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.

- (5) granting this application is contrary to the approach adopted by the State Engineer in <sup>Order</sup> ~~Ruling~~ 1169 which places pending applications in abeyance while additional information is obtained by stressing the carbonate-rock aquifer under water right permits already issued.

## RECOMMENDATIONS

Nevada Power requests that Application 68501 be denied for the foregoing reasons. However, if all or any portion of the water requested under Application 68501 is granted, Nevada Power requests that a stringent monitoring plan be required as a condition of the permit.

---

<sup>7</sup> 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.