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

FILED
SEP 18 2002
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER.....68810.....,

FILED BY.....HIGH ROCK HOLDINGS, LLC.....,

ON.....MAY 13....., 2002....., TO APPROPRIATE THE

WATERS OF .....UNDERGROUND.....

} PROTEST

Comes now.....Michael S. Moore & Linda Fleming.....
Printed or typed name of protestant

whose post office address is.....P.O. Box 232 Gerlach, NV 89412.....
Street No. Or P.O. Box, City, State and Zip Code.

whose occupation is .....Wetlands Habitat Operator..... and protests the granting

of Application Number .....68810....., filed on .....May 13....., 2002.....

by .....High Rock Holdings, LLC.....to appropriate the

waters of .....Underground.....situated in .....Washoe.....
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 Attachment "A".....

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 .....
Agent or protestant

.....Chris C. Mahannah, P.E., Agent.....
Printed or typed name, if agent

Address.....P.O. Box 5007.....
Street No. or P.O. Box No.

.....Reno, NV 89513.....
City, State and Zip Code No.

RECEIVED
02 SEP 18 AM 11:24
STATE ENGINEER'S OFFICE

Subscribed and sworn to before me this .....13th.....day of.....September.....20.....02.....

.....
Notary Public

State of.....Nevada.....

County of .....Washoe.....

CINDY REILLY
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 92-1995-2 - Expires January 29, 2004

$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Attachment "A"

1. The application is vague and does not provide enough detail as to the true purpose of the appropriation. It is unclear whether they are seeking hot geothermal waters for a geothermal power plant or cooling waters for a gas or coal fired power plant. It is unclear whether the water will be re-injected or what the total annual duty requested is.

2. The proposed points of diversion are located lands not controlled by the applicant (Smoke Creek Desert, Basin 21) and are some twenty (20) miles from the proposed place of use located in a different ground water basin (San Emidio Desert, Basin 22). This inter-basin transfer will be detrimental to the public interest.

3. The Protestant owns permitted artesian ground water rights (Permits 64559 – 64560) which have a priority of 1998. These waters are for wildlife and domestic purposes and support a wetlands and wildlife restoration program which has been endorsed by the Nature Conservancy, USDA Natural Resources Conservation Service and the USDOI, Fish and Wildlife Service. This wetland habitat serves wildlife habitat including: waterfowl, fish, resident birds, migratory birds, raptors, upland game birds, and large game wildlife such as deer and pronghorn antelope. This habitat relies upon the natural artesian flows from two ground water wells. These wells may cease to flow if the applications are approved given the large proposed diversion rates of 5 cfs and points of diversion located within four (4) miles of the Protestant's wells. There is no power at the Protestant's site to pump the wells, therefore if the wells cease to flow naturally, the wetlands restoration program will become impractical.

This application, if grated, will conflict with existing and prior rights held by the Protestant and others in the Smoke Creek Desert. Impacts to wetlands which wildlife have come to rely on will be detrimental to the public interest.

4. Based on existing and pending applications within the Smoke Creek desert, there is in excess of 55,000 acre-feet of ground water which has either been permitted or applied for with senior priorities. The perennial yield of the basin has been estimated at 16,000 acre-feet per year by the USGS. Therefore there is no unappropriated water in the Smoke Creek Desert. Expanding the Applicant's diversion rate over the entire year for applications 68807 – 68811 results in an annual duty of 18,100 acre-feet per year which in and of itself is in excess of the perennial yield of the basin not considering the existing permitted rights and pending applications with senior priorities.

5. The Protestant reserves the right to amend and add to this protest as new information becomes available regarding the applications.

6. The Protestant hereby reserves the right to adopt the arguments presented in any other protest to these applications.