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

IN THE MATTER OF APPLICATION NUMBER 71167,
FILED BY Southern Nevada Water Authority,
ON May 6, 2004, ....., TO APPROPRIATE THE
WATERS OF Indian Springs Valley-Underground

PROTEST

FILED
AUG 20 2004
STATE ENGINEER'S OFFICE

Comes now Nevada Water Committee
Printed or typed name of protestant

whose post office address is P.O.Box96,Amargosa Valley,NV9 89020
Street No. or P.O. Box, City, State and Zip Code

whose occupation is Nevada Political Action Committee, and protests the granting

of Application Number 71167, filed on May 6, 2004, .....

by The Southern Nevada Water Authority to appropriate the
Printed or typed name of applicant

waters of Indian Springs Valley-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 Attachment

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

Michael DeLee
Printed or typed name, if agent

Address P.O.Box96
Street No. or P.O. Box No.

Amargosa Valley, NV 89020
City, State and Zip Code No.

Subscribed and sworn to before me this 20th day of August, 2004

.....
Notary Public

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
MINNI Q. ZUKOWSKI
Appt. No. 00-64591-1
My Appt. Expires Sept. 1, 2004

State of Nevada

County of Clark

$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

ATTACHMENT TO PROTEST

The undersigned protests the Applications 71167, 71168, 71169, 71170, 71171, 71172, 71173, filed on May 6, 2004, by the Southern Nevada Water Authority, to appropriate the water of an underground source situated adjacent to the Nye County line in Clark County, State of Nevada for the following reasons and on the following grounds: to wit,

1. The undersigned and others have water rights and have expended considerable sums of money in furtherance of the use of their water rights. The continued prosperity and future development of the undersigned's property and of those in the area depends upon its present water supply. The proposed applications are hydrologically connected the undersigned's points of diversion and will impair the long-term viability of the aquifer as a result of the over-allocation of resources.

2. Some of the undersigned applied for permits to appropriate ground water which have priority with respect to the instant applications.

3. On May 14, 1979, the State Engineer entered an order, number 724, designating the Amargosa Desert Groundwater Basin. This was based upon source documents that demonstrate an interconnection between the Amargosa Desert Groundwater Basin with areas further north and east, including in the direction of the proposed wells. The groundwater budget for the Amargosa Desert specifically included the recharge from these areas.

4. There is not sufficient groundwater to provide the water in sought in the above referenced application and all other pending applications involving utilization of groundwater from the region.

5. The appropriation of this water, when added to the already approved appropriations and existing uses and water rights in the region, will exceed the annual recharge and safe yield of the basin. An appropriation and use of this magnitude will lower the water table, degrade the quality and quantity of the water from existing wells and springs, cause negative hydraulic gradient influences, and threaten springs, seeps, and phreatophytes which provide water and habitat that are critical to the survival of the flora and fauna of the region.

6. The granting or approval of the above referenced Application would unreasonably lower the water table and sanction water mining, which is contrary to Nevada law and public policy inasmuch as the requested acre-feet amount exceeds the officially recognized annual recharge both locally and regionally.

7. Seven such applications filed by the Southern Nevada Water Authority seeking a combined appropriation of some 16,000 acre-feet of groundwater for municipal use. Diversion of such a quantity of water will deprive the area of the water needed to protect and enhance its environment and economic well-being, and the diversion will

unnecessarily destroy environmental, ecological, scenic, and recreational values that the State holds in trust for all its citizens.

8. The granting or approval of the above-referenced Application in the absence of comprehensive water-resource development planning including, but not limited to, environmental impact considerations, socioeconomic-impact considerations, cost/benefit considerations, water-resource evaluations by an independent entity, and a water-resource plan, is detrimental to the public welfare and interest.

9. The granting or approval of the above-referenced Application would be detrimental to the public interest in that it, individually and together with the other applications, would:

A: Jeopardize the continued existence of endangered and threatened species;
B: Prevent or interfere with the conservation of those threatened species;
C: Take or harm those endangered species; and,
D: Interfere with the purpose for which the federal lands are managed under federal statutes including, but not limited to, the Federal Land Use Policy Act of 1976 and those laws and regulations relating to nearby wilderness and military reservations.

10. The instant application seeks to develop the water resources and transport water on and across land of the United States under the jurisdiction of the United States Department of Interior. This Application should be denied because the Southern Nevada Water Authority has not obtained or demonstrated that it can obtain the necessary legal interest on said lands to extract, develop, transport, and apply water from the point of diversion to the place of use. Therefore, the Southern Nevada Water Authority cannot show that the water will ever be placed to beneficial use.

11. The Board of the Southern Nevada Water Authority has not specifically set aside funds for the construction of this project and as a result cannot demonstrate the financial commitment for developing and transporting water under the sought for permit, which is a prerequisite to putting water to beneficial use and accordingly, the subject applications should be denied.

12. The instant Application should be denied because it individually and cumulatively with other applications of the proposed project will exceed the safe yield of the region thereby adversely affecting phreatophytes and creating air contamination and air pollution in violation of the state and federal statutes including, but not limited to the Clean Air Act and Chapter 445 of the Nevada Revised Statutes.

13. The Application cannot be granted because the applicant has failed to provide information to the State Engineer to properly safeguard the public interest. The adverse affect of this application and relation applications associated with this proposed water appropriation cannot properly be evaluated without an independent, formal and publicly reviewable assessment of the following:

A: The water resources of the proposed region of diversion and the cumulative effects of the proposed diversions;
B: Mitigation measures that will reduce the impacts of the proposed extraction; and,
C: Alternatives to the proposed extraction.

14. The above referenced Application should be denied because the State Engineer has previously denied other applications for water from the same region, said applications having been prior in time to the instant Application and those accompanying applications filed by the Southern Nevada Water Authority. The grounds for denial should apply equally and provide grounds to deny the instant Application.

15. In the event that the Applicant intends to assert new evidence of increased water availability to the region, the State Engineer has other applications that are senior to the pending application that should be reviewed and approved prior to the granting of the subject Application. All prior applications in the region that are pending or have been denied for lack of available resources should have priority over the instant Application.

16. The above referenced Application should be denied because economic activity in the region of the proposed point of diversion is water-dependent, and a reduction in the quantity and quality of water in the area would adversely impact said activity and the way of life of the area's residents.

17. The above referenced Application and other applications should be denied since removing water will adversely impact economic activity (current and future). Some of the economic impacts are as follows:

A: Agriculture: The combination of sunlight, water resources, technology for intensified forms of agriculture and the raising of livestock, and growing markets supports extensive agricultural development in the region, including the State's largest dairy. A lack of water resources that can be developed would foreclose these additions to the economy of the region and the state.
B: Mineral Extraction: Regional mining activities for aggregate, clay and precious other materials have expanded to supply both local and international demand for specialized resources. Many of these processes are water dependent and their continued existence and future expansion is threatened by the subject applications. The effect on mining of removal of groundwater above the rate of recharge should be fully understood before the applications are approved.
C: Manufacturing: Space-requiring industries which are increasingly constrained in the metropolitan areas continue to relocate into this rural region, and this trend is expected to accelerate with the planned expansion of the United States National Nuclear Security Administration activity in and around the region. Continued availability of groundwater and a vibrant diverse economy sustained by it is a prerequisite for such continued development.
D: Tourism: The region is ideally situated to benefit from predicted increases in tourism and travel. Considerable investments in regional facilities have already

been made and more are forthcoming. The diversion of critical water resources would move the State away from its stated policy of economic diversification away from concentrated populations and towards a sustainable development.

18. Inasmuch as a water extraction and transbasin conveyance of this magnitude has never been approved by the State Engineer in this region, it is therefore impossible to anticipate all potential adverse effects without further information and study. Accordingly, the protestant reserves the right to amend the subject protest to include such issues as they may develop as a result of further information and study.

19. The Applicant has shown no need for such a quantity of water and has numerous other resources at its discretion. The State Engineer has never approved such a quantity of water for extraction from the region. Such a need must be demonstrated prior to approval of the instant Application, and the associated applications.

20. This Application should be denied because the Applicant is speculating on the future need for this water and has filed simply to prevent the official recognition of this water as belonging to the region. Such speculation is contrary to the public interest as set forth in NRS 533.010 et seq. and NRS 534.010 et seq.

21. The protestants additionally incorporate by reference, as though fully set forth herein and adopt as their own, each and every other protest to this Application and any applications filed by Applicant in this region as part of the regional water-exportation project.

Dated This 20th Day of August, 2004

Michael DeLee
Nevada Water Committee