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

IN THE MATTER OF APPLICATION NUMBER.....76286.....,

FILED BY....LINCOLN COUNTY WATER DISTRICT AND VIDLER

WATER COMPANY.....,

ON...17TH DAY OF SEPTEMBER....., 2007....., TO

APPROPRIATE THE WATERS OF...STATE OF NEVADA.....

PROTEST

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Comes now the United States Department of Interior, Bureau of Land Management, whose post office address is 702 N. Industrial Way, HC 33 Box 33500 Ely, NV 89301 and whose occupation is public land management, to protest the granting of Application Number 76286, filed on September 17, 2007 by Lincoln County Water District and Vidler Water Company. to appropriate the waters of an underground source situated in SW1/4 NW1/4 Section 02, T9S, R69E MDB&M or at a point from which the West 1/4 corner of said Section 2 bears S 86 degrees 53' 21" W, a distance of 882.13 feet, for the following reasons and on the following grounds, to wit

See attached

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

Kyle Hansen, Acting AFM Renewable Resources
HC 33 Box 33500
Ely, Nevada 89301

Subscribed and sworn to before me this 16th day of November, 2007

MARILYN CHAPMAN
NOTARY PUBLIC
STATE OF NEVADA
APPT. No. 03-82360-17
MY APPT. EXPIRES JUNE 12, 2011

.....
Notary Public

State of NEVADA

County of White Pine

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

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

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Tule Desert Protest Points
Applications 76285-76290

1. The BLM has a "Reserved" water right for Rock Hole Spring which could be affected by pumping within the basin. The nearest location of withdraw is less than 3 miles away.

2. The BLM has a congressionally mandated responsibility to protect springs and riparian habitat on Public Lands. There are approximately 12 springs in Tule Desert that could be affected by water withdraws from the basin. These springs are Old Well, Jones, Garden, Box, Rock Hole, Sam's Camp 1, 2, and 3 and 3, and 3 unnamed springs. The unnamed springs are located in T 8S R69E S06, T 7S R69E S14, and T 7S R69E S23. All of these springs are located within approximately 5 miles of proposed pumping activities.

3. Two important wells are located within the Tule Desert Basin. These wells provide water for wild horses and wildlife. Tule Desert Well is less than 1 mile from proposed pumping activity and Sam's Camp Well is less than 1 mile from proposed pumping activity.

4. The combined pumping of all 6 applications could result in effects on the above mentioned springs and wells in the basin.

5. Springs and wells in the area provide water for wild horses. Two herd management areas are found within Tule Desert. The Blue Nose Peak Herd Management Area is managed for 1 wild horse and the Clover Mountains Herd Management Area is managed for 16 wild horses. Approximately 8 springs and one well are located within these two HMA's. One pumping location is within an HMA, three are within 2 miles of an HMA, and one is within 4 miles of an HMA.

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6. Springs and wells in Tule desert provide water for desert bighorn sheep (a BLM sensitive species) and mule deer. Water withdraws could potentially affect springs and wells within the Tule Desert that provide drinking water for these species.

7. Groundwater from the Tule Desert basin flows into the Muddy River Basin and is part of the Virgin River flow system. Several endangered, threatened and sensitive aquatic species live in the Muddy River, including Moapa dace (*Moapa*

coriacea) and Virgin River chub (*Gila seminuda*). Groundwater withdraws from the Tule Desert Basin could affect groundwater flows in the Muddy River affecting these species.

8. Nevada Revised Statute 533.370 provides criteria that the State Engineer must consider when deciding whether an interbasin transfer of water should be approved or denied. These criteria include 1) whether the proposed action is environmentally sound as it relates to the basin from which water is exported; and 2) whether the proposed action is an appropriate long-term use of water which will not unduly limit future growth and development in the basin from which water is exported.

   The subject applications are requesting to pump and export groundwater in quantities that greatly exceed the hydrographic area's perennial yield of 1,000 acre-feet/year. Exporting groundwater from a basin in quantities exceeding the estimated perennial yield is not sustainable or environmentally sound on water-budget principles.

   Exporting groundwater from a basin in quantities exceeding the estimated perennial yield may also unduly limit future growth and development. The Lincoln County Land Act of 2004 directs BLM to sell 90,000 acres of public land over the next 20 years to support economic growth and development in Lincoln County. Planning processes will be used to identify the location of future land sales. It is reasonable to assume that population growth in Lincoln County will result in more intensive use of public lands for recreation and economic purposes such as sand and gravel production, industrial development, etc. Such future uses will be difficult to develop if all available groundwater is exported from the basin.

9. State Engineer Ruling 5181 recognized uncertainty in assessing perennial yield. For this reason the State Engineer allows for additional studies to be submitted and indicates additional development should proceed in a gradual, staged, manner. Granting any water under the subject applications appears to be inconsistent with the ruling, particularly when there are other pending applications in the Tule Desert.

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