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

FILED
JAN 09 2008
STATE ENGINEER'S OFFICE

2008 JAN -9 PM 1:01

IN THE MATTER OF APPLICATION NUMBER 76489,

FILED BY MGC RESOURCES, INC.

ON NOVEMBER 14, 2007 TO APPROPRIATE THE

WATERS OF RALSTON VALLEY GROUND WATER BASIN

} PROTEST

Comes now .....Tonopah Public Utilities c/o Stanley Howerton.....
Printed or typed name of protestant

whose post office address is P.O. Box 151, Tonopah, Nevada 89049.....
Street No. Or P.O. Box, City, State and Zip Code.

whose occupation is ....Director of Public Works..... and protests the granting

of Application Number 76489., filed on November 14, 2007 .....

by .MGC Resources Inc..... .to appropriate the

waters of ....Ralston Valley Ground Water Basin..... situated in Nye
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 ATTACHED EXHIBIT "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

STANLEY HOWERTON.....
Printed or typed name, if agent

Address. ...P.O. Box 151.....
Street No. or P.O. Box No.

Tonopah, Nevada 89049
City, State and Zip Code No.

Subscribed and sworn to before me this ....20th.....day of...December....., 20...07.....

Christine L. Mulkerns
Notary Public

CHRISTINE L. MULKERNS
NOTARY PUBLIC
STATE OF NEVADA
NYE COUNTY
APPT. No. 06-109782-14
MY APPT. EXPIRES DEC. 7, 2010

State of.....NEVADA.....

County of .....NYE.....

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

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Exhibit "A"
Formal Protest Requesting Denial of Application No. 76489
Applicant - MGC Resources, Inc.

MGC Resources, Inc. under Application No. 76489 proposes to utilize ground water for mining, milling and dewatering at the rate of 2.228 cfs (1,000 gpm) from the Ralston Valley Hydrographic Groundwater Basin No. 141.

A request for denial is based on the following concerns:

COMPREHENSIVE PERENNIAL YIELD AND BASIN ANAYLYSIS REQUIRED:

The Town of Tonopah (Tonopah), a water right owner within Ralston Valley located within the vicinity of Application No. 76489, is concerned that continued increases of groundwater pumpage will harm their existing municipal water supplies. The Town of Tonopah is asking the State to protect the Tonopah's senior priority permitted and certificated municipal groundwater rights.

Nye County and the Town of Tonopah have been very active in groundwater and surface water management issues in Ralston Valley Hydrographic Basin for many years. At this time, the municipal water for the Town of Tonopah is supplied predominately from a well field near the proposed production well under Application No. 76489. The Town of Tonopah is concerned about MGC Resources, Inc. request for a large amount of ground water within a close proximity to their municipal well field.

The Ralston Valley groundwater basin was designated in 1980 based upon concerns of groundwater depletion and over appropriation. Twenty seven years has passed since this designation. A comprehensive perennial yield and recharge analysis must be required by the Nevada State Engineer of the entire Ralston Valley Hydrographic Basin No. 141 before new appropriations can be considered.

Due to the proximity of the proposed point of diversion under Application No. 76489 to Tonopah's municipal well field, additional hydrogeologic studies, testing monitoring must be completed prior to any further consideration. This is necessary to define the potential impacts to the Tonopah municipal water supply.

The results of this comprehensive analysis must be reviewed by the State and the Town of Tonopah to determine the impacts to existing water consumption and recharge within Ralston Valley before any new appropriations of groundwater can be considered for permitting.

TEST OF GROUNDWATER MUST BE DEMONSTRATED WITHIN THE VALLEY BEFORE APPROVAL IS CONSIDERED:

The applicant proposes to remove a large volume of ground water near the municipal well field for the Town of Tonopah. In addition to supplying water for the mining and

milling, the applicant proposes to dewater the local aquifer to accommodate the mining project. Increased removal of ground water near Tonopah's municipal well field is expected to impact the available ground water quantity and possibly degrade water quality.

Based on Application No. 76489, dewatering may occur. Once mining operations have exhausted the marketable minerals, an open pit with standing exposed ground water or collected precipitation can influence the ground water quality of the Tonopah municipal well field.

WATER RIGHTS OWNED BY THE PROTESTANT WITHIN RALSTON VALLEY:

The following is a summary of the active municipal water rights owned by the Town of Tonopah within RALSTON VALLEY Hydrographic Basin No. 141.

Permit No.

45148
45149
45150
45151
45221
54929