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

IN THE MATTER OF APPLICATION NUMBER 76795,
FILED BY Rockview Dairies, Inc.,
ON March 11, 20 08, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

FILED
JUL 24 2008
STATE ENGINEER'S OFFICE

Comes now U.S. Department of the Interior Fish and Wildlife Service
Printed or typed name of protstant

whose post office address is 911 NE 11th Avenue, Portland, OR 97232
Street No. Or P.O. Box, City, State and Zip Code

whose occupation is federal agency and protests the granting

of Application Number 76795, filed on March 11, 20 08

by Rockview Dairies, Inc. to appropriate the

waters of Underground 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 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 [signature]
Agent or protestant

James D. Crammond
Printed or typed name, if agent

Address 911 NE 11th Avenue, 2W-EN
Street No. or P.O. Box No.

Portland, OR 97232
City, State and Zip Code No.

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2008 JUL 24 AM 10: 03
STATE ENGINEER'S OFFICE

Subscribed and sworn to before me this 23d day of July, 2008

Frances M. Jackson
Notary Public

OFFICIAL SEAL
FRANCES M JACKSON
NOTARY PUBLIC-OREGON
COMMISSION NO. 391190
MY COMMISSION EXPIRES MAR. 30, 2009

State of OREGON

County of MULTNOMAH

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

Attachment to Protest
In the Matter of Application 76795

1. Applicant has not provided proof of beneficial use for precursor change Application 64491, which has the same "parent" Certificate, 7336. This proof is due October 14, 2008. It is against public policy to allow applicant to avoid a final proof on a completed project (Permit 64491 notice of completion filed October 14, 2001) by applying for a new change to the water right. Without some method to discern whether Certificate 7336 and change Application 64491 are still in good standing, Applicant should not be allowed to use the change process for unlimited extensions and to conceal their history of beneficial use. The Engineer should require a Proof of Beneficial Use for Application 64491 before entertaining a new change application.

2. Applicant's petition is an expansion of Certificate 7336 for which no appropriable water is available, and which is contrary to law. Certificate 7336 has a 50 acre place of use, which is proposed to be expanded to more than 620 acres by Application 76794. Without more, Applicant's commercial dairy use will lead to increased consumptive use, which represents a new withdrawal from the ground water system. The Engineer should limit the proposed transfer to the amount consumptively used under Certificate 7336. To avoid an increase in consumptive use, the Engineer should require Applicant to install a totalizing flow meter at the well-head, report water use annually, and designate annually the 50 acres that are to be irrigated under color of Certificate 7336.

3. Applicant's petition is an expansion of Certificate 7336 for which no appropriable water is available, and which is contrary to law. Certificate 7336 has as its purpose irrigation and domestic use. Applicant proposes a "commercial dairy" purpose of use, which will result in greater consumptive use than irrigation and domestic purposes authorized by Certificate 7336. Without more, Applicant's commercial dairy use will lead to increased consumptive use, which represents a new withdrawal from the ground water system. The Engineer should limit the proposed transfer to the amount consumptively used under Certificate 7336. To avoid an increase in consumptive use, the Engineer should require Applicant to install a totalizing flow meter at the well-head, report water use annually, and designate the particular uses to which the water will be applied.

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