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

FILED
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IN THE MATTER OF APPLICATION NUMBER 77882)
FILED BY U.S. DEPARTMENT OF ENERGY,) PROTEST
ON January 20, 2009, TO APPROPRIATE THE PUBLIC)
WATERS OF LIDA VALLEY)

Comes now ESMERALDA COUNTY, whose Post Office address is P.O. Box 517 GOLDFIELD, Nevada 89013, whose occupation is a political subdivision of the State of Nevada, and protests the granting of Application No. 77882, filed on January 20, 2009 by U.S. Department of Energy, to appropriate the public waters of the State of Nevada, LIDA VALLEY situated in Esmeralda 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 and that an Order be entered for such relief as the State Engineer deems just and proper.

Signed: _____
Robert List, President
The Robert List Company
Agent for Protestant
1975 Village Center Circle, Ste.140
Las Vegas, NV 89134
(702) 733-6700

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STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

SUBSCRIBED and SWORN to before me this 16th day of April, 2009.

SALLY T. CHRISTENSEN
Notary Public State of Nevada
No. 04-87256-1
My appt. exp. Feb. 1, 2012

Sally T. Christensen
Notary Public

EXHIBIT "A"

1. This application is one of many applications filed by the U.S. Department of Energy for approximately 6,000 acre feet of water in Lincoln, Nye and Esmeralda Counties. Because the applications are supplemental to one another, and the proposed places of use overlap between basins and between counties, the applications, taken together, are ambiguous and not subject to scientific analysis as to their potential impacts within individual basins. Upon information and belief, such diversion and export between basins and counties will unreasonably lower the static water level in the basins of diversion, adversely affecting the quality of remaining groundwater and threatening the continued existence of springs, seeps and phreatophytes which provide water and habitat critical to the survival of wildlife, grazing livestock and other surface area existing uses.

2. Upon information and belief, there is no unappropriated water available at the proposed source.

3. Upon information and belief, the granting of the subject application, when considered together with the other applications filed by the applicant, will deprive Esmeralda County, and its current and future residents, of water resources needed for their environmental and economic well being and for the opportunity for future population growth.

4. The subject application should be denied because, upon information and belief, individually and cumulatively with other applications related to the proposed project, it will exceed the safe yield of the source.

5. The granting of a permit for appropriation of waters as proposed in the subject application without a condition that ownership of the proposed works be transferred to Esmeralda County for monitoring purposes and/or potential future utilization upon discontinuance of the purposes for which the appropriation is sought, as described in the application, would be detrimental to the public interest.

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