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

FILED
APR 09 2009
STATE ENGINEER'S OFFICE

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STATE ENGINEERS OFFICE

IN THE MATTER OF APPLICATION NUMBER 77898,
FILED BY US Department of Energy,
ON January 20, 20 09, TO APPROPRIATE THE
WATERS OF Basin #228,Oasis Valley

PROTEST

Comes now STORM-OV, Inc., D & H Mining,Ltd. Partnership, David Spicer
(Printed or typed name of protestant)
whose post office address is P.O. Box 278, Beatty, NV 89003-0278
(Street No. Or P.O. Box, City, State and Zip Code.)
whose occupation is Manager of Both and protests the granting
of Application Number 77898, filed on January 20, 20 09
by US Department of Energy to appropriate the
waters of Basin #228, Oasis Valley 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:

Please 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 [signature]
(Agent or protestant)

David A. Spicer
(Printed or typed name, if agent)

Address P.O. Box 278
(Street No. or P.O. Box No.)

Beatty, NV 89003
(City, State and Zip Code No.)

Subscribed and sworn to before me this 3 day of April, 20 09

J. Rogers
(Notary Public)

State of Nevada

County of Nye

J. ROGERS
NOTARY PUBLIC
STATE OF NEVADA
NYE COUNTY
APPT. No. 00-61601-14
MY APPT. EXPIRES FEB. 2, 2012

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

OK

STORM-OV
A NON PROFIT ORGANIZATION

STORM-OV, Inc.
P.O. Box 278
Beatty, NV 89003-0278
www.storm-ov.org

March 25, 2009

Oasis Valley Basin #228 only produces about 6,100 A.F.A. and discharges 6,300 A.F.A. (USGS report #01-4239, Ground Water Discharge...Evapotranspiration... Oasis Valley – Reiner, Laczniak and others). An existing deficit. This application of 345 A.F.A. would further overdraw the basin and the accumulative effect of all D.O.E.'s other applications in Basin #228 equal to 3,795 AF.A. This would put the Basin of 6,100 A.F.A. total production at a 10,095 discharge.

All other valid water rights of vested, certificated, agricultural, mining, and irrigation would be jeopardized. The "Amargosa Toad" was been petitioned to be placed on the Endangered Species List in 1994, then again in 2008, and in 2009, a "Notice of Intent to Sue" has been filed with the U.S.F.W.S. The environmental groups of Biodiversity Legal Foundation and P.E.E.R. (Public Employees for Environmental Responsibility) are behind this litigation. The biggest thing the Amargosa Toad need is water. If the springs dry up due to over-pumping/overdrawing out of this Basin their natural breeding areas and local upland environments will be compromised. The result will certainly be the deliverance of an endangered species upon us, not only of the Amargosa Toad but also the Speckled Dace. Further collateral damage will be the pushing of other sensitive species here into extinction.

The Amargosa toad working Group (A.T.W.G.) a co-operative committed organization of the Nature Conservancy, Nevada Division of Wildlife, US Fish and Game, Bureau of Land Management, Nevada Natural Heritage Program, University of Nevada Reno, Southern Nye County Conservation District, The Beatty Habitat Committee, Land Owners in Oasis Valley, and others have been working for over a decade preventing sensitive species here from becoming endangered. The granting of this water right is, counter productive to all actions of the aforementioned.

The town of Beatty is in the process of a Master Plan for its taxing district which is required under N.R.S. 278.010 – 278.360. The main part of plan is on Bureau of Land Management land. The town, in order to grow, will need more land to increase its tax base. There is land here identified as "Disposable" by the B.L.M. Under the Federal Land management Act (F.L.P.M.A.) this land can be sold to individuals, developers, county, or state for varied purposes. Under the law, an inventory of resources has to be provided by the local community and county showing the ability to handle the expected population increases caused by land sales. This inventory includes but is no limited to Emergency Response Measures, Adequate Sewer Disposal, Adequate School facilities, Social Services and Water.

If there is no available water, there will be no protection for endangered species –no land sales – no growth – no future.

David A. Spicer

President

Saving Toads thru Off-road racing, Ranching and Mining in Oasis Valley