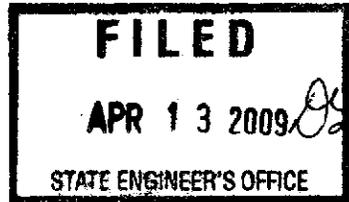


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION  
NUMBER.....77899.....  
FILED BY....U.S. DEPARTMENT OF ENERGY,  
ON JANUARY 20, 2009 TO APPROPRIATE  
THE WATERS OF BASIN #228, OASIS VALLEY



}  
}

PROTEST

RECEIVED  
2009 APR 13 PM 2:05  
STATE ENGINEER'S OFFICE

Comes now.....The Center for Biological Diversity...("Center").....  
Printed or typed name of protestant

whose post office address is.....P.O. Box 710, Tucson, AZ 85702-0710.

whose occupation is .....Non-profit conservation advocacy..... and protests the granting  
of Application Number .....77899....., filed on .....January 20, 2009.....

by .....U.S. Department of Energy.....to appropriate the  
waters of .....Basin #228, Oasis Valley.....situated in ...Nye.....

County, State of Nevada, for the following reasons and on the following grounds, to wit:

Groundwater Basin #228 has been identified as a "Designated Groundwater Basin" under NRS 534.120, signifying that permitted ground water rights approach or exceed the estimated average annual recharge and the water resources are being depleted or require additional administration (from NDWR "Water Word Dictionary"). This is supported by USGS Report 01-4239 by Reiner and others, which reported an annual deficit. This application for 435 afa would further deplete the basin's groundwater resources. These resources are critically important to the survival of the Amargosa toad, which the Center petitioned for listing under the Endangered Species Act ("ESA") in February 2008, and for which the Center has recently issued a Notice of Intent to Sue as provided for by the ESA. Groundwater is also important for the well-being and continued existence of springsnails and desert fish found within the basin, or down gradient from the basin. Species of concern include the federally listed Desert Hole pupfish, Ash Spring Amargosa pupfish and the Ash Meadows speckled dace. Groundwater and springs are critically important water sources for wildlife such as bighorn sheep and pronghorn antelope. Additional groundwater rights in this basin would negatively affect these and other wildlife species of concern.

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.

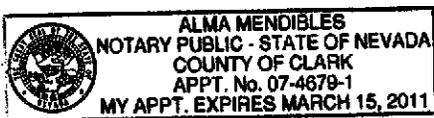
Signed [Signature]  
Agent or protestant

.....Rob Mrowka.....  
Printed or typed name, if agent

Address.....4261 Lily Glen Ct.....  
Street No. or P.O. Box No.

.....North Las Vegas, NV 89032.....  
City, State and Zip Code No.

Subscribed and sworn to before me this 9 day of April, 2009



[Signature]  
Notary Public

State of Nevada  
County of Clark

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

[Signature]