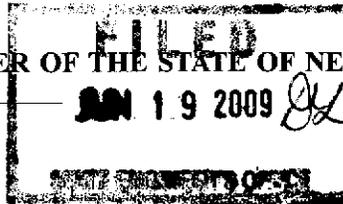


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA



STATE ENGINEER OF NEVADA  
2009 JUN 19 AM 11:56

IN THE MATTER OF APPLICATION NUMBER 78239  
FILED BY Lincoln County Water District & Vidler Water Company, Inc.  
ON April 10, 2009, TO APPROPRIATE THE  
WATERS OF Underground

PROTEST

Comes now PATRICK J GLOECKNER  
Printed or typed name of protestant  
whose post office address is HC-74 Box 237 Pioche, Nevada 89043  
Street No. or P.O. Box, City, State and Zip Code.  
whose occupation is Rancher and protests the granting  
of Application Number 78239, filed on April 10, 2009  
by Lincoln County Water Dist. & Vidler Water Company, Inc. to appropriate the  
waters of Underground situated in Lincoln  
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:

Stock Water Rights in Dry Lake Valley  
Fairview Spring Pipeline  
Simpson Spring Pipeline  
Simpson well

Please 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 of protestant

PATRICK J GLOECKNER  
Printed or typed name, if agent

Address HC-74 Box 237  
Street No. or P.O. Box No.

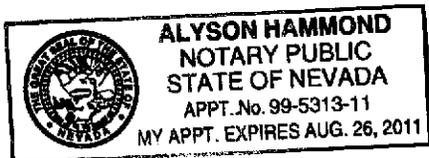
Pioche, NV. 89043  
City, State and Zip Code No.

Subscribed and sworn to before me this 17 day of June, 2009

[Signature]  
Notary Public

State of Nevada

County of Lincoln



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

[Handwritten initials]

ATTACHMENT TO [INSERT PROTESTANT'S NAME HERE]'S PROTEST OF  
APPLICATION NO. 78239 FILED APRIL 10, 2009 BY LINCOLN COUNTY WATER  
DISTRICT AND VIDLER WATER COMPANY, INC.

Vidler Water Company, Inc. and Lincoln County Water District and have filed application No. 78239 to appropriate 5.0 cubic feet per second ("cfs") of underground water from Dry Lake Valley for the stated use of irrigation of 610 acres of land. **Patrick J Gloeckner** is a resident of hydrologically connected downgradient **Dry Lake Valley** and stands to be significantly and adversely affected by the Applicant's proposed appropriation. Therefore, **Patrick J Gloeckner** protests Application No. 78239 and the State Engineer should deny Application No. 78239 on the following grounds:

- 1. Lack of available unappropriated water** -- Pursuant to State Engineer Ruling Nos. 5875 and 5993 Dry Lake Valley is fully appropriated and there is no remaining unappropriated water available in Dry Lake Valley to satisfy Application No. 78239. In Ruling No. 5993 the State Engineer granted a portion of previous applications filed by Vidler in Dry Lake Valley and denied the remainder because there was insufficient available unappropriated water to meet the full amount applied for by Vidler. On the basis of that prior ruling, alone, the State Engineer should deny Application No. 78239 under NRS 533.570(5).
- 2. Conflict with existing rights and protectible interests in domestic wells** – Allowing the Applicants to appropriate the water applied for in Application No. 78239 would conflict with existing rights and with protectible interests in existing domestic wells in Dry Lake Valley and hydrologically connected down-gradient valleys. The groundwater system in Dry Lake Valley is part of an interconnected multi-basin groundwater flow system that feeds valleys such as the Pahrnagat Valley which are fully appropriated and which contain both senior water rights holders and protected existing domestic wells. Granting Application No. 78239 would deplete the ground-water system in Dry Lake Valley itself and in this vast interbasin flow system, impermissibly conflicting with existing water rights and protectible interests in domestic wells, in contravention of NRS 533.370(5).
- 3. Detrimental to the public interest** – Granting Application No. 78239 would grossly exceed the perennial yield of Dry Lake Valley and substantially impair the flow of ground-water throughout the carbonate rock aquifer interbasin flow system. Among the impermissible effects of allowing such an unsustainable appropriation would be the devastation of springs, seeps, ground-water fed streams, wet meadows, and wetlands in Dry Lake Valley and hydrologically connected down-gradient valleys that sustain a wide variety of water dependent fauna and flora, at least some of which are legally protected under State and Federal law. The unsustainable depletion of this interbasin flow system also would have dramatic environmental impacts that would imperil human health by creating local Owens Valley-like dust storms. Thus, pursuant to NRS 533.370(5), the State Engineer should deny Application No. 78239, because it would be detrimental to the public interest.
- 4. Pretextual claimed beneficial use and impermissible speculative purpose** – Vidler Water Company, the lead Applicant and the entity that has contractual control over the Lincoln County Water District, is not in the business of and has no intention of putting the water that is the

subject of Application No. 78239 to the asserted beneficial use of irrigation. By its own corporate assertions: “The primary strategy of the company is to locate, aggregate, develop and convert water rights from highly fragmented agricultural markets to emerging municipal and industrial uses.” See the second sentence of [www.vidlerwater.com](http://www.vidlerwater.com), Vidler’s home page. The obvious real intention underlying Application No. 78239 is to appropriate yet more ground-water for the vast interbasin transfer scheme that is being simultaneously and symbiotically pursued by Vidler, the Southern Nevada Water Authority, and Harvey Whittemore’s Coyote Spring Valley Development Company. Vidler does not have an existing contract to provide this water to a legitimate end user, but Vidler is pursuing a business strategy of speculatively acquiring water rights to hold and market through interbasin transfer for municipal use. That interbasin sale and transfer for distant municipal use, and not the irrigation use asserted in Application 78239, is the real intended use of the water sought under Application No. 78239. Because the Applicants’ true intention is to use the water sought under Application No. 78239 for speculative interbasin sale and transfer and remote municipal use, rather than the claimed irrigation use, the State Engineer should deny Application No. 78239 on the grounds that the Applicants have not demonstrated a good faith intention to apply the water to the purported beneficial use and that the Applicants’ true intended use is violative of the anti-speculation doctrine under Nevada water law as articulated by the Nevada Supreme Court in Bacher v. Office of the State Engineer, 122 Nev. 110, 146 P.3d 793 (2006).

5. Stock water right Simpson Well, Simpson spring and pipeline and Fairview spring and pipeline. These Springs and Well are vital to our Winter Range in the Simpson Allotment and the Dry Lake use area inside the Wilson Creek Allotment.