

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

IN THE MATTER OF APPLICATION NUMBER 78240
FILED BY Lincoln County Water District
& Vidler Water Company, Inc.
ON April 10, 2009, TO APPROPRIATE THE
WATERS OF Underground



STATE ENGINEER
2009 JUN 19 AM 11:56

Comes now PATRICK J GLOECKNER
whose post office address is HC-74 Box 237 Poche NV 89043
whose occupation is Rancher and protests the granting
of Application Number 78240 filed on April 10, 2009
by Lincoln County Water Dist. & Vidler Water Company, Inc. to appropriate the
waters of Underground situated in Lincoln

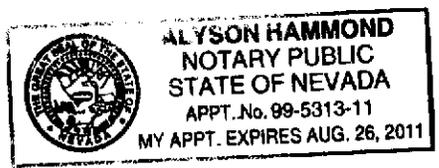
County, State of Nevada, for the following reasons and on the following grounds, to wit:
Stock watering Rights in DRY LAKE Valley
FARVENS Spring PIPELINE
SIMPSON Spring PIPELINE
SIMPSON well

Please See Attachment

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 Patrick J Gloeckner
PATRICK J GLOECKNER
Address HC-74 Box 237
Poche, NV 89043

Subscribed and sworn to before me this 17 day of June 2009
Alyson Hammond
State of Nevada
County of Lincoln



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

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ATTACHMENT TO [INSERT PROTESTANT'S NAME HERE]'S PROTEST OF
APPLICATION NO. 78240 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. 78240 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. 78240 and the State Engineer should deny Application No. 78240 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. 78240. 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. 78240 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. 78240 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 Pahrangat Valley which are fully appropriated and which contain both senior water rights holders and protected existing domestic wells. Granting Application No. 78240 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. 78240 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. 78240, 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. 78240 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, Vidler's home page. The obvious real intention underlying Application No. 78240 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 78240, is the real intended use of the water sought under Application No. 78240. Because the Applicants' true intention is to use the water sought under Application No. 78240 for speculative interbasin sale and transfer and remote municipal use, rather than the claimed irrigation use, the State Engineer should deny Application No. 78240 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.