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

IN THE MATTER OF APPLICATION NUMBER 79270

FILED BY Southern Nevada Water Authority

ON January 28, 20 10, TO APPROPRIATE THE

WATERS OF Snake Valley Hydrographic Area # 195

PROTEST

FILED
APR 12 2010
STATE ENGINEER'S OFFICE

RECEIVED
2010 APR 12 PM 3:01
STATE ENGINEERS OFFICE

Comes now Tooele County, a political subdivision of the State of Utah
Printed or typed name of protestant

whose post office address is 47 South Main, Tooele, Utah 84074
Street No. or PO Box, City, State and ZIP Code

~~whose occupation is~~ by and through the Tooele County Board of Commissioners and protests the granting

of Application Number 79270, filed on January 28, 20 10

by Southern Nevada Water Authority to appropriate the

waters of underground in Snake Valley Hydrographic Area #195 situated in White Pine
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:

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 Jerry Hurst
Agent or protestant

Jerry Hurst, Chairperson Tooele County Board of Commissioners
Printed or typed name, if agent

Address 47 South Main
Street No. or PO Box

Tooele, Utah 84074
City, State and ZIP Code

435-843-3100
Phone Number

Subscribed and sworn to before me this 8 day of April, 20 10

Holly L. Shields
Notary Public

Notary Public
HOLLY L. SHIELDS
47 South Main Street
Tooele, Utah 84074
My Commission Expires
April 22, 2010
State of Utah

State of Utah

County of Tooele

+ $25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

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**ATTACHMENT OF REASONS AND GROUNDS FOR TOOELE COUNTY'S PROTEST AGAINST APPLICATION NO. 79270, FILED JANUARY 28, 2010 BY SOUTHERN NEVADA WATER AUTHORITY**

1. Granting the application will deplete and diminish the water resources, specifically groundwater, which is available to Tooele County and its businesses and residents.

2. Granting the application will have a negative impact on the residents of Tooele County, Utah by depletion of the underground water aquifers and natural surface waters. Due to the recurring drought conditions throughout west Tooele County, there is reduced recharge to the aquifers in this area and reduced surface water accumulations.

3. Granting the application will concentrate the use of water and lower the water table to such an extent that it will substantially reduce groundwater-dependent vegetation, which will destabilize soils and contribute to blowing dust resulting in reduced air quality in Tooele County and other Utah counties. Air quality is specifically impacted by the alkali nature of the soils in the area resulting in public health impacts and other social costs. In addition to causing severe respiratory problems, the particulate matter that will be mobilized in dust storms in these areas is likely to contain radioactive fallout that heretofore has been held in place by the groundwater-fed moisture in the soil and vegetation. The public interest ramifications for the residents of Utah County cannot be overstated. Pumping will result in severely lowered groundwater levels in the basin from which the appropriation and export is proposed and in hydrologically connected down-gradient basins within the same interbasin flow system. Groundwater pumping will lower the water table drying out springs, seeps, wetlands, wet meadows and moist playas, killing groundwater dependent vegetation. The loss of vegetation and root systems binding soil will cause a loss of barriers to wind.

4. Soil instability in the basin from which the water is exported will increase wind blown dust in the region. The desiccation of these areas will result in more frequent and severe dust storms in the basin targeted by this application and in down-gradient hydrologically connected basins in the same flow system. In addition, visibility impairment caused by light scattering from particulates ($PM_{2.5}$) in the atmosphere, including wind blown dust creates a condition known as regional haze. These impacts are detrimental to the public interest and the State Engineer should deny this application pursuant to NRS §§ 533.370(5) and 533.370(6)(c). Wind blown dust conditions will aggravate the already challenged air quality in the Utah Valley causing a reasonably foreseeable direct and immediate public health threat to the residents of Utah County. These impacts are detrimental to the public interest and the State Engineer should deny this application pursuant to NRS §§ 533.370(5) and 533.370(6)(c).

5. A recent study has found that particulates settling on mountain tops creates a dark layer that absorbs sunlight causing snow to melt earlier. Researchers at the University of Utah have determined that dust storms in 2006 which originated hundreds of miles away coated the snowpack with a brown layer of dust.[1] The dust heated the surface and caused the snow to melt as much as a month early. The environmental and economic consequences of early melting are enormous affecting everything from water supplies to recreational activities.

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[1] "Hydrologic Observations in the Great Utah Basin: Interactions Between Particulate Transport and Hydrologic Response."

These impacts are detrimental to the public interest and the State Engineer should deny this application pursuant to NRS §§ 533.370(5) and 533.370(6)(c).

6. In addition to the other effects of groundwater table drawdown, granting the application will eliminate specific sources and the overall available supply of groundwater in the hydrographic basin to support both existing economic activities and potential future economic growth. Existing economic activities that would be undermined include livestock and other ranching uses, agriculture, domestic uses, mining and prospecting uses, tourism and recreational uses. Future economic growth and development that would be unduly limited include the expansion of all of the above-listed activities, as well as potential future energy development. As a result, the proposed change(s) will have a negative impact on grazing, agriculture, mining, recreation, natural habitat, scenery and general aesthetics.

7. Based on the interconnectivity of the hydrogeologic structures in the Great Basin as identified by the USGS BARCASS report and other such investigations and reports, granting this application will cause long-term detrimental effects on other ground water resources and flows in other parts of Tooele County and other Utah counties, negatively impacting the agricultural industry of Tooele County and other Utah Counties.

8. Granting the application and other applications filed contemporaneously therewith, will interfere with interbasin flow toward the Great Salt Lake. Such changes will adversely affect the quality of the remaining non- salt playa lands and further threaten springs, seeps, and phreatophytes which provide water and habitat critical to the use and survival of wildlife species.

9. Granting the application will cause economic harm to Tooele County including but not limited to depletion of the county tax base in the area and potential damage to the ability of agricultural interests to develop and expand in the area of the proposed underground pumping under the application and the other applications filed contemporaneously therewith.

10. Granting the application will conflict impermissibly with and impair existing senior water rights and protectable interests in domestic and agricultural wells in the basin of origin and other hydrologically connected basins within the same interbasin flow system.

11. The State Engineer previously has found that there is too much uncertainty, too little sound data and too great a risk of unsustainable over-appropriation in the interbasin flow system of which this basin is a part, for further appropriations to be permitted until substantial additional data were gathered and evaluated. Sufficient data gathering and evaluation have not been completed and until that happens it would be premature to permit any additional appropriation from hydrologically interconnected basins within the interbasin flow system and associated carbonate rock province, including the basin targeted by this application.

12. Given the lack of growth in the Las Vegas area due to the recent economic downturn there, and due to the fact that the applicant recently announced in the BLM EIS that it intends to use the groundwater available under this and the companion applications as a backup if other resources fail, the application should be denied absent clear proof satisfactory to the State Engineer that applicant intends in good faith to the carry out the groundwater development

project and construct the work necessary to complete the project and put the groundwater to beneficial use with reasonable diligence, as required by NRS 533.370(1)(c)(1).

13. NRS 533.370(1)(c)(2) requires applicant to provide satisfactory proof to the State Engineer of the applicant's financial ability and reasonable expectation actually to construct the groundwater project and apply the water to the intended beneficial use with reasonable diligence. Those requirements are not attainable under the current Las Vegas area economic downturn with its resulting economic difficulties for applicant and its member municipalities and districts, and applicant will have failed this statutory requirement outright if the economic downturn continues much longer, requiring that the application be denied outright.

14. There is no groundwater left in the hydrographic area targeted by the application that can be safely appropriated above and beyond that which is already appropriated; therefore, under NRS 533.370(5) the application should be denied.

15. The use of groundwater proposed and targeted by the application conflicts with existing water rights or with protectable interests in existing domestic wells as set forth in NRS 533.024. Therefore, under NRS 533.370(5) the application should be denied.

16. The use of groundwater proposed and targeted by the application threatens to prove detrimental to the public interest. Therefore, under NRS 533.370(5) the application should be denied.

17. Given the severity and duration of the economic downturn in the Las Vegas area and the resulting halt in economic growth, the applicant cannot justify the need to import water from another basin. Therefore the interbasin transfer of water targeted in the application should be denied as required by NRS 533.370(6)(a).

18. Granting the application will deplete the quantity and quality of water flow in various springs and seeps throughout the basin targeted by the application and will thereby diminish and otherwise damage riparian areas and the riparian vegetation, riparian wildlife, migrating birds and livestock that depend upon those riparian areas. Accordingly, under NRS 533.370(6)(c), the interbasin application targeted in the application should be denied as not environmentally sound as it relates to the basin of origin.

19. Granting the application will unreasonably deplete the water table throughout the basin targeted by the application and will thereby diminish and otherwise damage the phreatophytic vegetative species that depend on the water table as well as the wildlife and livestock that depend on those phreatophytic species. This loss of water will cause significant direct harm to many wildlife species and to wildlife habitat in the basin from which this Application proposes to appropriate and export water and in hydrologically connected downgradient basins within the same interbasin flow system. Among the species that will be harmfully impacted by this loss of water are a number of federally and state protected species, including federally listed threatened and endangered species, which will be threatened with extinction as a result of the proposed appropriation and export of this water. The list of species likely to be harmfully impacted by the appropriation and export of water proposed in this Application, includes fish, amphibians, other aquatic species, groundwater-dependent mammals and other terrestrial species, bird species that depend on the springs, wetlands, wet

meadows, and vegetation supported by groundwater, and a variety of insects, including rare butterfly species. As stated in paragraph 3 above, this phreatophytic plant loss will destabilize soils and contribute to dust and other air quality problems. Accordingly, under NRS 533.370(6)(c), the interbasin application targeted in the application should be denied as not environmentally sound as it relates to the basin of origin.

20. As stated in the previous paragraphs, granting the application will unduly limit the future growth and development in the basin of origin from which the water will be exported. Accordingly under NRS 533.370(6)(d), the interbasin application targeted in the application should be denied.

21. If the application is not denied outright, then any permitted use under this application should be conditioned upon and preceded by sufficient comprehensive studies of groundwater resources in the area and the impacts on those resources and by limited incremental ground water pumping and withdrawals at intermittent levels. No additional pumping and export of water should be allowed unless the intermittent staged pumping and exports prove beyond a reasonable doubt not to damage any and all of the resources of Beaver County mentioned above.

**Protestant Reserves The Right To Amend This Protest As May Be Warranted By Future Developments:**

SNWA's proposed groundwater export project is on a scale never before seen in Nevada, or in the United States. Thus, it is not possible to anticipate all potential adverse impacts without further study. New scientific or other data and changed circumstances may uncover different bases for this protest. Accordingly, the above-named Protestant reserves the right to amend the subject protest to include such issues as they develop.