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

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STATE ENGINEERS OFFICE

FILED
APR 13 2010
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 79310
FILED BY Southern Nevada Water Authority
ON January 28, 20 10, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

Comes now USDI - Bureau of Land Management, Southern Nevada District Office
Printed or typed name of protestant

whose post office address is 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130
Street No. or PO Box, City, State and ZIP Code

whose occupation is Public Land Management and protests the granting

of Application Number 79310, filed on January 28, 20 10

by Southern Nevada Water Authority to appropriate the

waters of Underground situated in Clark
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 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 Mary Jo Rugwell
Agent or protestant

Mary Jo Rugwell
Printed or typed name, if agent

Address 4701 North Torrey Pines Drive
Street No. or PO Box

Las Vegas, Nevada 89130
City, State and ZIP Code

702.515.5000
Phone Number

Subscribed and sworn to before me this 12th day of April, 20 10

SHANNON HECHT
Notary Public State of Nevada
No. 01-68941-1
My appt. exp. June 3, 2013

Shannon Hecht
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.**

Attachment

The Department of the Interior-Bureau of Land Management, Southern Nevada District Office (BLM) is protesting water rights application number 79310, filed by the Southern Nevada Water Authority (SNWA) to appropriate ground water in Indian Springs Valley (Hydrographic Basin 161)

This application is one of a group of six filed by the SNWA to annually withdraw a cumulative total of 42 cubic feet per second (about 30,400 acre-feet) of ground water from an area of about 6 square miles between the town of Indian Springs and the Spring Mountains. The cumulative total amount of water requested under the six applications greatly exceed the estimated annual perennial yield of Hydrographic Basin 161. Pumping of large volumes of water from this relatively small area will capture natural recharge from the Spring Mountains, remove water from aquifer storage, reduce or eliminate discharge at several local spring riparian areas (Cactus, Mesquite, and Indian), an result in excessive water table drawdowns and could impact BLM water rights in the basin (permit numbers 11816, 13778, 13779, 13780).

Removal of ground water would prove detrimental to the public interest by degrading habitat on BLM managed public lands. Activities that degrade the condition of natural vegetation on public lands or impair management of special status species habitat are not consistent with provisions of the BLM Las Vegas Resource Management Plan and other existing BLM policies. Water table drawdowns resulting from the proposed pumping would damage the health and vigor of Cactus Spring and its riparian habitat and approximately 85 acres of mesquite woodland habitat distributed on public and private lands located along the US-95 corridor in Indian Springs Valley. Mesquite woodlands and riparian areas in southern Nevada provide nesting sites and food resources for a number of desert breeding birds, stopover sites for neotropical and other migratory birds, and habitat for many bat species. Many of these species are identified on BLMs list of Nevada sensitive species (see table 1 at the end of text). BLM sensitive species are taxa that are not already included as BLM special status species under (1) Federally listed, proposed, or candidate species; or (2) State of Nevada listed species. BLM policy is to provide these species with the same level of protection as is provided for candidate species, that is to ensure that actions authorized, funded or carried out do not contribute to the need for the species to become listed. The sensitive species designation is normally used for species that occur on Bureau administered lands for which the BLM has the capability to significantly affect the conservation status of the species through management. A number of other bird and reptile species of local concern (as listed under the Clark County Multiple Species Habitat Conservation Plan) also are known to occur within and adjacent to mesquite woodlands.

The proposed pumping of large volumes of ground water in Indian Springs Valley could alter the direction or magnitude of exiting regional ground-water flow gradients near the Nevada Test Site. Historic underground testing of nuclear weapons released large quantities of radionuclides to ground water below some areas of the Nevada Test Site. A change in regional ground-water flow gradients could induce the transport of radionuclides from contaminated areas of the Nevada Test Site to adjacent public lands managed by BLM. Under provisions of its Las Vegas Resources Management Plan, BLM will maintain the quality of waters presently in compliance with State and/or Federal water quality standards and minimize releases of hazardous materials to public lands.

The proposed point-of-diversion associated with this water right is located on BLM managed public lands. As of the date of this application, SNWA does not have a valid right-of-way authorizing SNWA to transport water from the proposed point of diversion to the intended place-of-use.

**Table 1.** Avian and bat species on the BLM Nevada Sensitive Species List known to use riparian areas and mesquite woodlands in southern Nevada for foraging, breeding sites or migratory stopovers.

**Bird Species**

| | |
|---|---|
| Phainopepla | *Phainopepla nitens* |
| Lucy's Warbler | *Vermivora luciae* |
| Golden eagle | *Aquila chrysaetos* |
| Swainson's hawk | *Buteo swainsoni* |
| Yellow Warbler | *Dendroica petechia* |
| Yellow-breasted chat | *Icteria virens* |
| MacGillivray's Warbler | *Opororis tolmiei* |
| Bell's vireo | *Vireo bellii* |
| Grey vireo | *Vireo vicinior* |
| Orange-crowned Warbler | *Vermivora celata* |
| Wilson's Warbler | *Wilsonia pusilla* |

**Bat Species**

| | |
|---|---|
| Greater western mastiff bat | *Eumops perotis californicus* |
| Allen's big-eared bat | *Idionycteris phyllotis* |
| California leaf-nosed bat | *Macrotus californicus* |
| Small-footed myotis | *Myotis ciliolabrum* |
| Long-eared myotis | *Myotis evotis* |
| Fringed myotis | *Myotis thysanodes* |
| Cave myotis | *Myotis velifer* |
| Long-legged myotis | *Myotis volands* |
| Yuma myotis | *Myotis yumanensis* |
| Big free-tailed bat | *Nyctinomops macrotis* |
| Pale Townsend's big-eared bat | *Plecotus townsendii pallenscens* |
| Pacific Townsend's big-eared bat | *Plecotus townsendii townsendii* |
| Spotted bat | *Euderma macaulatum* |