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

IN THE MATTER OF APPLICATION NUMBER 79349
FILED BY SOUTHERN NEVADA WATER AUTHORITY
ON 28 JANUARY 2010 TO APPROPRIATE THE
WATERS OF UNDERGROUND

FILED
APR 15 2010
STATE ENGINEER'S OFFICE

PROTEST

Comes now BRAUER LIVING TRUST

whose post office address is PO BOX 269, INDIAN SPRINGS, NEVADA 89018-0269

whose occupation is A TRUST

and protests the granting of Application Number 79349, filed on 28 JANUARY 2010

by SOUTHERN NEVADA WATER AUTHORITY to appropriate the waters of UNDERGROUND situated in CLARK

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

PLEASE SEE ATTACHED Reasons for Protest:

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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 Ann Brauer, Trustee
ANN BRAUER, TRUSTEE,

BRAUER LIVING TRUST
PO BOX 269
INDIAN SPRINGS, NEVADA 89018-0269
TEL: (702) 879-3376

Subscribed and sworn to before me this 15th day of April, 2010

Tamara Powell
Notary Public

TAMARA POWELL
NOTARY PUBLIC
STATE OF NEVADA
APPT. No. 90-2031-1
MY APPT. EXPIRES NOV 28, 2010

State of NEVADA
County of CLARK

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

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Brauer Living Trust - Reasons for Protest
Applications: 79309, 79310, 79311, 79312, 79313, 79314, 79315, 79349

The unincorporated town of Indian Springs is a small historic community which has chosen to remain rural. The approximately one square mile area is dependent on groundwater and interrelated springs, primarily the constantly flowing spring from which the community takes its name. Without access to a viable and sustainable spring/groundwater supply, we, as with many other families in this area, will have no future here.

The Indian Springs Valley Basin applications and other pipeline-related Southern Nevada Water Authority (SNWA) applications in the area are located in the groundwater flow system that terminates in Death Valley. The over-allocation of this groundwater will have a negative affect on the people, flora and fauna that exist along the groundwater flow system.

There is no unappropriated water in the Indian Springs Valley Basin (161). In addition to the already granted water rights and domestic wells, there are federal reserve water rights that potentially have a large impact on this and other basins. The inter-basin flow system, of which these basins are functional elements, is subject to high uncertainty, too little data, and too great a risk of unsustainable over appropriation. Therefore the applications in the Indian Springs Basin, and all the related pipeline applications should be DENIED.

Granting this application and the associated pipeline related applications would be detrimental to the public interest on environmental grounds. Lowering groundwater levels and drying out springs and seeps will cause the death of dependent flora and fauna. Federally protected species of flora and fauna live in the basins in the flow system, and, with the increasing changes brought about by climate change, there will be decreased recharge from precipitation to an already small recharge area up slope from the Indian Springs community..

Granting this application and the associated pipeline related applications would be detrimental to the public interest on air quality, water quality, and health grounds. The lowering of the water table resulting in increasing desiccation of the soils will result in more frequent and severe dust storms, which harm the people who live here as well as those in down-wind areas. The proximity of the Nevada Test Site creates concern winds picking up and re-distributing contaminated soils from the testing areas, as well as the infiltration of radioactive contamination into the groundwater supply.

Granting this application and the associated pipeline related applications would be detrimental to the public interest on economic grounds. Recreation, residential, agricultural, and business uses, as well as quality of life will be negatively impacted through the loss of water and air quality, and historical/cultural resources.

Granting this application and the associated pipeline related applications would be detrimental to the public interest by unnecessarily and unfairly limiting the future of our community, and communities and residents of down-gradient basins. The overall groundwater supply that supports current activities is necessary to support future activities including business, residential, and energy development.

Applications 79309, 79310, 79311, 79312, 79313, 79314, and 79315 are detrimental to the public interest because they duplicate previous applications (71167, 71168, 71169, 71170, 71171, 71172, and 71173, respectively) filed in 2004 after the 2003 legislative changes to Nevada water law. The 2004 applications have not been acted upon, and have until 2011 to do so. Hence there is no justification for re-filing these applications in the wake of the January 28, 2010, Nevada State Supreme Court Ruling. Protestants have been put in the position of having to re-protest applications already protested, with the associated financial burden, which some cannot afford in these economic times. If the new applications stand, the protests from the original ones must be brought forward and applied to the new applications as well. If the old applications stand, the new protests must be applied to the old applications as well. This practice of re-applying over and over for the same water is detrimental to the public interest as it encourages devious measures by the wealthy applicant, and discourages public participation in processes designed to protect a resource vital to the survival of citizens, communities, and the environment.

Application 79349 in Basin 211 (Three Lakes South) is located on the hydrographic basin boundary of the Indian Springs Basin approximately two miles from the town of Indian Springs, and is proposed as a deep

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carbonate well that will capture inflow to the Indian Springs Basin. The underground flow of groundwater does not respect the hydrographic basin boundaries used for administrative purposes. Therefore, this application should be DENIED for all the reasons herein protesting SNWA applications in Indian Springs Basin.

SNWA has not justified the need to import water from this, or any other, basin. They have access to other more feasible sustainable, and cost-effective options, including but not limited to, drastically increased water conservation, desalination for downstream Colorado River users in exchange for additional Colorado River water, water reuse in its service areas, and use of water rates to promote conservation.

Given the more cost-effective alternatives available, and the devastating impacts to rural areas and communities, their economies, the environment, and diversity, SNWA's rural water grab (Pipeline Project), which includes this application, is not an appropriate use of Nevada's scarce resources.

SNWA does not have an adequate, or reasonable, plan for conservation, especially given the wide range of options available. It should be mandatory for SNWA and its client water districts to achieve the highest level of water conservation – as measured by reference to presently available technologies and methods and to the highest conservation levels achieved by other western desert cities – before being allowed to transfer groundwater from rural basins to their service areas to feed unsustainable growth and excessive per capita water use.

SNWA has not shown good faith intent, the financial ability, or reasonable expectation to construct the pipeline and apply the water to the intended beneficial use. Masked in secrecy, the applicant has never provided the State Engineer or the public with a realistic cost projection for the pipeline or, most importantly, the true cost of the water, not just the pipeline. The financial burden that would be placed on the citizens of the state, who in all probability would end up paying, is not bearable.

SNWA's top management has stated that they do not plan to build the pipeline project in the near future and may never build it, stating that they simply want to be sure that the option of doing so is there at some undetermined time in the future. The General Manager has publicly stated that with the economic downturn that has severely affected southern Nevada, SNWA's financial base has dramatically contracted, calling into question its ability to obtain financing to construct the project, the magnitude of which has never before been seen in Nevada, or in the United States. The State Engineer should DENY the application, and all the pipeline related applications, pursuant to NRS § 533.370(1)(c) as a speculative request to tie up Nevada's water resources indefinitely.

The pipeline project, of which this application is a part, is being planned with the intent of encumbering the future with the financial and environmental costs, damages and consequences it causes, and is, at best, a short-term contribution to the water supply for the Las Vegas Valley alone. These waters are sought to promote and/or sustain growth, and growth is to pay for the water project, which will then require more water to advance more growth, which will require more growth ... an impossible infinite positive feedback loop, creating irreversible degradation of the system. Therefore these applications should all be DENIED as both Speculative and Detrimental to the Public Interest.

We reserve the right to amend this protest as may be warranted by future developments, as 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.

We incorporate by reference as though fully set forth herein and adopt as our own, each and every reason or ground from other protests to this Application and/or to any Application filed that is [illegible] SNWA's groundwater export project and filed pursuant to NRS § 533.365.

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