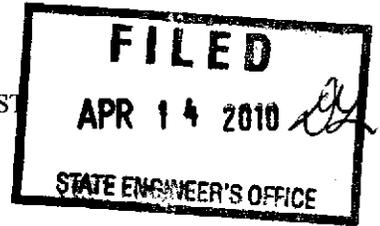


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 79357
FILED BY Vidler Water Company Inc.
ON January 28, 20 10, TO APPROPRIATE THE
WATERS OF Underground



PROTEST

Comes now James Darwin Crammond, Agent for U.S. Fish and Wildlife Service

Printed or typed name of protestant

whose post office address is 911 NE 11th ave. Portland, OR 97232

Street No. or PO Box, City, State and ZIP Code

whose occupation is Chief, Water Resources Branch

and protests the granting

of Application Number 79357

, filed on January 28

, 20 10

by 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:

Please see Attachment A: ADDITIONAL INFORMATION TO SUPPORT THE PROTEST OF THE U.S. FISH AND WILDLIFE SERVICE IN THE MATTER OF APPLICATIONS 79356 AND 79357

RECEIVED

APR 14 2010

STATE ENGINEER'S OFFICE

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

[Handwritten Signature]

Agent or protestant

James Darwin Crammond

Printed or typed name, if agent

Address

911 NE 11th Ave.

Street No. or PO Box

Portland, OR 97232

City, State and ZIP Code

(503) 231 - 6145

Phone Number

Subscribed and sworn to before me this

8th

day of

April

, 20 10



[Handwritten Signature]
Notary Public

State of Oregon

County of Multnomah

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

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

**ADDITIONAL INFORMATION TO SUPPORT THE PROTEST
OF THE U.S. FISH AND WILDLIFE SERVICE
IN THE MATTER OF APPLICATIONS 79356 AND 79357**

Application Nos. 79356 and 79357 were filed by the Vidler Water Company and Lincoln County Water District on January 28, 2010 requesting a combined diversion rate of 20 cubic feet per second (14,480 ac-ft annually) from an underground source in the Virgin River Valley, groundwater basin 222. The purpose of the proposed applications is municipal use. Basin 222 is part of the Colorado River Groundwater Flow System. The proposed groundwater wells have the potential to affect the endangered Southwestern willow flycatcher (*Empidonax traillii extimus*), endangered Virgin River chub (*Gila seminuda*), endangered Woundfin (*Plagopterus argentissimus*), and candidate Yellow-billed cuckoo (*Coccyzus americanus*) and their habitats.

The U.S. Fish and Wildlife Service (Service) requests that Application Nos. 79356 and 79357 be denied because:

1. Water is not available to appropriate in the manner described.
2. Granting these applications will threaten or damage habitat for species that are endangered, threatened, or considered for future listing under the Endangered Species Act and therefore is not in the public interest.

According to the Basin Summary for Basin 222 from the State Engineer's Office, the perennial yield is 3,600 ac-ft annually. The sum of the applied-for volumes and the existing water rights exceeds the perennial yield for this basin.

The proposed groundwater development is not in the public interest. The impacts from the proposed diversions will eventually and inevitably impact biological resources, endangered species, and sensitive habitats in Virgin River Valley and other locations within the Colorado River Groundwater Flow System.