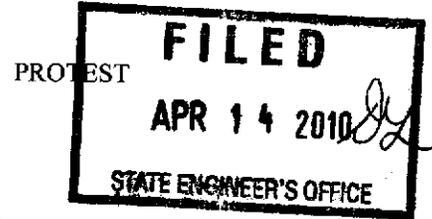


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 79361
FILED BY Vidler Water Company Inc.
ON January 28, 2010, TO APPROPRIATE THE
WATERS OF Underground



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 79361, filed on January 28, 2010

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 79358-79361

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

[Signature]
Agent or protestant

James Darwin Crammond

Printed or typed name, if agent

Address

911 NE 11th Ave.

Street No. or PO Box

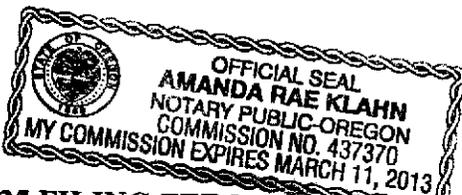
Portland, OR 97232

City, State and ZIP Code

(503) 231 - 6145

Phone Number

Subscribed and sworn to before me this 8th day of April, 2010



[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 79358-79361**

Application Nos. 79358 through 79361 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 Clover Valley, groundwater basin 204. The purpose of the proposed applications is irrigation use. Basin 204 is part of the Colorado River Regional Groundwater Flow System. The proposed groundwater wells are located upgradient from Moapa National Wildlife Refuge (NWR) and have the potential to affect the endangered Southwestern willow flycatcher (*Empidonax traillii extimu*) and its habitat in the basin.

The U.S. Fish and Wildlife Service (Service) requests that Application Nos. 79358 through 79361 be denied because:

1. Water is not available to appropriate in the manner described.
2. Granting of these applications will cause injury to Service-owned senior water rights for water on Moapa NWR.
3. The proposed activity is not likely compatible with the purposes of the national wildlife refuges. Granting of 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 204 from the State Engineer's Office, the perennial yield is 25,000 ac-ft annually for basins 198 through 205. The sum of the applied-for volume and the existing water rights in these basins has the potential to exceeds the perennial yield.

The Service is also concerned about impacts to senior water rights at Moapa NWR. Moapa NWRs is supported by groundwater discharge from the regional carbonate aquifer and all of the current spring discharges and associated surface water are protected through state appropriative water rights. Applications 79370 through 79371 would impact these senior water rights.

The proposed groundwater development is not in the public interest. The impacts from the proposed diversions will eventually and inevitably impact biological resources and endangered species Moapa NWR and other locations in the Colorado River Regional Groundwater Flow System.