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

FILED
15 APR 2010
STATE ENGINEER'S OFFICE

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STATE ENGINEERS OFFICE

IN THE MATTER OF APPLICATION NUMBER 79374
FILED BY Virgin Valley Water District
ON February 01, 20 10, TO APPROPRIATE THE
WATERS OF an Underground Source

PROTEST

Comes now the U.S. Department of Interior, Bureau of Land Management, Caliente Field Office
Printed or typed name of protestant

whose post office address is P.O. Box 237; Caliente, NV 89008
Street No. or PO Box, City, State and ZIP Code

whose occupation is Public Land Management and protests the granting

of Application Number 79374, filed on February 01, 20 10

by Virgin Valley Water District to appropriate the

waters of an Underground Source 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

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

Victoria Barr, Field Manager
Printed or typed name, if agent

Address P.O. Box 237
Street No. or PO Box

Caliente, NV 89008
City, State and ZIP Code

775-726-8109
Phone Number

ALICIA HANKINS
NOTARY PUBLIC
STATE OF NEVADA
APPT. No. 03-82359-17
MY APPT. EXPIRES JUNE 12, 2011

Subscribed and sworn to before me this 13th day of April, 20 10

[signature]
Notary Public

State of Nevada

County of White Pine

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

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Attachment for BLM Protest to Application 79374

The U.S. Department of the Interior, Bureau of Land Management, Ely District Office (BLM) protests application 79374 for the following reasons and on the following grounds, to wit:

Application 79374 requests permission to appropriate 6 cfs (4343.82 AFY) from an underground source on public land managed by the BLM and to export said water outside its hydrographic basin to places of use in southern Nevada and the State of Arizona. Application 79374 is one of 3 filed by Virgin Valley Water District to withdraw a total of 18 cfs (13,031.46 AFY) from underground sources in the Tule Desert groundwater basin. The total amount of water requested in the 3 applications exceeds the perennial yield for the Tule Desert (Groundwater Basin 221). Withdrawal of groundwater from the Tule Desert may impact basin-wide water table levels and prove deleterious to existing approved use of surface and groundwater resources.

The entire Tule Desert occurs in the Ely District and possesses approximately 11 known springs on public land used in parts of 7 BLM grazing allotments. These springs are considered Public Water Reserves by the BLM since they qualify under the Executive Order 107 signed in 1926. In the case of the 11 springs in the Tule Desert, BLM was informed and believes PWR 107 provides reserved protection for the maintenance of flows required for stock watering uses from public springs and water holes.

Lowering of the groundwater table in the Tule Desert is a reasonable expectation considering the volume of water requested *in toto* for withdrawal by the Virgin Valley Water District. Effects to surface water resources would include the diminution or complete loss of flow from springs and concomitant loss of range value to BLM, grazing permittees, and citizens of the State of Nevada and the United States of America.

Large-scale withdrawal of groundwater would negatively affect riparian vegetation in and around surface water sources and would alter or destroy wildlife habitat across the Tule Desert basin. Wildlife species directly affected includes, but is not limited to; the federally threatened Desert Tortoise and State of Nevada imperiled Desert Valley Kangaroo Mouse. Other federal and State of Nevada sensitive plant and animal species dependent upon surface water resources are found in the Tule Desert.

The requested point of diversion associated with Application 79374 is located on BLM managed public lands. As of the date of this application, the Virgin Valley Water District does not have a valid right-of-way authorizing access on public land or for the purpose of constructing works to pump and transport water across public land.

BLM requests that Application 79374 be denied on the grounds that it separately and in conjunction with 2 other applications, would:

1. Conflict with existing rights by adversely affecting federal reserved rights to protect and maintain public use of springs and water holes on public land and adversely affecting

certificated rights for stock watering beneficial uses. Existing permitted or reserved rights for stock watering would be placed in jeopardy as surface and groundwater sources are depleted through basin dewatering and/or lowering of the water table to such a degree that water from surface sources or wells would be unavailable for use.

The proposed withdrawal, in combination with other applications in the Tule Desert basin by the same applicant, would apparently exceed basin recharge and sustainability rates. As such, it is reasonable to expect approved surface water uses would be adversely affected and in conjunction with 2 other applications to withdraw and export water from the Tule Desert would *in toto* reach a point where water tables are lowered to an extent that natural surface water sources may cease to exist.

2. The proposed appropriation and use threatens to prove detrimental to the public interest. The Tule Desert basin within the Ely District BLM is managed in the multiple-use doctrine for the benefit of the public both nationally and locally. Thirteen grazing allotments are used on public land within the boundaries of the Tule Desert basin. BLM believes it would prove detrimental to the public interest for water resources to be impacted to the extent that values placed upon the rangelands in the Tule Desert by the BLM, grazing allotment permittees, and citizens of the United States of America are adversely affected. Existing approved uses on public lands for the grazing of livestock would become nullified by withdrawal of water from the basin and the drying-up of surface water sources on public land.

   The surface water resources that would be depleted through water withdrawal actions would affect federally listed and State of Nevada listed plant and animal species of concern. BLM is required to ensure the continued existence of species listed by the Secretary of Interior, under the authority of the Endangered Species Act, and to ensure that the species and their critical habitat are not placed in jeopardy. BLM believes that the magnitude of water withdrawal proposed by the Virgin Valley Water District would place federally listed and State of Nevada species of concern in jeopardy by eliminating surface water resources and associated habitat.