

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

IN THE MATTER OF APPLICATION NUMBER 79411  
FILED BY Virgin Valley Water District  
ON February 1, 20 10, TO APPROPRIATE THE  
WATERS OF Beaver Dam Wash



RECEIVED  
2010 APR 13 PM 2:21  
PROTEST  
STATE ENGINEERS OFFICE  
**FILED**  
APR 13 2010  
STATE ENGINEER'S OFFICE

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 79411, filed on February 1, 20 10  
by Virgin Valley Water District to appropriate the  
waters of Beaver Dam Wash 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.

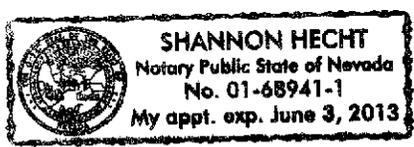
THEREFORE the Protestant requests that the application be Denied

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   
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  
  
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 79411, filed by the Virgin Valley Water District (VVWD) to appropriate surface water from Beaver Dam Wash in Virgin River Valley (Hydrographic Basin 222)

This application was filed by the VVWD to annually withdraw a total of 50 cubic feet per second (about 36,000 acre-feet) of surface water from an area in Washington County, UT. The Nevada State Engineer does not have jurisdiction over the permitting of surface water rights in the State of Utah. Beaver Dam Wash is a tributary to the Virgin River, therefore a reduction in surface flows in Beaver Dam Wash would also result in a reduction of surface flows in the Virgin River.

Removal of surface water would prove detrimental to the public interest by degrading habitat on BLM managed public lands, including the Virgin River Area of Critical Environmental Concern. 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. Reduction of surface flows would damage the health and vigor of riparian habitat associated with Beaver Dam Wash and the Virgin River. 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 (see table 1 at the end of text). The Virgin River provides habitat for two federally listed endangered fish species, the Virgin River Chub (*Gila seminude*) and the Woundfin (*Plagopterus argentissimus*), and one federally listed endangered bird species, the Southwestern Willow Flycatcher (*Empidonax trailii extimus*). In addition, the Virgin River is also habitat to several state listed and special status fish species. These include Virgin spinedace (*Lepidomeda mollispinis mollispinis*), Flannelmouth sucker (*Catostomus latipinnis*), Desert sucker (*Catostomus clarkii*), and the Speckled dace (*Rhinichthys osculus*). 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 riparian habitat.

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

**Bat Species**

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