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

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STATE ENGINEER'S OFFICE

FILED
APR 13 2010
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 79415
FILED BY Virgin Valley Water District
ON February 1, 20 10, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

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 79415, filed on February 1, 20 10

by Virgin Valley Water District to appropriate the

waters of Underground 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 [signature]
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

[signature]
Notary Public

SHANNON HECHT
Notary Public State of Nevada
No. 01-68941-1
My appt. exp. June 3, 2013

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 79415, filed by the Virgin Valley Water District (VVWD) to appropriate ground water in Virgin River Valley (Hydrographic Basin 222)

This application is one of a group of thirty-one filed by the VVWD to annually withdraw a cumulative total of 166 cubic feet per second (about 120,000 acre-feet) of ground water from an area near Mesquite, Nevada. The cumulative total amount of water requested under the thirty-one applications greatly exceeds the estimated annual perennial yield of Hydrographic Basin 222. Pumping of large volumes of water from this relatively small area will capture natural recharge from local mountain ranges, remove water from aquifer storage, reduce or eliminate discharge at local spring riparian areas and the Virgin River, and result in excessive water table drawdowns and could impair water rights held by the BLM (52358, R04310, R04343).

Removal of ground 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. Water table drawdowns resulting from the proposed pumping would damage the health and vigor of local springs and associated riparian areas. 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 | *Phainopepla nitens* |
| Lucy's Warbler | *Vermivora luciae* |
| Golden eagle | *Aquila chrysaetos* |
| Swainson's hawk | *Buteo swainsoni* |
| Yellow Warbler | *Dendroica petechia* |
| Yellow-breasted chat | *Icteria virens* |
| MacGillivray's Warbler | *Opororis tolmiei* |
| Bell's vireo | *Vireo bellii* |
| Grey vireo | *Vireo vicinior* |
| Orange-crowned Warbler | *Vermivora celata* |
| Wilson's Warbler | *Wilsonia pusilla* |

**Bat Species**

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