FILED
APR 23 2010
STATE ENGINEER'S OFFICE

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

In the Matter of Application Number 79436 Filed By Southern Nevada Water Authority on February 1, 2010 for Permission to Appropriate the Public Waters of the State of Nevada	**PROTEST**

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STATE ENGINEERS OFFICE

Comes now The Long Now Foundation, a landowner in southern Spring Valley, White Pine County, Nevada, whose post office address is Fort Mason Center, Landmark Building A, San Francisco, California 94123, and protests the granting of Application Number 79436, filed on February 1, 2010 by Southern Nevada Water Authority (SNWA) for permission to appropriate the public waters of the State of Nevada, for the following reasons and on the following grounds, to wit:

1. Presently, Application No. 79436 is one of 79 applications recently filed by SNWA to appropriate or change water rights in the Spring and Snake Valley Basins. This application is identical to Application No. 67329, originally filed on March 12, 2001 to appropriate groundwater from the Spring Valley which is currently ready for action and protested. The applicant should be required to withdraw previous Application No. 67329 or the current, duplicative Application No. 79436.

2. Application No. 67329 is subject to the issues concerning the recent opinion of the Supreme Court of Nevada (Opinion No. 49718 filed on January 28, 2010). Application No. 79436 should not be considered, and certainly not granted, until the proceedings pertaining to the Supreme Court's recent opinion have been concluded.

3. SNWA is in the business of "managing the region's water resources and developing solutions that will ensure adequate future water supplies for the Las Vegas Valley" as declared in its mission statement. As reported by SNWA in its December 2008 Clark, Lincoln, and White Pine Counties Groundwater Development Project (GDP)- Draft Conceptual Plan of Development, the following is stated:

> *"SNWA has purchased private property and water rights in Spring Valley. As part of the GDP Project, SNWA plans to develop approximately 8,000 afy of groundwater rights associated with these properties. These groundwater rights are currently used for agricultural operations in Spring Valley. Approval from the Nevada State Engineer to convert the type of use and allow export from the basin would be required prior to conveyance of these water rights through the GDP Project."*

Based on the statements made by SNWA in its Conceptual Plan of Development, the State Engineer should treat Application No. 79436 as part of SNWA's proposed water exportation scheme and apply the appropriate regulations regarding interbasin transfers when considering approval of the application.

4. The full extent of the water exportation scheme contemplated by SNWA is unknown at this time and it is uncertain how many additional groundwater and/or surface water appropriations or change applications SNWA will file to supplement the amount of water sought by Application No. 79436. Before acting on the individual applications, the applicant should be required to provide a detailed abstract of the total duty of water sought for exportation including details as to the supplemental nature of the individual groundwater and surface water applications.

5. The applicant's answer to "Question 12" does not provide sufficient details for the proposed project or proposed water usage, to allow the public, interested parties, protestants, and the State Engineer to make a proper evaluation of the potential impacts of approving the application. Based on the scope and magnitude of the water exportation scheme proposed by Application Nos. 79436 et al., the applicant should be required to conduct the Hydrologic and Environmental Studies specified by NRS 533.368, before the State Engineer makes a final determination on the applications.

6. On information and belief, Application Nos. 79436 et al. seek to appropriate more groundwater than the perennial yield of the basin as currently recognized by the State Engineer.

7. On information and belief, Application Nos. 79436 et al. seek to appropriate more groundwater than the safe yield of the basin.

8. The application involves an interbasin transfer and should be rejected pursuant to NRS 533.370(6) for, among other reasons, the applicant's failure to:

A. justify the need to import water to the other basin(s);

B. demonstrate that a conservation plan(s) has been adopted and effectively carried out for the other basin(s);

C. demonstrate that the proposed export of water from the basin is environmentally sound;

D. demonstrate that the proposed action is an appropriate long-term use which will not limit growth and development in the basin; and,

E. identify the specifics of the proposed project, including the basin(s) into which water will be imported.

9. The application for interbasin transfer should also be rejected pursuant to NRS 533.370 for the lack of information regarding:

A. access to the use of public/private lands necessary for the construction of the works of diversion and the means of conveyance;

B. financial ability to construct the works and apply the water to the intended use with reasonable diligence;

C. technical feasibility to construct the works and apply the water to the intended use with reasonable diligence; and,

D. justification for the quantity of water required for the proposed project.

10. Granting the application would threaten to prove detrimental to the public interest.

11. Granting the application would threaten to prove detrimental to the public interest in ways that are not yet known to this Protestant, but which may arise or first become known to this Protestant in the period between the date of filing of the Application and the hearing on the protested Application.

12. Granting the application would threaten to prove detrimental to the public interest and the interests and rights of The Long Now Foundation for the reasons stated above, and because among other things, it would:

A. result in degraded air quality and adverse impacts to visual resources in the region;

B. result in adverse economic impacts due to degraded air quality and visual resources;

C. result in adverse impacts to hydrological, biological, cultural, and environmental resources;

D. result in adverse impacts to the riparian vegetation and natural habitat that support sensitive plant and animal species in the region;

E. result in adverse impacts to the water resources in adjacent basins;

F. result in interference with artesian water sources, springs, and seeps in the region; and,

G. otherwise adversely affect the interests of The Long Now Foundation.

13. This Protestant incorporates in this Protest by reference, as if fully set forth herein, every relevant protest ground set forth in any other Protest filed by any other Protestant regarding this application.

THEREFORE this Protestant requests that the above-referenced application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

The Long Now Foundation

Stephen B. Reich, P.E.
Stetson Engineers, Inc.

Agent for:

The Long Now Foundation
Alexander Rose, Executive Director
Fort Mason Center
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San Francisco, CA 94123
Tel: (415) 561-6582

Subscribed and sworn to before me this ~~22th~~ 22nd day of April, 2010.

P. BOHM
COMM. #1850757
NOTARY PUBLIC-CALIFORNIA
MARIN COUNTY
My Comm. Expires June 20, 2013

P. Bohm
Notary Public

State of California

County of Marin

My Commission Expires: 6-20-2013

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