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

IN THE MATTER OF APPLICATION NUMBER 79503
FILED BY Southern Nevada Water Authority
ON February 11, 20 10, TO APPROPRIATE THE
WATERS OF North Creek

PROTEST

FILED
22 APR 2010
STATE ENGINEER'S OFFICE

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

whose post office address is HC33 Box 33500; Ely, Nevada 89301-9402
Street No. or PO Box, City, State and ZIP Code

whose occupation is Public Land Management and protests the granting

of Application Number 79503, filed on February 11, 20 10

by Southern Nevada Water Authority to appropriate the

waters of North Creek situated in White Pine
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.

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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 Mary D'Aversa
Agent or protestant

Mary D'Aversa, Field Manager
Printed or typed name, if agent

Address HC33 Box 33500
Street No. or PO Box

Ely, Nevada 89301-9402
City, State and ZIP Code

(775) 289-1800
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 20th day of April, 20 10

Alicia Hankins
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 79503

The U.S. Department of the Interior, Bureau of Land Management, Ely District Office (BLM) protests application 79503 for the following reasons and on the following grounds, to wit:

Application 79503 requests permission to appropriate 4 cfs (2895.88 AFA) from North Creek on public land managed by the BLM. Application 79503 is one of 71 (79265, 79266, 79279 – 79295, 79423 – 79436, 79468, 79503 – 79517, 79519 – 79524, 79712 – 79716, 79719 - 79725) filed by Southern Nevada Water Authority prior to March 15, 2010 to appropriate an approximate cumulative total of 315.29 cfs (213,093 AFA; groundwater – 170,395 AFA and surface – 42,698 AFA) from stream and underground sources in the Spring Valley groundwater basin (Groundwater Basin 184). The total volume of water requested in the 71 applications appears to exceed the amount ruled upon by the State Engineer for the Spring Valley basin.

Total amount requested in applications 79265, 79266, and 79279 – 79295 account for approximately 91,220 AFA to be exported out of the basin to southern Nevada. Applications 79423 – 79436, 79468, 79503 – 79517, 79519 – 79524, 79712 – 79716, and 79719 – 79725 are reported to be needed for irrigation and in some cases irrigation and domestic uses. It appears that many of the irrigation and/or domestic use applications have Places of Use in common. That is, applications for use of some underground sources seem to have the same Place of Use as the applications for some stream sources. For example, application 79503 shares the same Place of Use as applications 79516, 79432, and 79430. It appears that even taking into account consumptive loss of water that some applications are asking for water in amounts that would approach 8.77 AF per acre of irrigated land. The applicant is also asking for year-around use of water in all applications for irrigation beneficial use. It is not apparent why such amounts of water are needed or why any water at all is needed for irrigation outside the growing season.

The entire Spring Valley occurs in the Ely District and possesses approximately 536 known springs with 274 occurring on public land used in parts of 53 BLM grazing allotments. The springs located on lands managed by BLM are considered Public Water Reserves since they qualify under the Executive Order 107 signed in 1926. In the case of these 274 springs, BLM was informed and believes PWR 107 provides reserved protection for the maintenance of flows required for stock watering uses, at their source, from public springs and water holes.

Withdrawal of groundwater and surface water in such large amounts requested from Spring Valley would reasonably be expected to impact basin-wide water table levels and prove deleterious to existing approved uses of surface and groundwater resources. Lowering of the groundwater table in the Spring Valley is a reasonable expectation considering the volume of water requested for withdrawal by the Southern Nevada Water Authority. Effects to surface water resources may 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 Spring Valley

basin. Wildlife species directly affected includes, but is not limited to; the federally endangered Pahrump poolfish, relict dace, and western snowy plover, the BLM sensitive species sage grouse and leopard frog. Other federal and State of Nevada sensitive species of plants and animals are found in the Spring Valley.

The point of diversion associated with Application 79503 is located on BLM managed public lands. As of the date of this application, the Southern Nevada Water Authority 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 to the Place of Use.

BLM requests that Application 79503 be denied on the grounds that it separately and in conjunction with other SNWA 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 Spring Valley 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 other applications to withdraw and export water from the Spring Valley would i*n 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 Spring Valley basin within the Ely District BLM is managed in the multiple-use doctrine for the benefit of the public both nationally and locally. Fifty-three grazing allotments are used on public land within the boundaries of the Spring Valley 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 Spring Valley by the BLM, grazing allotment permittees, and citizens of the United States of America are adversely affected. Existing approved uses on public lands 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 recognized and State of Nevada recognized plant and animal species of concern. BLM is required to ensure that species and their critical habitat are not placed in jeopardy. BLM believes that the magnitude of water withdrawal proposed by the Southern Nevada Water Authority would place federal and State of Nevada species of concern in jeopardy by eliminating surface water resources and associated habitat.

3. The Applicant is requesting water in amounts that would preclude future development of other uses in Spring Valley.

4. The Applicant is requesting water from surface and ground sources that appear to exceed the sustainable limits as determined by the State Engineer in Ruling 5726.

5. It is unknown how the proposed pumping and diversion of surface water would affect that portion of the groundwater recharge which comes from surface sources.