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

IN THE MATTER OF APPLICATION NUMBER 79508
FILED BY Southern Nevada Water Authority
ON February 11, 20 10, TO APPROPRIATE THE
WATERS OF Unnamed Spring #3

PROTEST

FILED
APR 23 2010
STATE ENGINEER'S OFFICE

Comes now James Darwin Crammond, Agent for U.S. Fish and Wildlife Service
Printed or typed name of protestant

whose post office address is 911 NE 11th Ave. Portland, OR 97232
Street No. or PO Box, City, State and ZIP Code

whose occupation is Chief, Water Resources Branch and protests the granting

of Application Number 79508, filed on February 11, 20 10

by Southern Nevada Water Authority to appropriate the

waters of Unnamed Spring #3 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 A: Additional Information to Support the Protest of the U.S. Fish and Wildlife Service in the Matter of application 79508.

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THEREFORE the Protestant requests that the application be issued subject to limitations and conditions in Permit 55365
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

James Darwin Crammond
Printed or typed name, if agent

Address 911 NE 11th Ave.
Street No. or PO Box

Portland, OR 97232
City, State and ZIP Code

(503) 231 - 6145
Phone Number

Subscribed and sworn to before me this 23d day of April, 20 10

OFFICIAL SEAL
VALERIE BENSON
NOTARY PUBLIC-OREGON
COMMISSION NO. 427868
MY COMMISSION EXPIRES MAY 17, 2012

Notary Public

State of Oregon

County of Multnomah

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

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

ADDITIONAL INFORMATION TO SUPPORT THE PROTEST OF THE U.S. FISH AND WILDLIFE SERVICE IN THE MATTER OF APPLICATION 79508

Application No. 79508 was filed by the Southern Nevada Water Authority on February 11, 2010 requesting a diversion rate of 0.25 cubic feet per second (181 ac-ft annually) from Unnamed Spring #3, a surface water source in Spring Valley, groundwater basin 184. The purpose of the proposed application is irrigation use. Basin 184 is part of the Great Salt Lake Regional Groundwater Flow System. The proposed groundwater well is located up gradient from Fish Springs National Wildlife Refuge and has the potential to affect listed and unique species and habitats in Nevada and Utah.

The U.S. Fish and Wildlife Service (Service) does not object to Application No. 79508 being approved provided that any such approval be issued subject to the conditions and limitations in Permit 55365, which it appears intended to replace. If the applicant intends, or the State Engineer finds, that any of the elements of Application 79508 are materially different from or are in excess of those in Permit 55365, the Service requests that the application be denied because:

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1. Water is not available to appropriate in the manner described.

2. Granting this application will cause injury to Service-owned senior water rights for water on the Fish Springs NWR.

3. The proposed activity will impact biological resources and endangered species within Spring and Snake Valleys and is not compatible with the purposes of the Fish Springs National Wildlife Refuge. Granting this application will threaten or damage habitat for species that are endangered, threatened, or considered for future listing under the Endangered Species Act and, therefore, is not in the public interest.

According to the Basin Summary for Basin 184 from the State Engineer's Office, the perennial yield is 80,000 ac-ft annually. The sum of the applied-for volume by this claimant and the existing water rights exceeds the perennial yield for this basin.

The Service is also concerned about impacts to senior water rights at Fish Springs NWR. Fish Springs NWRs is supported by groundwater discharge from the regional carbonate aquifer and all of the current spring discharges and associated surface water are protected through state appropriative water rights. Application 79508 would impact these senior water rights.

The proposed surface water development is not in the public interest. The impacts from the proposed diversion will eventually and inevitably impact biological resources and endangered species within Spring and Snake Valley, including: Riparian and wetland-obligate migratory birds; candidate greater sage-grouse (*Centrocercus urophasianus*), which uses wet meadows and riparian areas for late brood rearing; endangered Pahrump

poolfish (*Empetrichthys latos*) at the Shoshone Ponds BLM fish refugium; petitioned northern leopard frog *(Rana pipiens),* which is known from numerous sites in Spring Valley; petitioned species of springsnails, including longitudinal gland pyrg, (*P. anguina)*, which is found in southern Snake Valley in the Big Springs system and nearby springs; bifid duct pyrg (*P. peculiaris)*, which is found in both Spring and Snake Valleys; and other non-listed endemic aquatic species of concern, including relict dace (*Relictus solitarius*) and an assemblage of native Bonneville basin fish found in Big Springs Creek/Lake Creek. Hydrologic impacts will eventually propagate to affect listed species and habitats at Fish Springs NWR and throughout the Great Salt Lake Regional Groundwater Flow System.

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