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

IN THE MATTER OF APPLICATION NUMBER 79634
FILED BY Moapa Valley Water District
ON February 22, 20 10, TO APPROPRIATE THE
WATERS OF Underground

} PROTEST

FILED
MAY 13 2010
STATE ENGINEER'S OFFICE

Comes now Lincoln County Water District and Vidler Water Company Inc.
Printed or typed name of protestant

whose post office address is P.O. Box 206, Pioche NV 89043
Street No. or PO Box, City, State and ZIP Code

whose occupation is _____ and protests the granting

of Application Number 79634, filed on February 22, 20 10

by Moapa Valley Water District to appropriate the

waters of Underground situated in Lower Meadow Valley Wash Lincoln Cnty
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 attached.

RECEIVED
2010 MAY 13 PM 3:08
STATE ENGINEER'S OFFICE

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 LeAnn Brandt
Agent or protestant

LeAnn Brandt
Printed or typed name, if agent

Address 3480 GS Richards Blvd. Suite 101
Street No. or PO Box

Carson City, NV 89703
City, State and ZIP Code

775-885-5000 ext. 106
Phone Number

Subscribed and sworn to before me this 13th day of May, 20 10

Elizabeth Leisek
Notary Public

ELIZABETH LEISEK
NOTARY PUBLIC
STATE OF NEVADA
No.06-108485-2 My Appt. Exp. Sept. 7, 2010

State of Nevada
County of Washoe

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

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Attachment to Protests of
Lincoln County Water District and Vidler Water Company, Inc.
to Application 79634

1. The Applicant proposes to pump water from Lincoln County for use in Clark County, Nevada. The Applicant has not demonstrated the need for wells in Lincoln County for its proposed uses. Granting the subject applications would be detrimental to the public interest.

2. Lincoln County has a Water Master Plan. There are projects identified under Lincoln County's Water Master Plan that require the development of water resources in Lincoln County for use in Lincoln County. There is a need for water resources to be developed in Lincoln County for use in Lincoln County not export out of Lincoln County.

3. By Ruling #6031 issued March 17, 2010, the State Engineer denied an identical application by Moapa Valley Water District (second amended application 63380). The Ruling noted that 106 prior applications to appropriate water in this basin were denied by State Engineer's rulings. *Ruling #6031 at 3*. The prior applications were denied in part, on the grounds that there was no significant amount of groundwater available for appropriation from the basin when considering the committed groundwater resource versus the estimated perennial yield and additional appropriations of groundwater would tend to impair the value of existing water rights and would be detrimental to the public interest and welfare. *Id.* Ruling #6031 further found that the accepted perennial yield, at this time, is a combined yield for hydrographic basins 198-205 of 25,000 afa. The State Engineer's records show the committed groundwater resource in the form of vested rights, permits and certificates for the Lower Meadow Valley Wash Hydrographic Basin (205) total over 23,600 afa. The combined committed groundwater resources for hydrographic basins 198-205 total over 69,000 afa. *Ruling #6031 at* 5. Accordingly, the State Engineer denied application 63380 filed by Moapa Valley Water District identical to the subject application 79634 on the grounds there was no unappropriated water in sufficient quantity to approve the application and approval of the application would conflict with existing rights and thereby threaten to prove detrimental to the public interest. *Ruling #6031 at* 6. This application should be denied for the same reasons.

4. The proposed points of diversion for these applications lie in Basin 205, while the proposed place of use includes Lower Meadow Valley Wash, Muddy River Springs Area, California Wash, Lower Moapa Valley, Virgin River Valley and Black Mountain Area. The applications call for a transfer of ground water out of the basin of origin for use in another basin. Applicant cannot show compliance with the requirements of the interbasin

transfer statute, NRS 533.370(6), and *Bacher v. Office of State Engineer of State of Nevada*, 122 Nev. 1110, 146 P.3d 793 (Nev. 2006).

5. The works necessary to achieve beneficial use of the subject water rights are substantial and costly. The Applicant has not shown the State Engineer proof satisfactory of its financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonably diligence.

6. Protestants object to the export of water from Lincoln County for use in Clark County. The provisions of NRS 533.438 and NRS 533.4385 must be applied to any transfer and beneficial use of water from Lincoln County to Clark County.

7. Any monitoring and management plan proposed by the Applicant must be substantive with supporting analytical data.

8. The Protestants, Lincoln County Water District ("LCWD") and Vidler Water Company, Inc. ("Vidler"), request that the subject applications be denied.