

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

RECEIVED

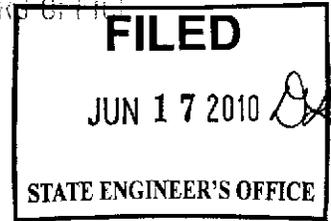
2010 JUN 17 AM 10:52

IN THE MATTER OF APPLICATION NUMBER 79783,
FILED BY AMARGOSA SOLAR I LLC,
ON APRIL 15, 2010, TO APPROPRIATE THE WATERS OF UNDER
APPLICATION 79699.



STATE ENGINEER'S OFFICE

PROTEST



Comes now Kevin R. Emmerich, whose post office address is P.O. 70, Beatty, Nevada and protests granting of Application Number 79783, filed on April 15, 2010 by Amargosa Valley Solar 1 LLC to appropriate the waters of an underground source situated in Basin 230 in Nye County, State of Nevada, for the following reasons and on the following grounds, to wit:

Under the date, March 18, 2010, R. Michael Turnipseed, P.E. made an application 79699, which was returned to applicant for correction. A corrected Amended Application was filed, April 15, 2010 with a map. If the Application 79699 is approved it will abrogate 400 acre-feet for Industrial use from Permit 15893, which leaves a Duty Balance of 203 acre-feet for Irrigation use in Permit 15893. However, the existing well, Log no. 5606 will have two uses, Irrigation and Industrial. Pursuant to NRS 533.330; No application shall be for the water of more than one source to be used for more than one purpose; but individual domestic use may be included in any application with the other use named.

This Application, 79783, submitted April 15, 2010 is insufficient and ambiguous:

1. The applicant, Amargosa Valley Solar 1 LLC, lessee from Geneerco, Inc has no recorded lease or easement pursuant to Nye County Document Search Results using Eagle Web Search.
 - a. The owner, Geneerco, should make the application to drill the new well (B), see Map To Accompany A New Appropriation and A Change of A Portion of Permit 15893, for Industrial use, which will change the Irrigation Use to an Industrial, a higher use. The 400 afa will be leased to Amargosa Valley Solar 1 LLC.
 - b. If Amargosa Valley Solar 1 LLC does not own the land, can they drill a well on someone else's property?
 - i. Certificate 5717 gives the description of land to which 800 afa of water is appurtenant; 160 acres in the NE ¼ Section 23, Township 16 South, Range 48 East, M.D.B.&M.
 - ii. Permit 62918 with a duty of 197 afa changed Permit 15893, stripping 39.4 acres from the four corners, 9.85 acres each, of Section 23 leaving 120.6 acres in the inscribed circle pivot with a duty of 603 afa.
 - iii. The water under this permit, 79783, will not be used for the certificated use, irrigation.
 - c. Has the owner, Geneerco, notified the county assessor of change of agriculture Irrigation Use to Solar Industrial Use?
2. Item 2, the amount of water, 2.0 cfs (400 af), should be 2.0 cfs but not to exceed 400 afa because 2.0 cfs equals 1,447.9475 afa. The amount of water applied to be changed in Application 79699 is 1.75 cfs (400 afa)

- a. The two wells located the 9.85-acre area will be Well (A) owned by Geneerco for irrigation use and Well (B) owned by Amargosa Valley Solar 1 LLC for industrial use. These two wells divide the 603 afa duty of Permit 15893 into 203 afa for Well (A), which leaves a Duty Balance of 203 afa in Permit 15893 and Duty of 400 afa for Well (B) in Permit 79699.
5. Item 8. Description of proposed works is a new 12" well 400 feet deep, pump, motor, and distribution lines.
 - a. The proposed new 12" well 400 feet deep is a well for Permit 79699.
 - i. The owner of the land, Geneerco, should combine the two Applications, 79699 and 79783 into one application for Well (B) to lease 400 afa for Industrial use with the stipulation that Well (A) remain Irrigation use only and can not be leased for industrial use.
 - b. The distribution lines transporting the water from the POD to the new POU located in the BLM Right-of-Way for the Amargosa Farm Road Solar Energy Project (NVN-084359) is not included in the map submitted for this application.
 - c. Each power block will use 200 AFA for a total of 400 AFA.
6. Item 12. Provide a detailed description of the proposed project and its water usage; "Water will be used in two solar power plants, as such it cannot withstand an interrupted supply. Water under this application will be used as the primary source while water under Application 79699 will be used as a back-up supply, but at no time will more than 400 afa be used from the groundwater reservoir" is an incoherent and contradicting statement.
 - a. Water used in two solar power plants is not a detailed description.
 - i. An additional 200 acre-feet of water will be needed, which is not included in this application (79783) or application 79699.
 - ii. "The total construction water use for the duration of the Project is estimated to be about 600 afa (1,950 over 39-month construction period)", Draft EIS.
 - iii. The water needs during operation for dry-cooled alternative is 146 afa for each power block, 101 afa for power cycle makeup for leakage and operational cleanliness for each power block for a total of 247 for each power block and 494 afa for two power blocks. Plus 200 afa for mirror washing, 45 afa for dust suppression, 9 afa for domestic potable water and an undetermined amount for fire suppression.
 - iv. The Draft EIS give an estimated 6-year average pumpage of 936.51 afa for this proposed dry-cool alternative project.
 - b. Water under this application will be used as the primary source while water under Application 79699 will be used as a back-up supply is negation.
 - i. The 400 afa for Industrial use in Application 79699 and is the same 400 afa for Industrial use in Application 79783. Application 79783 is only an application to drill Well (B) on Geneerco property.
 - ii. Application 79699 is a primary source with a duty of 400 afa for Industrial use by the two solar blocks abrogated from Permit 15893 and Certificate No. 5717. Permit 15893 continues to have a remaining duty of 203 afa for irrigation use on the remaining center pivot of 40.6 acres using Well (A), see map 79699.
 - iii. The Application 79783 does not abrogate the 400 afa from Application 79699.
 - iv. Drilling of Well (B) should be included into Application 79699.

wash the mirrors, cool the steam and watering the roads. Also, an additional 203 or more acre-feet of senior water rights north of Devil's Hole will be purchased and held in trust for Nye County while Solar Millennium works out a plan with federal and state agencies. Once the agreements are made the water rights will be transferred to Nye County for future development. However, "The State Engineer further finds that to leave the water in its natural state in the ground does not constitute an appropriation for a beneficial use under Nevada Law." See page 4 of the State Engineer Rule No. 4916 issued by R. Michael Turnipseed July 25, 1997.

On September 20, 2002 I purchased my home on 1830 E. McCoy Street, which is located in NE ¼ NE ¼ Section 35, Township 16 South, Range 49 East, M.D.B.&M. My domestic water supply well is located about 6.5 miles South East from the point of diversion (POD) in the NE ¼ NE ¼ Section 23, Township 16 South, Range 48 East, M.D.B.&M or at a point from which the NE corner of said section 23 bear N. 75° 33' 30" E. a distance of 403.5 feet to drill a new 12" well 400 feet deep, pump, motor, and distribution lines.

This application might have an adverse affect my water supply well.

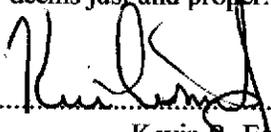
The State Engineer should require Amargosa Valley Solar 1 LLC to sign an agreement that the electric power produced will not be exported from Nevada and will be purchased by Nevada customers only before this application is approved.

a. Pursuant to NRS 533.372; Approval or rejection of application to use water to generate energy for export.

Based upon the public interest and the economic welfare of the State of Nevada, the State Engineer may approve or disapprove any application of water to beneficial use or any application which contemplates a change in the place or beneficial use of water to a use involving the industrial purpose of generating energy to be exported out of this state.

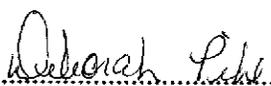
I request that a public hearing be held on this application before the State Engineer makes a decision on the application.

THEREFORE the Protestant requests that the application be Denied and that an order be entered for such relief as the State Engineer deems just and proper.


.....
Kevin R. Emmerich

P.O. Box 70
Beatty 89003
(775) 553-2806

Subscribed and sworn to before me this^{15th}.....day of June 2010


.....
Notary Public of Nevada County of Nye

