

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

IN THE MATTER OF APPLICATION NUMBER 79783  
FILED BY Amargosa Valley Solar I LCC  
ON April 15, 20 10, TO APPROPRIATE THE  
WATERS OF Underground



PROTEST

Comes now U.S. Fish and Wildlife Service

Printed or typed name of protestant

whose post office address is 4701 N Torrey Pines Drive, Las Vegas, NV 89130

Street No. or PO Box, City, State and ZIP Code

whose occupation is Federal agency

and protests the granting

of Application Number 79783, filed on April 15, 20 10

by Amargosa Valley Solar I LCC to appropriate the

waters of underground situated in Nye

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:

See Attachment A.

RECEIVED  
2010 JUN 18 AM 11:45  
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

Cynthia T. Martinez  
Agent or protestant

Cynthia T. Martinez

Printed or typed name, if agent

Address

4701 N Torrey Pines Drive

Street No. or PO Box

Las Vegas, NV 89130

City, State and ZIP Code

702-515-5250

Phone Number

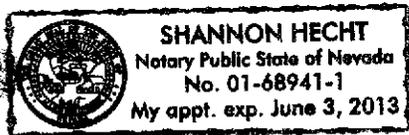
Subscribed and sworn to before me this

17th

day of

June

, 20 10



State of

Shannon Hecht  
Notary Public

Nevada

County of

Clark

+ \$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 79783**

Application 79783 was filed by Amargosa Valley Solar I, LLC (Solar Millennium) on April 15, 2010 requesting a diversion rate of 2.0 cubic feet per second (400 afy) from a new underground source in Amargosa Valley, Hydrographic Basin 230. The application states that the water will be used as the primary source of supply for two solar power plants and that water under Application 79699 will be used as a back-up (supplemental) source of water for those operations, with a combined duty of 400 afy. The proposed groundwater well would be located approximately 15.5 miles northwest of the Devils Hole Unit of Death Valley National Park (Devils Hole) and approximately 11 miles northwest of Ash Meadows National Wildlife Refuge (NWR).

The U.S. Fish and Wildlife Service (FWS), National Park Service (NPS) and Bureau of Land Management (BLM) are currently working with Solar Millennium to develop a plan to eliminate any adverse effects to Devils Hole and Ash Meadows NWR that could result from groundwater withdrawals associated with Applications 79783 and 79699. As such, FWS respectfully requests that Applications 79783 and 79699 be held in abeyance until such time as a formal agreement between the FWS, NPS, BLM and Solar Millennium is achieved and certain critical elements of such an agreement have been implemented. Once these tasks have been completed, the FWS will expeditiously withdraw its protests to the above referenced applications. If, however, Applications 79699 and 79783 are not held in abeyance until such a formal agreement is reached and critical elements are implemented, FWS respectfully requests that Application 79783 be denied because:

1. Granting this new application for underground water in Hydrographic Basin 230 will cause injury to FWS-owned senior water rights at Ash Meadows NWR.
2. The proposed activity is not likely compatible with the purposes of the national wildlife refuges. 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. In particular, this new application has the potential to negatively affect sensitive water-dependent biological resources at Devils Hole and Ash Meadows NWR, including seven threatened and endangered plant species, one threatened insect, and four endangered fish at Ash Meadows NWR and the endangered Devils Hole Pupfish at Devils Hole.