

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

IN THE MATTER OF APPLICATION NUMBER 81231
FILED BY Lincoln County Water District and Vidler Water Co.
ON October 11, 20 11



FILED
DEC 19 2011
STATE ENGINEER'S OFFICE

PROTEST

Comes now The United States Department of the Interior, Bureau of Land Management

Printed or typed name of protestant

whose post office address is P.O. Box 237, Caliente, NV 89008-0237.

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

whose occupation is public land management

and protests the granting

of Application Number 81231, filed on October 11, 20 11

by Lincoln County Water District and Vidler Water Company, Inc. for the

waters of an underground source situated in Lincoln

an underground source 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 for BLM Protest of Application 81231.

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

Agent or protestant

Amy Lueders, State Director

Printed or typed name, if agent

Address

1340 Financial Blvd.

Street No. or PO Box

Reno, NV 89502

City, State and ZIP Code

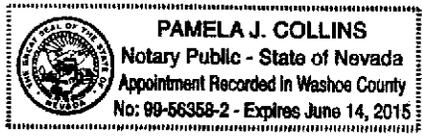
775-861-6400

Phone Number

alueders@blm.gov

E-mail

Subscribed and sworn to before me this 19 day of December, 20 11



Pamela J. Collins
Notary Public

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 for BLM Protest to Application 81231

Application 81231 requests permission to appropriate 5 cfs (approximately 3620 AFY) from an underground source on public land managed by the BLM and to export the water outside its hydrographic basin. Application is one of two filed by Lincoln County Water District and Vidler Water Company, Inc. to withdraw a total of 10 cfs (approximately 7240 AFY) from underground sources in the Dry Lake Valley groundwater basin.

The U.S. Department of the Interior, Bureau of Land Management, Ely District Office (BLM) protests application 81231 and asks the State Engineer to deny said application for the following reasons and on the following grounds, to wit:

1. BLM believes there is no unappropriated water available for approval of Application 81231. State Engineer Ruling 5875 noted that the perennial yield in Dry Lake Valley basin 181 is 12,700 acre-feet per year (AFY). Current active annual duty for basin 181 is summarized as having 999 AFY used for irrigation uses, 38.48 AFY for stockwatering, 18.08 AFY for mining, and 10 AFY for construction uses for a total active annual duty of 1,065.56 AFY. Subtracting the active annual duty from the perennial yield for Dry Lake Valley leaves approximately 11,634 AFY.

Current pending annual duty in Dry Lake Valley includes the 11,584 AFY that was allowed in State Engineer Ruling 5875 but was subsequently vacated and placed back into Ready for Action status. Other pending applications to appropriate water from underground sources in Dry Lake Valley include 19 AFY for stockwatering use, 1300 AFY for construction, and Applications 79362 and 79363 from Lincoln County Water District and Vidler Water Company, Inc. to pump 11 cubic feet per second (2440 AFY if permitted 4 acre-feet per acre of irrigated ground). The total annual duty pending without the inclusion of new Applications 81231 and 81232 is approximately 15,343 AFY.

BLM believes that given the current active and pending annual duties for Dry Lake Valley that no water is available for additional groundwater pumping of 3620 AFY as requested in Application 81231.

2. BLM believes that approving Application 81231 would conflict with existing surface and groundwater rights in Dry Lake Valley. Pumping of groundwater in excess of perennial yield would result in detrimental effects to existing and any approved pending applications for the beneficial use of stockwatering. Additionally, over appropriation of groundwater resources could and likely would affect existing surface water rights for stockwatering beneficial use. BLM and its grazing permittees work cooperatively to allow use of public land while maintaining a high level of land stewardship to protect water and vegetative resources. Appropriation of water in excess of perennial yield could result in lowering the water table level at spring sources as the least impact or complete de-watering of surface sources as the greatest impact. In either case, the ability to manage public land would be jeopardized and negatively affect grazing permittee operations.
3. BLM believes that approval of Application 81231 would prove detrimental to the public interest by allowing water mining from Dry Lake Valley in excess of the perennial yield and export of water outside the basin of origin. Users of the public land with its already limited water sources available for livestock watering would not be able to distribute animal use to protect vegetative

BLM Protest of Application 81231

resources if excess groundwater was pumped and moved to another hydrographic basin. Users of public land are tied to the resources that are available within the grazing allotment boundaries established by BLM and in part by tradition. Users of public land would not have the ability to subsist in the long-term if groundwater pumping in excess of perennial yield were permitted. Short-term affects to natural surface water sources used by the public would likely see a concentration of animal use as the water table near springs. Vegetation associated with spring and seep sources would be expected to decrease with direct effects to and from wildlife and livestock use.

4. The applicant does not possess a grant of right-of-way to access public land for any reason at the Point of Diversion listed on Application 81231. Applicant does not possess a grant of right-of-way for the purpose of accessing public land to convey water across public land from the proposed POD to the Places of Use.