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

FILED
JUN 01 2012
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 81719
FILED BY Sadler Ranch, LLC
ON March 30, 20 12

PROTEST

Comes now Diamond Natural Resources Protection & Conservation Association
Printed or typed name of protestant

whose post office address is P.O. Box 13, Eureka, NV 89316
Street No. or PO Box, City, State and ZIP Code

whose occupation is _____ and protests the granting

of Application Number 81719, filed on March 30, 20 12

by Sadler Ranch, LLC for the

waters of an underground source situated in Eureka
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:
See Exhibit A attached hereto

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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 by Mark S Moyle
Agent or protestant

Diamond Natural Resources Protection & Conservation Association
Printed or typed name, if agent

Address c/o Mark Moyle, P.O. Box 13
Street No. or PO Box

Eureka, NV 89316
City, State and ZIP Code

775-867-4500
Phone Number

nhc.moyle@gmail.com
E-mail

Subscribed and sworn to before me this 1st day of June, 20 12

CANDACE L. KELLEY
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 05-96876-2 - Expires May 19, 2013

Candace L Kelley
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.

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EXHIBIT "A"

To Protest of Diamond Natural Resources Protection & Conservation Association

To Application Nos. 81719 and 81720

1. Application Nos. 81719 and 81720 seek to appropriate large quantities of groundwater from the Diamond Valley Hydrographic Basin (Basin No. 153). Members of the protestant, Diamond Natural Resources Protection & Conservation Association, own numerous groundwater rights within Basin No. 153. The proposed use of water under Application Nos. 81719 and 81720 would conflict with the Protestant's use of water under its numerous existing groundwater rights in Basin No. 153.

2. There is no unappropriated water in Basin No. 153.

3. The granting of Application Nos. 81719 and 81720 would be detrimental to the public interest.

4. The Applicant has failed to provide proof, as required by NRS 533.370 (1)(c), of its: (1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and (2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence, under Application Nos. 81719 and 81720.

5. Application Nos. 81719 and 81720 seek to appropriate large quantities of groundwater for irrigation purposes. Granting the applications would violate previous orders entered by the State Engineer including, but not necessarily limited to Order No. 717. That order provides, among other things, that all "applications filed after December 31, 1978 to appropriate groundwater for irrigation purposes on any land within the Diamond Valley Ground Water Basin will be denied."

6. At paragraph 12, Application Nos. 81719 and 81720 state that the water would be used for supplemental purposes "when water from Big Shipley Springs & tributaries and Indian Camp Springs and tributaries under Proof Nos. V-03289 and V-03290, respectfully, are not capable of providing sufficient water to irrigate the place of use under Proof Nos. V-03289 and V-03290." The filing of a Proof of Appropriation is merely one of the many steps necessary to conduct an adjudication of vested water rights pursuant to Nevada water law. *See* NRS 533.090 to 533.320. The statements of use in a Proof of Appropriation are subject to objections and may require the submission of evidence and hearings upon that evidence to support the statements of use. *Id.* The State Engineer may not grant supplemental groundwater rights to mere alleged water rights set forth in Proofs of Appropriation under Nevada law and, therefore, must deny Application Nos. 81719 and 81720.

7. The historic acreage of land irrigated under Proof Nos. V-03289 and V-03290 may be insufficient to support the quantity of water sought to be appropriated under Application Nos. 81719 and 81720.

8. The historic flow of water in Big Shipley Springs & tributaries and Indian Camp Springs and tributaries under Proof Nos. V-03289 and V-03290 may be insufficient to support the quantity of water sought to be appropriated under Application Nos. 81719 and 81720.

9. The protestant requests that the State Engineer postpone action on Application Nos. 81719 and 81720 pursuant to NRS 533.370(4) until an adjudication of vested and all other surface water rights in Basin No. 153 has been completed.

10. Upon information and belief, the points of diversion under Application Nos. 81719 and 81720 are located at or near the Big Shipley Springs and tributaries and Indian Camp Springs and tributaries that comprise the points of diversion under Proof Nos. V-03289 and V-03290. As a result, allowing diversions from wells under Application Nos. 81719 and 81720 may cause reduced flows or no flow at the points of diversion under Proof Nos. V-03289 and V-03290 thereby converting the "supplemental" groundwater rights requested under Application Nos. 81719 and 81720 into "primary" groundwater rights.

11. The Protestant requests that water rights, if any, granted under Application Nos. 81719 and 81720 be conditioned on the implementation of a monitoring program approved by the State Engineer. If impacts to existing rights or the public interest are demonstrated by the monitoring program, the Applicant should be required to mitigate those impacts to the satisfaction of the State Engineer and the affected party.

13. Upon information and belief, some or all of the water rights claimed under Proof Nos. V-03289 and V-03290 have been abandoned.

12. The Protestant reserves the right to supplement this Protest as additional information becomes available concerning Application Nos. 81719 and 81720.

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