FILED

AUG 17 2012

STATE ENGINEER'S OFFICE

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

PROTEST

IN THE MATTER OF APPLICATION NUMBER 81981
FILED BY WALTER SIMMONS
OF LAS VEGAS, NEVADA
ON JUNE 25, 2012
TO APPROPRIATE THE WATERS OF UNDERGROUND

Comes now William R. Hansen, on behalf of the United States Department of the Interior, National Park Service, whose post office address is 1201 Oakridge Drive, Suite 250, Fort Collins, Colorado, 80525, whose occupation is Chief, Water Rights Branch, Water Resources Division, National Park Service, to protest the granting of Application Number 81981 filed on June 25, 2012 by Walter Simmons of Las Vegas, Nevada to appropriate the waters of underground, for the following reasons and on the following grounds:

See Exhibit A attached.

THEREFORE the protestant requests that the application be denied. If it can be shown that the proposed appropriation, in combination with existing and pending appropriations, will not affect the water resources and water rights of Lake Mead National Recreation Area, the protest will be withdrawn.

Signed Wm. R. Hansen
Agent or protestant

William R. Hansen

Address 1201 Oakridge Drive, Suite 250
Street No. or P.O. Box

Fort Collins, CO 80525

City, State and Zip Code

Subscribed and sworn to before me this 16 day of August, 2012.

MARILYN MOSS NOTARY PUBLIC STATE OF COLORADO

Marilyn Moss
Notary Public

State of Colorado

County of Larimer

My Commission expires 8/25/2014.

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IN THE MATTER OF APPLICATION 81981
EXHIBIT A

Protest by William R. Hansen on behalf of
The United States Department of the Interior,
National Park Service

GENERAL

I. The mission of the National Park Service (NPS) may be paraphrased from 16 U.S.C. 1, as conserving scenery, natural and historic objects, and wildlife, and providing for enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations.

II. Since 1936, the National Park Service has managed the recreational activities within the Boulder Canyon Project area, now known as Lake Mead National Recreation Area (Lake Mead NRA). Lake Mead NRA was established on October 8, 1964 (78 Stat. 1039) to be administered for "...general purposes of public recreation, benefit, and use, and in a manner that will preserve, develop, and enhance, so far as practicable, the recreation potential, and in a manner that will preserve the scenic, historic, scientific, and other important features of the area.... The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area."

III. The NPS is entitled to Federal reserved water rights for reserved lands within Lake Mead NRA. The priority dates for these reserved rights are the dates when the lands were reserved and are senior to the proposed appropriation. These rights have not been judicially quantified.

IV. Springs and water-related resource attributes are important features of Lake Mead NRA. The springs provide water for vegetation and wildlife habitat and create an environment that many visitors use and enjoy. Thermal and cold springs are found within Lake Mead NRA in the Black Canyon area of the Colorado River Valley downstream from Hoover Dam and east of Eldorado Valley. These springs have both recreational and scientific importance.

V. Walter Simmons filed Application Number 81981 to withdraw a total of 1.0 cubic feet per second (cfs) of ground water from Eldorado Valley (Hydrographic Basin 167). The annual duty for this application is estimated by the applicant to be 80.65 acre-feet per year (afy), but could be as high as 724 afy if the total amount requested (1.0 cfs) is pumped continuously all year.

VI. The NPS reserves the right to amend this exhibit as more information becomes available.

IN THE MATTER OF APPLICATION 81981
EXHIBIT A - CONTINUED

Protest by William R. Hansen on behalf of
the United States Department of the Interior,
National Park Service

FINDINGS

I. The proposed appropriation under Application 81981 is situated in Eldorado Valley. The primary aquifer in this basin is contained within the generally unconsolidated sediments that fill the valley. Groundwater recharge from precipitation in Eldorado Valley is estimated at about 1,100 afy, as reported in Reconnaissance Report No. 36 (Rush and Huxel, 1966). According to Rush and Huxel (1966), most of the recharge results from snow and rain in the surrounding mountains that infiltrates into bedrock or runs off into small streams and washes where it is absorbed into alluvial fan sediments.

II. Prior to development, natural discharge from Eldorado Valley was believed to occur mostly as subsurface outflow to the Colorado River Valley (Hydrographic Basin 213), with very little discharge from evapotranspiration (Rush and Huxel, 1966; Laney, 1981). Rush and Huxel (1966) could not directly estimate the amount of subsurface underflow from the valley and therefore, assumed it to be equal to the estimated natural recharge of 1,100 afy. Based on the early reconnaissance-level hydrologic information, it is likely that groundwater in the valley-fill aquifer flows eastward to the Colorado River Valley where water levels are much lower (Rush and Huxel, 1966; Laney, 1981).

III. A later study conducted by the Desert Research Institute (Pohlmann et al., 1998) concluded that several springs found within Lake Mead NRA in the Black Canyon area of the Colorado River Valley basin may have sub-regional source catchment areas (i.e. springs dominated by groundwater that originates outside local topographic basins and flow systems). This finding included springs located on the Nevada side of Black Canyon, which lends additional credence that Eldorado Valley is likely to be in this catchment area and supplying water to some of these springs via subsurface outflow.

IV. The Nevada State Engineer (NSE) currently recognizes the perennial yield for Eldorado Valley to be 500 afy, based on an estimate originally presented in Reconnaissance Report No. 36 and later adopted in NSE Ruling 4045.

V. The NPS's estimate of committed water rights in Eldorado Valley is 2,256 afy, which currently exceeds the recognized perennial yield estimate for Eldorado Valley of 500 afy. Eldorado Valley is currently over-appropriated by 1,756 afy, and there is no more water available for appropriation.

IN THE MATTER OF APPLICATION 81981
EXHIBIT A - CONTINUED

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VI. Application 81981 requests a withdrawal rate of 1.0 cfs, with an estimated annual duty not to exceed 80.65 afy. This withdrawal would increase the amount of water already over-appropriated from Eldorado Valley. The withdrawal proposed by this application is not sustainable and would exacerbate the over-drafting of groundwater that is already occurring in Eldorado Valley. Continued over-drafting of groundwater in the valley could potentially result in the interception of groundwater that might otherwise move as subsurface underflow from Eldorado Valley to the Colorado River Valley, and therefore, potentially deplete the flow of some springs contained within the Black Canyon area of Lake Mead NRA.

CONCLUSIONS

I. There is no water available for appropriation in Eldorado Valley because committed groundwater rights already greatly exceed the recognized perennial yield.

II. The approval and development of this application may impair the water rights and resources of the United States, because the ground-water withdrawal proposed by this application, in combination with existing permits, may reduce or eliminate water destined to be discharged at some of the springs located in the Black Canyon area of Lake Mead NRA.

II. The granting of a permit to this application would prove detrimental to the public interest because the water and water-related resources in the nationally important Lake Mead NRA would be diminished or impaired, as a result of the appropriation proposed by this application.

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EXHIBIT A - CONTINUED

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LITERATURE CITED

Laney, R.L., 1981, Geohydrologic reconnaissance of Lake Mead National Recreation Area -- Las Vegas Wash to Opal Mountain, Nevada: U.S. Geological Survey Open-File report 82-115, 23 p.

Pohlmann, K.F., D. J. Campagna, J.B. Chapman, and S. Earman, 1998. Investigation of the Origin of Springs in the Lake Mead National Recreation Area. Water Resources Center, Desert Research Institute. Publication Number 41161. 51 pp plus appendices.

Rush, F.E. and Huxel Jr., C.J., 1966, Ground-water appraisal of the Eldorado-Piute Valley Area, Nevada and California: Nevada Department of Conservation and Natural Resources Ground-Water Resources-Reconnaissance Series Report 36, 30 p.