

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

IN THE MATTER OF APPLICATION NUMBER 82239
FILED BY Woodie Bell of Paradise Valley
ON October 29, 20 12



PROTEST



Comes now Lovelock Meadows Water District

Printed or typed name of protestant
whose post office address is PO Box 1021 Lovelock, Nevada 89419
Street No. or PO Box, City, State and ZIP Code

whose occupation is Public Water System and protests the granting

of Application Number 82239, filed on October 29, 20 12

by Woodie Bell of Paradise Valley for the

waters of Underground Source situated in Pershing
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 Attached Page.

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.

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Signed [Signature]
Agent or protestant

Ryan Collins, District Manager
Printed or typed name, if agent

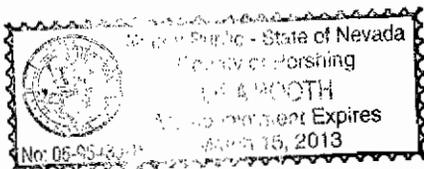
Address PO Box 1021
Street No. or PO Box

Lovelock Nv 89419
City, State and ZIP Code

(775) 273-2387
Phone Number

rcollins@cityoflovelock.com
E-mail

Subscribed and sworn to before me this 4 day of December, 20 12



[Signature]
Notary Public

State of Nevada

County of Pershing

+ \$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

The appropriation of water in Nevada is governed by statute, and the State Engineer is authorized to regulate such appropriations. NRS 533.030(1); see NRS 533.370(3). *Pyramid Lake Paiute Tribe of Indians v. Washoe County*, 112 Nev. 743, 747-748, 918 P.2d 697, 700 (1996). Under NRS 533.370(3), the State Engineer must deny applications when there is no un-appropriated water in the proposed source or when the proposed use conflicts with existing rights or is detrimental to the public interest. *Office of State Engineer v. Morris*, 107 Nev. 699, 701, 819 P.2d 203, 204 (1991).

In accordance with the foregoing authorities, the Lovelock Meadows Water District submits this protest in opposition of above designated applications for the following reasons:

- 1) Currently, District wells 5, 7, and 8, located in the southern area of the Oreana basin, are experiencing a year to year drawn down in water. The proposed water right application(s) will unreasonably lower static water levels in the basin and adversely affect the District's existing rights. Therefore, the application(s) must be denied.
- 2) Based upon available hydrological data from the Nevada State Engineer, U.S. Geological Survey, U.S. Bureau of Mines and Humboldt River Basin Studies, the estimated perennial yield of the Oreana basin ground water is 2000 acre-feet per year. The State Engineers Office has issued a total of 4987 acre-feet of underground water rights in this basin. The majority of the allocated acre-feet are coincident with the District's curtailment area, which is the sole source of potable water for the Lovelock Meadows Water District. Therefore, there is no un-appropriated ground water available in the Oreana basin. There are simply too many straws in the drink. As such, the application(s) must be denied.

This reasoning holds true for hydrographic basins 73, 73A (Oreana Basin) and the southern portion of 72, which represent existing or potential sources of water for the District. Due to the fact that these basins are actually or possibility over-appropriated, any additional appropriation harms the District's existing or future interests in hydrographic basins 73, 73A or 72 (southern portion). Further appropriation in these basins is detrimental to the public's interest due to the inevitable increase in capital costs to extract water from a dropping water table. These costs must be passed on the District's constituents. Thus, further appropriation will increase the cost of potable water to the detriment of the public. Along these lines, over-appropriation may lead to water treatment, which substantially increases the cost of water. Accordingly, the application(s) must be rejected.

- 3) The Lovelock Meadows Water District is a 318 entity and provides water services for the entire Lovelock Valley including the City of Lovelock with municipal water. The proposed use and underlying discharge of water for this/these application(s) may very well degrade existing permits owned by the Lovelock Meadow's Water District. The application(s) harms the public interest by potentially requiring an increase in the fee structure for District's remaining constituents in order to compensate for the loss of current or expected revenue. As such, the application(s) is detrimental to the public interest and must be denied.

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4.) The District is supportive of the State Engineers Orders #370 and #1079 which municipal use is declared a preferred use and no permits to appropriate ground water for irrigation purposes are to be issued in within a portion of basin 73A. The District requests that the State Engineer expand the portion of the basin of limited use to include all of basin 73A and adjoining areas of basin 72 and 73 that could result in a decline of water levels in the area designated as preferred use in basin 73A. Therefore all applications including change applications for any use other than municipal use should be denied. The District is requesting that applications requesting a preferred use but are intended for a use that is not a preferred, use for example irrigation, should be denied not only because of the impacts to limited available water resources but because of the prospective manner of use that is not in compliance with previous orders. Approving permits only for municipal use will allow for greater economic growth in the community by leveraging the benefit of the limited water resources of acceptable quality within the entire community on not on small projects with limited benefit to the community.

5.) The District encourages that the State Engineer provide temporary permitting to allow for new unpermitted water use within basins 72, 73 and 73a instead of granting permanent water use. These temporary projects will provide additional ground withdrawals to the aquifer so that the impacts can be observed. Approval of temporary changes even if the changes depart from the preferred use can be justified in that the approvals are temporary and the temporary withdrawals can contribute significantly to the understanding of the perennial yield. The District will assist in this effort by allowing temporary changes in the point of diversion and places of use of the Districts wells as necessary to support water use projects until adequate studies can be completed to adequately constrain the perennial yield of basin 72, 73 and 73A.

See below order 1079 was specific that NO permits for irrigation purposes. The order does not prevent temporary use for irrigation which I recommended above in item 5.)

Therefore, for the above described area, municipal use is declared a preferred use and no permits to appropriate groundwater for irrigation purposes will be issued.

All other provisions in Order No's. 369 and 370 remain in full force and effect.


R. MICHAEL TURNIPSEED, P.E.
State Engineer

Dated at Carson City, Nevada,
this 17th day of May, 1993.

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