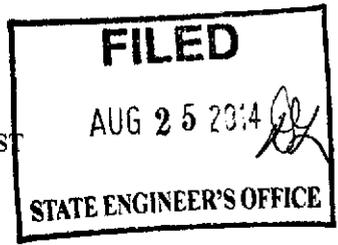


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 84042
FILED BY Dry Lake Water, LLC
ON July 1st, 2014



PROTEST



Comes now USDI - Bureau of Land Management, Southern Nevada District Office
Printed or typed name of protestant
whose post office address is 4701 N. Torrey Pines Drive, Las Vegas Nevada 89130
Street No. or PO Box, City, State and ZIP Code
whose occupation is Public Land Management and protests the granting
of Application Number 84042, filed on July 1, 2014
by Dry Lakes Water LLC for the

waters of underground situated in Clark
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

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THEREFORE the Protestant requests that the application be Denied
and that an order be entered for such relief as the State Engineer deems just and proper.
Denied, issued subject to prior rights, etc., as the case may be

Signed [Signature]
Agent or protestant
Timothy Z. Smith

State of Nevada
County of Clark
Subscribed and sworn to before me on 8/18/14
by Shannon Hecht
Address 4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5000
Phone Number
E-mail

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2014 AUG 27 AM 8:40
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[Signature]
Signature of Notary Public Required



+ \$30 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Attachment

The Department of the Interior-Bureau of Land Management, Southern Nevada District Office (BLM) is protesting water rights application number 84042, filed by the Dry Lake Water LLC., to appropriate groundwater from the regional carbonate aquifer in Garnet Valley (Hydrographic Basin 216). Granting this application would prove detrimental to the public interest by 1) degrading habitat on BLM managed public lands, 2) allowing a transfer of points of diversion from one groundwater basins to another and 3) permitting appropriation of new water rights in a closed basin.

Application number 84042 was filed by Dry Lake Water LLC to seek an additional Point of Diversion (POD) in Basin 216 for annually withdrawing 40 acre-feet of groundwater permitted under an existing permit (68351) in Basin 215 (Black Mountains Area) . The applicant argues that in light of the Nevada State Engineer (NSE) rulings #6256 (for basin 216) and #6260 (for basin 215) that the groundwater in both basins is extracted from the same common source, namely the regional carbonate aquifer, and hence, this transfer of points of diversion from one groundwater basins to another should be approved. Further, the applicant argues in the second paragraph, Attachment B of the App. No. 84042 that a precedent has been set by the NSE when a total combined duty to be assigned to PODs in two different basins under App Nos. 54073 (ultimately changed to 79001-79005) and 54074 was allowed. This connection is also referred to by the NSE in Ruling 6256 for Garnet Valley where the NSE "recognized the hydrologic connection between these basins" [Hidden Valley and Garnet Valley]. However, it appears that the applicant may be misinterpreting the NSE intend. After searching through the hydrographic abstracts for Basins 216 and 217 as well as the subsequent permanent water right change application tiered of 54073 and 54074 there is no evidence that an actual POD has been transferred from one basin to the other for either of these water rights. Rather there are only references to a combined total duty for both water rights of no more than 2,200 afa. This is very different from what the applicant is asking for under application 84042.

Instead, it is BLM's position is that granting application 84042 would prove detrimental to the public interest for the following reasons:

- 1) Moving the POD from its current location in basin 215 approximately 6 miles north to basin 216, would bring the potential impacts from groundwater withdraw closer to the parts of the Muddy River and its associated habitat that is managed by the BLM. According to NSE ruling #6256 additional groundwater pumping in this basin "would threaten to prove detrimental to the public interest in that it would threaten the water resources upon which the endangered Moapa dace are dependent." Please note that activities that degrade the condition of natural vegetation on public lands or impair

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management of special status species habitat are not consistent with provisions of the BLM Las Vegas Resource Management Plan and other existing BLM policies.

- 2) Application 84042 is similar to applications 74816, 74817 and 74818 in which an applicant asked to transfer the points of diversion from one groundwater basin to another (from basin 230 to basin 229). In the State Engineer's ruling #6213 (2/14/2013) NSE pointed out that "An application to change may not change the sources of water, and each groundwater basin in Nevada is considered a separate source. There, the basin for the proposed Point of Diversion must be the same as the basin for the existing point of Diversion for the base right." Hence, these three application "were upon their initial review found to be defective, in that they proposed a transfer of points of diversion from one groundwater basins to another. ...[T]he State Engineer concludes the applications cannot be considered for approval and to issue permits under the applications would threaten to prove detrimental to the public interest."
- 3) For all intends and purposes application 84042 is an application for new water right appropriation in a closed basin. Even though the applicant states in Attachment B, first paragraph that "No new water is being sought" he uses the form "Application for permit to appropriate the public water of the State of Nevada," because he is seeking to pump waters from basin 216 that previously have not been appropriated in basin 216. The NSE has closed basin 216 to new water rights appropriations in ruling #6256 because additional appropriations would "threaten to prove detrimental to the public interest" for the reason given above (1).

Further, BLM management is concerned that allowing transfer of points of diversion from one groundwater basins to another within any of the basins covered by rulings #6254-6261 would set an undesirable precedent and could potentially lead to concentrated impacts in only one of these basin where industrial development is likely to take place. This might lead to not only negatively impact surface water flows in the Muddy River and its headwater springs, but also other well owners, and would threaten to prove detrimental to the public interest.

For these reasons listed above, the BLM urges the State Engineer to deny application 84042.

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