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

IN THE MATTER OF APPLICATION NUMBER 84430
FILED BY Rodney St. Clair
ON October 9, 20 14

PROTEST

FILED
DEC 19 2014
STATE ENGINEER'S OFFICE

Comes now USDOI -Bureau of Land Management
Printed or typed name of protestant

whose post office address is 5100 E. Winnemucca Blvd., Winnemucca, NV 89445
Street No. or PO Box, City, State and ZIP Code

whose occupation is federal land management agency and protests the granting

of Application Number 84430, filed on October 9, 20 14

by Rodney St. Clair for the

waters of underground (Double Hot Springs Well) situated in Humboldt
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 attached statement of reasons

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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
Agent or protestant

William Mack Jr.
Printed or typed name, if agent

Address 5100 E. Winnemucca Blvd.
Street No. or PO Box

Winnemucca, NV 89445
City, State and ZIP Code

775-623-1500
Phone Number

wmack@blm.gov
E-mail

State of Nevada
County of Humboldt

Subscribed and sworn to before me on Dec 18 2014

by William Mack Jr.

T. SPERO
Notary Public - State of Nevada
Appointment Recorded in Humboldt County
No: 94-1228-9 - Expires January 6, 2018

Signature of Notary Public Required

Notary Stamp or Seal Required

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

Attachment to BLM Protest to Application Numbers 84429 and 84430

The applications are located on private land in-holdings within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (Black Rock NCA). The Black Rock NCA was designated by Congress in 2000 to '...conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, cultural, paleontological, scenic, scientific, biological, educational, wildlife, riparian, wilderness, endangered species, and recreational values and resources associated with the Applegate-Lassen and Nobles Trails corridors and surrounding areas, there is hereby established the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in the State of Nevada. (Public Law 106-554, approved December 21, 2000, as amended.)

Management of the Black Rock NCA, as outlined in the NCA act, requires 'The Secretary, acting through the Bureau of Land Management, shall manage the conservation area in a manner that conserves, protects and enhances its resources and values, including those resources and values specified in subsection 4(a), in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.' The NCA Act also requires that 'The Secretary shall provide reasonable access to privately owned land or interests in land within the boundaries of the conservation area. '

Approval of water rights applications 84429 and 84430 would prove detrimental to the public interest. The grounds for BLM protest are as follows:

1. The perennial yield for basin 026 is 13,000 AFA. According to the basin summary report, 5,759 AFA of underground water rights have already been permitted within the basin. The combined duty of the two water rights applications is 14,241 AFA, which is 7,000 AFA over the perennial yield.

2. The locations of the proposed wells are on private inholdings within the Black Rock NCA. Double Hot Springs is a natural geothermal spring located approximately 900 feet southeast of proposed POD associated with application 84430. Casey Springs is located just south of Double Hot Springs. The POD for application 84429 would be located within approximately 6,130 feet of this spring on private land and within approximately 1,000 and 2,000 feet of springs on public lands. Both Double Hot Springs and Casey Springs support expansive riparian areas which span across both private and public lands.

   There are also several springs located along the valley fringe in the southern portion of the basin on public land, six of which are within a 5-mile radius of the proposed pumping areas. There are also several springs located in the northern part of the basin associated with the Soldier Meadows spring complex. This area is habitat for the listed threatened desert dace. Within an 11 mile radius around Double Hot Springs there is potential habitat for Barneby Stemflower and Winged Milkvetch, both BLM sensitive plants. Approximately, seven miles to the west, at the base of the Calico Mountain Range are springs, when surveyed were identified as having an

abundance of spring snails, another BLM sensitive species. Depending on the configuration of the pipeline route, other sensitive plant and animal species may be encountered. During drought conditions, California Big Horn Sheep could use these areas to water. Other sensitive species that could potentially be impacted are Golden eagle, Short-eared owl, Western burrowing owl, Western snowy plover, Prairie falcon, Greater sandhill crane, Western least bittern and about six species of bats.

Approval to pump 14,421 AFA could potentially draw down the water table within the basin drying up springs located on public lands within the Black Rock NCA and impacting associated riparian habitats. Hydrogeologic interactions between the local geothermal aquifers and the basin fill aquifer are not well understood. Studies conducted by the USGS suggest that thermal systems within the Black Rock NCA are recharged locally, possibly through basin fill sediments or along faults. Studies also indicate that there are several distinct geothermal systems within the area which are possibly hydraulically connected. Pumping of groundwater, either in the basin-fill or in a geothermal aquifer, could result in impacts to springs within the Black Rock NCA.

Water quality and chemistry changes to the hot springs due to groundwater pumping at these PODs are also a concern. Geothermal springs naturally produce metals and if the spring flows are reduced, the metals can become more concentrated resulting in changes to the spring water chemistry, altering habitat and impacting the wildlife and vegetation they support.

The proposed groundwater pumping associated with these water right applications will not only impact surrounding springs resulting in lower spring flows, it will also negatively impact the wildlife that rely on those springs for habitat and as a water source.

3. BLM has filed four Public Water Reserve 107 federally reserved right claims on springs near the proposed PODs: R04928, R04929, R04930, and R04931. Pumping of the water right applications could impact BLM federally reserved water rights.

4. Historically, springs are of cultural and religious importance to Native Americans and other cultural artifacts have been documented within the Black Rock NCA.

   The Applegate and Nobles Trails are Nationally Historic Trails that crossed the Black Rock Desert in the mid-nineteenth century. Casey Hot Springs is on private land but was frequently visited by emigrants travelling along the Applegate Trail, often in the late summer when the forage at nearby Black Rock Hot Springs had been exhausted. Near all of the hot springs in the area of the proposed wells there are extensive prehistoric archaeological sites which reflect the limited number of water sources available in the passes.

   Other well-known sites in the area include Black Rock Hot Springs, located on public lands just south of Casey Springs which is another stop on the Applegate Trail with an associated extensive prehistoric site. There are another twenty-five archaeological sites within a 5 mile radius of the

two hot spring locations (Casey and Double Hot) about half of which are determined not eligible for the National Register and half of which are unevaluated.

The most significant impact to cultural resources in this area as a result of potential water pumping at these two springs is to the visual setting of the National Historic Trail. Currently there is very little modern intrusion on the setting of the trail; even interpretive signage is limited in an attempt to preserve the nature of the historic landscape. Changes to the springs themselves (draw down or drying up of springs) would also alter the visitor experience to the area; at present, visitors can read diary entries and imagine how nineteenth century emigrants felt as they encountered the same features of the landscape more than 150 years ago.

Any facilities constructed could be a visual intrusion to segments of the Trails and may impact the known cultural sites. The POD locations are located right along the emigrant trail. A pipeline would potentially need to be located along or across the trail. The Black Rock NCA was established to protect the pristine viewshed along the trail.

5. The Black Rock NCA Resource Management Plan (RMP) was signed in 2004 and outlines measures for the long-term protection and management of the NCA. The plan did recognize the potential future need of utility rights-of-way to private lands and identified the following management standards:

> "LAND-2: Access to private lands and valid existing rights outside wilderness may be authorized by granting rights-of-way that provide for the reasonable use and enjoyment of private lands by their owners while minimizing impacts on resources. "
>
> "LAND-3: No new utility corridors will be established in the planning area."
>
> "LAND-5: Utility rights-of-way may be granted outside of Wilderness where in conformance with visual quality objectives and the NCA Act."
>
> "LAND-6: Permanent above-ground facilities will not be allowed on the 104,546 acre playa of the Black Rock Desert."

If these water permit applications are approved, a potential utility right-of-way, to convey water, of this magnitude, along with other ancillary facilities, could cause a visual intrusion to the NCA. The surrounding public land areas in proximity to the proposed well locations are identified in the Black Rock NCA RMP, through the visual resource management process, as Class II. Class II areas would be managed 'to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line. Color, and texture found in the predominant natural features of the characteristic landscape.