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

FILED
MAR 16 2015
STATE ENGINEER'S OFFICE

In the Matter of Application No. 84949-T
Filed By Granite Peak Properties, LC
on March 6, 2015

PROTEST

Comes now Second Big Springs Irrigation Co., whose post office address is P.O. Box 170, Baker, Nevada 89311, whose occupation is ranching and farming, by and through its undersigned attorneys of record, and hereby protests the granting of Application Number 84949-T, filed on March 6, 2015 by Granite Peak Properties, LC ("Granite Peak"), for permission to change the point of diversion and place of use of underground water, in the Snake Valley Basin (No. 195) situated in White Pine County, State of Nevada, for the following reasons and on the following grounds, to wit:

1. The application is one of twenty-seven (27) temporary change applications (Application Nos. 84925-T through 84951-T) filed by Granite Peak on March 6, 2015, "to move existing water right permits to existing production wells to provide water to existing crops within the proposed place of use." See Item 15 in the application. The State Engineer should deny the application and its 26 companion applications because the applications involve proposed points of diversion (wells), proposed places of use, and an existing irrigation pipeline system that connects all of the Applicant's existing wells together to irrigate lands in Nevada and Utah, which will conflict with existing rights, create metering issues associated with the pipeline distribution system that connects all the wells together, and because of the Applicant's history of irrigating unauthorized lands (State Engineer Case No. AV-88 and 7th Jud. Dist. Court Case No. CV-14-11139).

2. The application and its 26 companion applications should be denied because, as demonstrated by the applicant's own evidence and the evidence of the protestants during the February 2015 evidentiary hearing on pending Application Nos. 78795, 78796, 78797, 78800, 78803, 78804, 78805, 78806, 78807, 78810 and 84145–84168, pumping of groundwater under the base permits of these 27 temporary applications has impacts on the local groundwater aquifer and discharges from the groundwater to springs and streams which are the source of the protestant's vested and other senior water rights. Furthermore, the proposed groundwater pumping under these 27 temporary applications is similar to the proposed pumping under the applications at issue in the February 2015 evidentiary hearing, and the applicant's own evidence and that of the protestants in that hearing demonstrates that the proposed pumping will have further and additional adverse impacts on the local groundwater aquifer and the springs and streams to which the groundwater is tributary, which will impact and conflict with the protestant's vested and other senior water rights.

For example, the Applicant's Exhibit No. 54 admitted at the February 2015 hearing, at page 20, admits that under a conservative pumping analysis the base permits for these temporary applications result in aquifer decline of approximately 0.7 feet at the *furthest* location of Dearden Springs from the area of groundwater pumping; and the proposed pumping analyzed in that exhibit, which is similar to the proposed pumping requested in these 27 temporary applications, would result in an approximate 1.7 foot lowering of the groundwater aquifer at that same location. Notwithstanding numerous problems with the applicant's modeling that produced these results, which problems were exposed during the course of the week-long hearing, the results of the applicant's analyses on page 20 of Exhibit No. 54, and other analysis in that same exhibit shows potentially greater impacts to the aquifer.

Approval of these 27 temporary applications by the State Engineer would adversely impact Lake Creek (aka Big Springs Creek), and its contributing sources, including Big Springs, Dearden Springs, and other tributary sources, and therefore would conflict with the Protestant's existing vested and other senior water rights in Nevada and Utah. The Protestant's senior water rights in

Nevada are supported by a 1922 Decree filed in the Ninth Judicial District Court of Nevada in the County of White Pine and related documents (see files for Application Nos. 2442 & 2443), Vested Claim No. V-09610, and the Protestant's senior rights in Utah are supported by pre-1903 diligence claims filed with the Utah Division of Water Rights (Water Right Nos. 18-244, 18-393, 18-684, and 18-708). The Protestant's senior and vested rights to water are also protected by NRS 533.085.

3. The application and its 26 companion applications should be denied because the alluvial fill aquifer and the carbonate bedrock aquifer from which the wells would pump have already shown declining water levels in nearby monitoring wells, and have caused the drying of Needle Point Spring, correlating with Granite Peak's existing pumping operations. Properties of the alluvial fill and carbonate aquifers, and simulated and measured adverse effects of groundwater pumping on water levels and spring discharges from those aquifers are documented in several past and recent U.S. Geological Survey ("USGS") Scientific Investigations Reports and modeling results ("SIR"), including, but not limited to, SIR 2007-5261, SIR 2011-5032, and SIR 2014-5103. The declining water level trends and spring flows are also documented in reports published by the U.S. Bureau of Land Management, and are evident in local monitoring well data and spring flow data recorded by the Utah Geological Survey and the USGS. (See <http://geology.utah.gov/databases/groundwater/map.php?proj_id=1> and <http://waterdata.usgs.gov/nv/nwis>). The already declining trends in groundwater levels and local spring flows would continue at even greater rates if the Applicant's proposed 27 temporary change applications are approved and developed, to the detriment of existing creek flows and tributary spring flows, to the detriment of the Protestant's senior rights in Nevada and Utah, and to the detriment of wildlife that are also dependent on those sources of water.

4. The State Engineer should deny the application and its 26 companion applications because approval of them would threaten to cause serious environmental harm in Snake Valley, as has already been demonstrated by the drying of Needle Point Spring, which caused the death of wild horses dependent on Needle Point Spring. Further declines in local groundwater levels and in the Big Springs Creek system would cause environmental harm by adversely affecting flora and fauna in other areas of Snake Valley, including Burbank Meadows.

5. The State Engineer should deny the application and its 26 companion applications because the adverse impacts described herein would cause economic harm and hardship to local businesses that depend on the senior water rights in and to the Big Springs/Lake Creek system, including the business of the Protestant.

6. For the reasons stated above, approval of the applications would also conflict with the public interest.

7. The Protestant hereby incorporates by reference its March 12, 2015, letter of objection to the State Engineer regarding Application Nos. 84925-T through 84951-T, including any and all protests and objections set forth therein.

8. The Protestant reserves the right to amend or supplement this Protest to add or remove protest grounds as additional information comes available.

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THEREFORE this Protestant requests that the above-referenced application and its 26 companion applications be denied and that an order be entered for such relief as the State Engineer deems just and proper.

Respectfully submitted,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

By: _____

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Agents for Protestant

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Notary Public

State of Nevada
County of Washoe

Subscribed and sworn to before me this 16th day of March, 2015.

LAURA SIMAR
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 99-53998-2 - Expires April 23, 2015