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

IN THE MATTER OF APPLICATION NUMBER 85166
FILED BY Stillwater Farms, Inc.
ON May 12, 20 15

PROTEST

FILED
JUL 14 2015
STATE ENGINEER'S OFFICE

Comes now Truckee Carson Irrigation District
Printed or typed name of protestant

whose post office address is P.O. Box 1356 Fallon, NV 89407-1356
Street No. or PO Box, City, State and ZIP Code

whose occupation is Irrigation District operations and protests the granting

of Application Number 85166, filed on May 12, 20 15

by Stillwater Farms, Inc. for the

waters of 'Other Surface Water' situated in Churchill
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 Exhibit A

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

Chris C. Mahannah, P.E., Agent
Printed or typed name, if agent

Address P.O. Box 2494
Street No. or PO Box

Reno, NV 89505
City, State and ZIP Code

(775) 323-1804
Phone Number

chris@mah2o.com
E-mail

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State of Nevada
County of Washoe

Subscribed and sworn to before me on 7/10/15

by Chris C. Mahannah

Signature of Notary Public Required

CAMERON TABRIZI
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 01-10-17
Certificate No: 13-9805-2

Notary Stamp or Seal Required

+ $30 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

EXHIBIT A

TCID PROTEST GROUNDS – APPLICATION 85166

1. The applicant seeks to appropriate "Other Surface Water" and no such definition exists in the statutes. In the miscellaneous remarks, the applicant states: "This application is for all the mismatched, tail, flood, and other excess water above prime delivery water that makes it to the proposed point of diversion". The correct source of water is the Truckee and Carson Rivers which are "Newlands Project Waters" that are managed and delivered by TCID under contract with the United States. The application is deficient and should be rejected because it does not correctly identify the source of water.

2. The Truckee and Carson River Newlands Project water sought to be appropriated is fully appropriated, is managed under contract with TCID for approved Project purposes and not available for further appropriation under state or federal law. The U.S. District Court has decreed that the water of the Carson River is fully appropriated under the Alpine Decree in 1980 and the State Engineer has found the Truckee River is also fully appropriated after granting any unnapropriated water to the Pyramid Lake Paiute Tribe. Furthermore, in Ruling 6226, the State Engineer found that water, regardless of how it's characterized, at the proposed point of diversion was not available for further appropriation.

3. Under PL 101-618, the Secretary authorized a maintenance goal of 25,000 acres of wetlands habitat at the Stillwater National Wildlife Refuge and the State Engineer has consistently upheld this goal in rulings dating back to 1996. Furthermore, in May 2009 the TCID Board supported this position by approving a motion that 100% of the water appearing at the proposed point of diversion be routed to the Stillwater Refuge and be counted as deliveries towards existing water orders as a priority or spilled to the refuge and be counted toward the wetland's water supply. The board recognized that spills would count towards the water necessary to meet the 25,000 acre goal, and the USFWS acknowledged that spills could reduce the amount of water they needed to purchase in the future. Although TCID is not the owner of this water, as managers of the Newlands Project Truckee and Carson River waters, they are authorized to make operational and delivery management decisions within the Project. Approval of the application would reduce the ability to reach the 25,000 acre wetland goal and thus is not in the public interest.

4. Denying the application is in the public interest in that it will reduce the amount of agricultural rights USFWS will purchase. Counting this water as wetlands deliveries for the Stillwater Refuge in addition to reduced acquisitions will also improve Project delivery efficiencies mandated under OCAP.

5. This application is identical in substance to applications 47786 and 79646, both of which were denied by the State Engineer under Ruling 6226 and that ruling was upheld on appeal to the U.S. District Court of Nevada.

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As previously found under State Engineer Ruling 6226, NRS § 533.365(4) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. There is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on these matters should not be required. The Protestant requests that a Ruling be issued without a hearing based on the foregoing grounds denying the application pursuant to NRS § 533.371 (3-6)

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