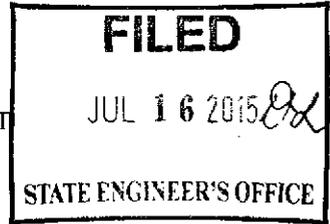


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

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



PROTEST



Comes now Timothy Mayer, Agent for the U.S. Fish and Wildlife Service

Printed or typed name of protestant

whose post office address is 911 NE 11th Ave, Portland, Oregon 97232

Street No. or PO Box, City, State and ZIP Code

whose occupation is Chief, Water Resources Branch

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:

Please see attachment: Additional Information to Support the Protest of the U.S. Fish and Wildlife Service in the Matter of Application 85166

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

Handwritten signature of Timothy Mayer

Agent or protestant

Timothy Mayer

Printed or typed name, if agent

Address

911 NE 11th Ave

Street No. or PO Box

State of ~~Nevada~~ OREGON

County of MULTNOMAH

Portland, Oregon 97232

City, State and ZIP Code

Subscribed and sworn to before me on 7/13/15

503 231-2395

Phone Number

by TIM MAYER

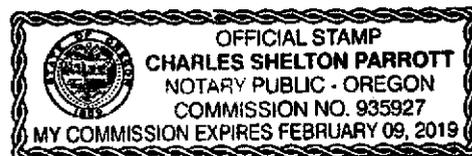
tim_mayer@fws.gov

E-mail

Vertical stamp: STATE ENGINEER'S OFFICE, 2015 JUL 15 AM 10:31, RECEIVED

Handwritten signature of Notary Public

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.

Additional Information to Support the Protest of the U.S. Fish and Wildlife Service in the matter of Application No. 85166

The U.S. Fish and Wildlife Service requests that Application No. 85166 be denied for the following reasons and on the following grounds:

1. The applicant does not have legal access to the proposed point of diversion. The proposed point of diversion is within Stillwater National Wildlife Refuge. Permission to access the proposed point of diversion for the purpose described by Application No. 85166 would not be granted if requested.
2. The application is for water from the S-line Canal within the Newlands Reclamation Project (Project). This water is already fully appropriated to the United States, is under the control of the Secretary of the Interior for approved Project purposes and is not available for further appropriation under state or federal law.
3. Under current Project operations, there is no water available at the proposed point of diversion. Whether characterized as prime water, operational spill, tail water, flood water, mismatched water, waste water, drain water, other surface water, excess water, or any other term, all water reaching the end of the S-line Canal, where the proposed point of diversion is located, is either delivered to Project irrigators or to Stillwater National Wildlife Refuge for approved Project purposes.
4. This application appears to be a resubmission of Application Nos. 47786 and 79646, both of which attempted to appropriate water at the same proposed point of diversion in the same amount for the same proposed use. State Engineer Ruling #6226 appropriately denied both previous applications on the grounds that no water was available for appropriation. On appeal by Stillwater Farms, Inc. to the United States District Court of Nevada, Ruling #6226 was affirmed (UNITED STATES OF AMERICA v. ALPINE LAND AND RESERVOIR CO., et al., No. 3:73-cv-00183-LDG, IN EQUITY D-183-LDG; Subfile No. 3:73-cv-00211-LDG, March 13, 2015). Application No. 85166 should be denied on the same grounds.

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