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

FILED
AUG 10 2015
STATE ENGINEER'S OFFICE

In the Matter of Application No. 85304-T
Filed By Granite Peak Properties, LC
on July 13, 2015

PROTEST

Comes now Baker Ranches, Inc. ("Protestant"), 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 85304-T, filed on July 13, 2015 by Granite Peak Properties, LC ("Granite Peak" or "Applicant"), 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 requests to transfer water rights from an existing point of diversion identified as "Well #4" (Application No. 85304-T, Section 6). Granite Peak's evidence submitted at the February 2015 evidentiary hearing that resulted in State Engineer Ruling No. 6311 identified Well #4 as a "Cistern" and Granite Peak's own evidence indicated that there is no Well Log and no drilling information on file for the constructed Cistern. Granite Peak's evidence submitted at the February 2015 hearing also indicated that the Cistern was constructed for the purpose of dewatering a nearby gravel pit during gravel borrowing operations (See February 2015 Hearing Exhibit GP0061, pages 6 and 18 of 39) The Protestant requests that the State Engineer evaluate whether the Cistern was constructed with proper authorization and deny Application No. 85304-T if it is determined that the Cistern was not properly constructed..

2. The State Engineer should deny the application because the application involves a proposed point of diversion (well), 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).

3. The application should be denied because, as demonstrated by the Applicant's own evidence and the evidence of the Protestant during the February 2015 evidentiary hearing, pumping of groundwater under the base permit of this temporary application would have 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.

For example, Granite Peak admitted at page 20 of its Exhibit No. 54 at the February 2015 hearing for Ruling No. 6311, that under a conservative pumping analysis the base permits for these temporary applications would contribute to aquifer decline of *at least* 0.7 feet at Dearden Springs after only 10 years of pumping. Notwithstanding numerous problems with Granite Peak's modeling that produced these results, which problems were discussed in Ruling 6311 and explored at length in the hearing, the results of Granite Peak'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 this application 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

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claims filed with the Utah Division of Water Rights (Water Right Nos. 18-244, 18-393, 18-684, and 18-708). These protectable water rights were recognized and formed the basis of denial of applications in Ruling 6311. The Protestant's senior and vested rights to water are also protected by NRS 533.085.

4. The application should be denied because the alluvial fill aquifer from which the well would pump has already shown declining water levels in nearby monitoring wells, and has contributed to the drying of Needle Point Spring, correlating with Granite Peak's existing pumping operations. Properties of the alluvial fill aquifer, and simulated and measured adverse effects of groundwater pumping on water levels and spring discharges from the aquifer 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 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.

5. The State Engineer should deny the application because approving it 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.

6. The State Engineer should deny the application 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.

7. For the reasons stated above, approval of the application would also conflict with the public interest.

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

THEREFORE this Protestant requests that the above-referenced application 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

LAURA SIMAR
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 99-53008-2 - Expires April 23, 2019

State of Nevada)
)
County of Washoe)

Subscribed and sworn to before me this 5th day of August, 2015,

by _____
Notary Public

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