

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

FILED
OCT 23 2015
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 85417
FILED BY Ministerio Roca Solida Iglesia Cristiana
ON August 28, 20 15



PROTEST

Comes now Ren Lohofener

Printed or typed name of protestant

whose post office address is 2800 Cottage Way W-2606 Sacramento, California 95825

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

whose occupation is U.S. Fish and Wildlife Service, agency of the Federal government and protests the granting

of Application Number 85417, filed on August 28, 20 15

by Ministerio Roca Solida Iglesia Cristiana for the

waters of Carson Slough situated in Nye County

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 Attachment 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

[Handwritten signature]

Agent or protestant

Ren Lohofener

Printed or typed name, if agent

Address 2800 Cottage Way W-2606

Street No. or PO Box

State of Nevada

County of _____

Sacramento, California 95825

City, State and ZIP Code

Subscribed and sworn to before me on _____

(916) 414-6469

Phone Number

by _____

ren_lohofener@fws.gov

E-mail

See attached

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.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

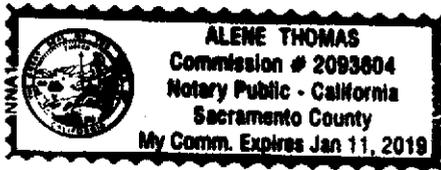
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Sacramento)
On Oct. 22, 2015 before me, Alene Thomas, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Ren Lohoefer
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature A. Thomas
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Application 85417 Denial Document Date: Aug. 28, 2015

Number of Pages: 1 Signer(s) Other Than Named Above: N/A
+ Acknowledgment

Capacity(ies) Claimed by Signer(s)

Signer's Name: Ren Lohoefer
 Corporate Officer -- Title(s): Regional
 Partner -- Limited General Director
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer's Name: _____
 Corporate Officer -- Title(s): _____
 Partner -- Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer Is Representing: US Fish & Wildlife Service

Signer Is Representing: _____

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ALBERT THOMAS
Commissioner of the
Notary Public for the State of
California
Notary Public for the State of California

**ADDITIONAL INFORMATION TO SUPPORT THE PROTEST
OF THE U.S. FISH AND WILDLIFE SERVICE
IN THE MATTER OF APPLICATION 85417**

Attachment A

Application No. 85417 was filed by Ministerio Roca Solida Iglesia Cristiana on August 28, 2015, requesting a change to the point of diversion (POD) and manner of use of surface water heretofore claimed under Proof of Claim No. V10092, which was filed on October 10, 2011. The POD and the place of use of the application and the claim are located on a 40-acre private inholding within the boundary of the Ash Meadows National Wildlife Refuge. The source of water for the application is stated as Carson Slough, for the amount of 0.003 cfs, or 2.24 afa, to be used for recreation and domestic, with the previous claimed use being for stock watering and domestic. The Carson Slough is located within the Amargosa Desert Hydrographic Basin.

Ash Meadows National Wildlife Refuge, established in 1984, comprises about 24,000 acres of spring-fed wetlands and upland desert. The Refuge is an area of exceptional biological wealth and diversity resulting from a unique combination of limited water resources and an isolated desert environment. At least twenty-seven species of plants and animals are restricted to the local geographic area, one of the highest concentrations of endemic species found in the United States. The purpose of the refuge is to conserve, protect, and enhance the habitats and populations of endemic, resident, and migratory species for the continuing benefit of the American people. These species are critically dependent on the water resources of the Refuge. The U.S. Fish and Wildlife Service (Service), recognizing the importance of these resources, holds state appropriative water rights for all of the spring discharge on the Refuge.

The Service requests that Application No. 85417 and Proof of Claim No. V10092 be denied because:

- Proof of Claim No. V10092 is just a claim to a vested water right. That claim has not been adjudicated; therefore, the application to change the point of diversion and manner of use is premature. The relevant evidence does not establish the validity of this applicant's claim of holding a vested water right under Nevada law. It is not in the public interest to approve a change application for a claimed, but invalid, water right.

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- Proof of Claim No. V10092 is based on purported water use for livestock that is alleged to have occurred on 640 acres of land (including the 40-acre parcel now owned by the applicant), which Alice Ober unsuccessfully attempted to purchase and patent in 1887, and the subsequent conveyances of the 40-acre parcel now owned by the applicant. The documentation provided with the Proof of Claim shows the following facts, which defeat the applicant's claim: Ober did not convey any water rights; Ober did not convey the subject 40-acre parcel; Ober defaulted on her contract with the State of Nevada; Ober did not receive a patent for the subject 40-acre parcel (or any of the other 600 acres); and it was not until 1930, well after the establishment of Nevada Water Code, that the State of Nevada issued the first land patent for the subject 40-acre parcel now owned by the applicant. For these reasons, the claim to holding vested water rights that originated in, and were conveyed from, Ober is invalid.
- Furthermore, the documentation provided with the claim fails to show that Ober watered livestock on the subject 40-acre parcel at all, much less that she did so to the exclusion of the other 600 acres in the wetland area. The United States now owns 600 of the 640 acres that Ober unsuccessfully attempted to purchase and patent. Therefore, even if vested water rights passed from Ober, the United States would be entitled to a pro-rata share of such vested water rights.
- The source of water in the claim and the application, Carson Slough, is vague and ambiguous. It appears that the applicant is referring to a historical feature that is now an intermittent stream and appears to be ephemeral at the POD. It is not in the public interest for the State Engineer to approve a change application for a water right claim that is not valid and for a POD that is mainly dry. Due to the vague, ambiguous nature of the source identified in the claim and application, the Service reserves the right to supplement the grounds for this protest.

The Proof of Claim for a vested right to waters of Carson Slough was filed by the applicant in October 2011. This was after the Service implemented a project in 2010 to restore and rehabilitate the spring surface waters from the Fairbanks and Soda Springs, which had been disrupted and damaged by a mid-20th century network of irrigation ditches and other anthropogenic effects from mining and agriculture in Ash Meadows. *See Ex. A (diagram and imagery)*. Consistent with the Service's mission at Ash Meadows, the project was intended to benefit the ecological habitat, especially for endangered species of fish in the spring waters. The Service holds all water rights to Fairbanks, Soda, and the other springs of Ash Meadows, as

previously recognized by the State Engineer. *See* Ex. B (Mayer Declaration and Exhibits 1–7 thereto). Based on the foregoing, the Service denies the merits of the applicant’s post-project claim of vested rights and thereby denies that it impaired any vested rights belonging to this applicant, as asserted in the Remarks section of the application.

The Proof of Claim and application concern a small volume of water, and the Service might otherwise not protest an application of this magnitude. For example, the applicant applied for and received a water right permit for groundwater on the property in 2007 (Permit 75824, Certificate 19705); the Service did not protest this previous application. Here, however, the applicant has not filed an application for a new appropriation of a small amount of water. Rather, the applicant has alleged (in the 2011 Proof of Claim, the 2015 application for change, and a pending lawsuit) that the Service’s 2010 restoration project impaired a vested water right. The Service denies such allegations and submits that the Proof of Claim for a vested water right lacks legal and factual merit. As a result, the Service requests that Application No. 85417 and Proof of Claim No. V10092 be denied.

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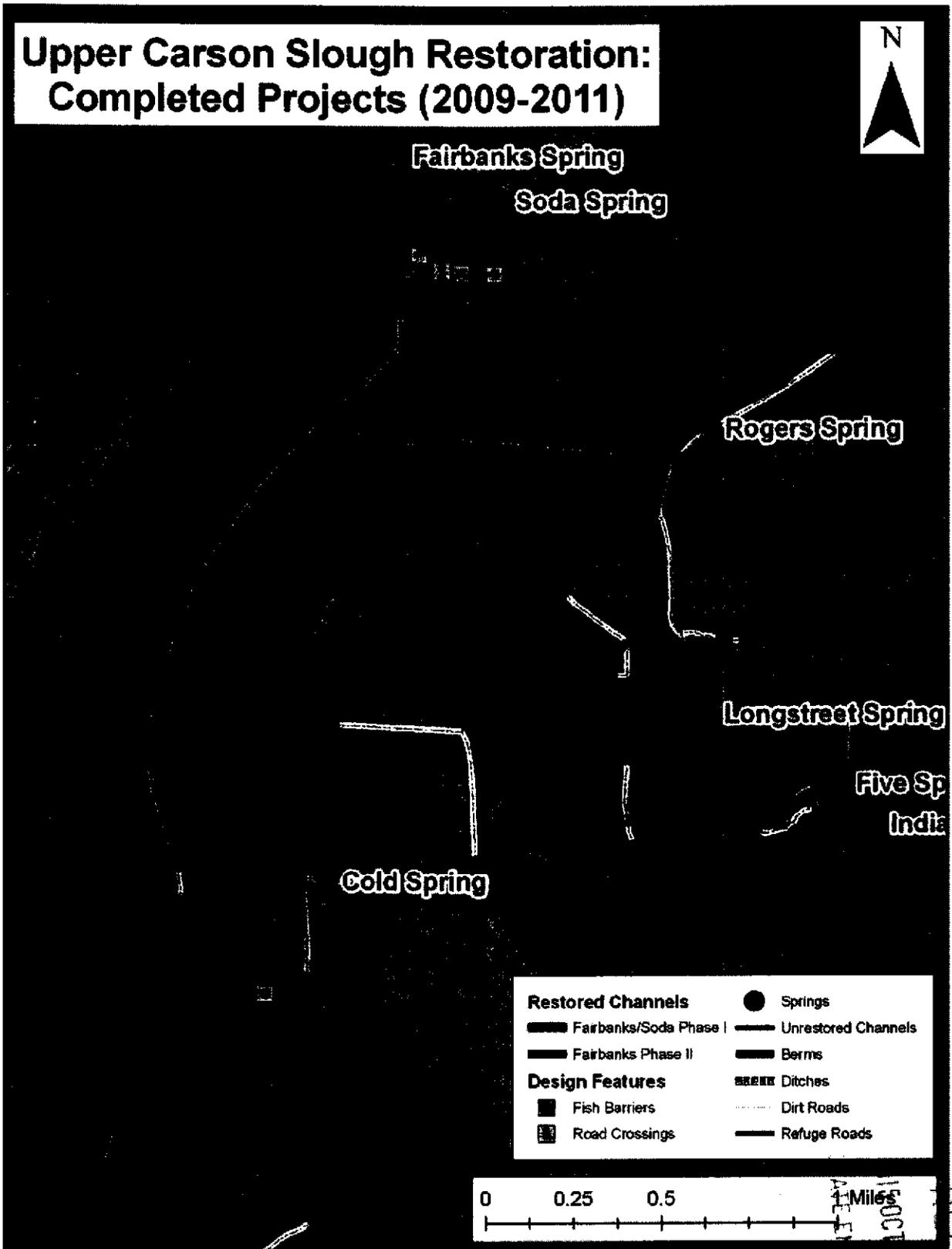


Figure 1. The Fairbanks Channel, restored alignment.

EXHIBIT P

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Declaration of Timothy D. Mayer

I, Timothy D. Mayer, declare, under 28 U.S.C. § 1746, as follows:

1. I am currently employed, and have been since February 2011, as a Supervisory Hydrologist with the United States Fish and Wildlife Service (“FWS”), supervising the Water Resources Branch (“WRB”) of the FWS. The WRB serves to protect the water resources of the FWS in two regions (Region 1 and 8) encompassing six states: Oregon, Washington, Idaho, California, Nevada, and Hawaii. From June 1995 to February 2011, I worked as a hydrologist/hydraulic engineer in the Water Resources Branch of FWS. During my career with FWS, my work has included directly or in a supervisory role the following: protection of the regional water resources/rights of FWS; administration of the regional water program; development and implementation of water monitoring programs (quantity and/or quality of water); hydrological studies for national wildlife refuges and national fish hatcheries in Regions 1 and 8; authorship or review/approval of various hydrological reports, publications, presentations, and data analyses; design and review of water control structures and water distribution systems; and review of proposed or existing projects of other federal, state, and local agencies and private parties for impacts to regional water resources. I participate as a member of the regional Climate Change Board, the regional Science Board, and the regional Data Information Management group.

2. In connection with these duties, my office maintains various documents relating to FWS’ water rights on national wildlife refuges in both Region 1 and 8; true and correct copies of some of these documents are referenced below and attached hereto.

3. FWS holds certificated water rights for the entire annual discharge (surface flow) of the springs in the Ash Meadows National Wildlife Refuge (“Ash Meadows”). This was recognized by the Nevada State Engineer in Ruling No. 5750 (page 19), attached as Exhibit 1 hereto. Ruling No. 5750 refers to the Amargosa Desert Hydrographic (groundwater) Basin, a portion of which was designated in 1979 per Order No. 724. The Amargosa Basin includes, but is not limited to, Ash Meadows. Attached as Exhibit 2 is a copy of the Nevada State Engineer’s Order No. 724. Attached as Exhibit 3 is a copy of the Nevada State Engineer’s Order No. 1197, which affords water protection for an area surrounding Devil’s Hole, a separate, detached unit of Death Valley National Park. The protected area extends 25 miles in any direction from Devils Hole and encompasses all of Ash Meadows.

4. Attached as Exhibit 4 is a copy of a spreadsheet with details for FWS’ certificated spring water rights including the certificate number, name of the spring, date of water right, and several delineations of the quantity of water flow (e.g., by certificate, by spring, and cumulative annual totals). The total volume of spring flow on the spreadsheet (bottom right of last column), 17,673.8 acre-feet, is consistent with, although not exactly the same as, the more rounded number of 17,000 acre-feet in Ruling no. 5750 (page 19). I recognize this spreadsheet as one I had prepared several years ago using Excel software; my office subsequently changed to use of an Access database to maintain this type of information, and there have been updates thereto, for example, FWS acquired several small, private water rights near Big Springs with the acquisition of property there.

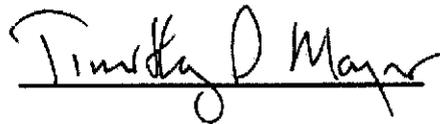
5. I am aware of the location within Ash Meadows of the property owned by Ministerio Roca Solida (“Ministerio”). Relative to Ministerio’s property, the closest, upstream

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springs are named Longstreet, Fairbanks, and Rogers. Attached as Exhibits 5, 6, and 7 are, respectively, copies of FWS' five water rights certificates for Longstreet (nos. 14338, 14339, 14340, 14329, 14387), FWS' four water rights certificates for Fairbanks (nos. 14342, 14324, 14325, 14326), and FWS' two water rights certificates for Rogers (nos. 14327, 14328).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24th day of June, 2014.

A handwritten signature in black ink that reads "Timothy D. Mayer". The signature is written in a cursive style and is positioned above a horizontal line.

Timothy D. Mayer

EXHIBIT B1

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

IN THE MATTER OF APPLICATIONS)
59352, 62529, 66072, 66077, 66078,)
66079 AND 66081 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF)
AN UNDERGROUND SOURCE WITHIN THE)
AMARGOSA DESERT HYDROGRAPHIC BASIN)
(230), NYE COUNTY, NEVADA.)

RULING

#5750

GENERAL

I.

Application 59352 was filed on October 29, 1993, by Frederick C. and Sandra J. Fellwock and David Mulkey, Trustee of the David A. Mulkey Living Trust to appropriate 1.56 cubic feet per second (cfs) not to exceed 400 acre-feet annually, of underground water for quasi-municipal purposes. The proposed place of use is described as being 320 acres within the S½ of Section 18, T.16S., R.49E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SE¼ of said Section 18.¹

II.

Application 62529 was filed on October 24, 1996, by Frederick C. and Sandra J. Fellwock and David Mulkey, Trustee of the David A. Mulkey Living Trust to appropriate 3.0 cfs of underground water for irrigation and domestic purposes. The proposed place of use is described as being 160 acres within the SW¼ of Section 18, T.16S., R.49E.,

¹ File No. 59352, official records in the Office of the State Engineer. Exhibit No. 2, public administrative hearing before the Office of the State Engineer, June 12-14, 2006. Hereinafter the transcript and exhibits from the hearing will be referred to solely by exhibit number or transcript page.

M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of said Section 18.²

III.

Application 66072 was filed on February 16, 2000, by the Nye County Board of Commissioners to appropriate 5.25 cfs of underground water for municipal purposes. The proposed place of use is described as being the Amargosa Hydrographic Basin as delineated in State Engineer's Order No. 724. The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 23, T.15S., R.50E., M.D.B.&M.³

IV.

Application 66077 was filed on February 16, 2000, by the Nye County Board of Commissioners to appropriate 5.18 cfs of underground water for municipal purposes. The proposed place of use is described as being the Amargosa Hydrographic Basin as delineated in State Engineer's Order No. 724. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 5, T.16S., R.53E., M.D.B.&M.⁴

V.

Application 66078 was filed on February 16, 2000, by the Nye County Board of Commissioners to appropriate 5.18 cfs of underground water for municipal purposes. The proposed place of use is described as being the Amargosa Hydrographic Basin as delineated in State Engineer's Order No. 724. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 5, T.16S., R.53E., M.D.B.&M.⁵

² Exhibit No. 5.

³ Exhibit No. 8.

⁴ Exhibit No. 12.

⁵ Exhibit No. 15A.

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VI.

Application 66079 was filed on February 16, 2000, by the Nye County Board of Commissioners to appropriate 4.56 cfs of underground water for municipal purposes. The proposed place of use is described as being the Amargosa Hydrographic Basin as delineated in State Engineer's Order No. 724. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 13, T.15S., R.49E., M.D.B.&M.⁶

VII.

Application 66081 was filed on February 16, 2000, by the Nye County Board of Commissioners to appropriate 5.525 cfs of underground water for municipal purposes. The proposed place of use is described as being the Amargosa Hydrographic Basin as delineated in State Engineer's Order No. 724. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 22, T.15S., R.50E., M.D.B.&M.⁷

VIII.

Application 59352 was timely protested by Amargosa Resources, Inc. on the following grounds:⁸

Amargosa Resources, Inc. filed Applications No. 58372, 58373, 58444, 58445 & 58446 in December, 1992 to appropriate 25,000 acre-feet of groundwater within the Amargosa Basin (14-230). In conjunction with these applications, Amargosa Resources, Inc. also filed a petition for forfeiture of 25,000 acre-feet of groundwater within said basin, as provided for by NRS 534.090. This forfeiture is the basis for the water being appropriated by Amargosa Resources, Inc.

⁶ Exhibit No. 19.

⁷ Exhibit No. 23.

⁸ Exhibit No. 3.

Application 59352 seeks to appropriate 1.56 c.f.s. of water for quasi-municipal purposes to serve 400 individual homes on 320 acres within the S $\frac{1}{4}$ Section 18, T.16S., R.48E., M.D.B. & M. The total annual use is given as 400 acre-feet per year. The proposed point of diversion and place of use is the same as that under Permit 17181, Certificate 6008, said right already having a claim for forfeiture against it filed by Amargosa Resources, Inc.

NRS 533.370 states that an application to appropriate shall be rejected if it meets any of the following criteria:

1. There is no unappropriated water at the source.
2. There is a conflict with existing rights
3. It is not in the public interest.

Application 59352 is junior in priority to the applications filed by Amargosa Resources, Inc. and any consideration of this application must first take into account the appropriations previously claimed by the Protestant. The applications filed by Amargosa Resources, Inc., once granted, will result in the basin being fully appropriated and there will be no unappropriated water to support an this application as required by NRS 533.370. Therefore Amargosa Resources, Inc. respectively requests that Application 59352 be denied.

IX.

Application 59352 was timely protested by the National Park Service (NPS), as summarized, on the following grounds:⁹

- I. In sum, the NPS protests the granting of Application Number 59352 submitted by Frederick C. and Sandra J. Fellwock and David A. Mulkey, Trustee of the David A. Mulkey Living Trust, to appropriate and divert ground water, on the following grounds:

⁹ Exhibit No. 4.

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- A. The public interest will not be served if water and water-related resources in the nationally important Death Valley NM including Devil's Hole, are diminished or impaired as a result of the diversion proposed by this application.
- B. The diversion proposed by this application will reduce or eliminate the flows of springs in Death Valley NM which are discharge areas for regional ground-water flow systems, thereby impairing the senior NPS water rights.
- C. The diversion proposed by this application will cause the water level at Devil's Hole to fall, thereby impairing the senior Federal reserved water right for Devil's Hole.
- D. The diversion proposed by this application is located in the Amargosa Desert Hydrographic Area. Since this basin's water resources are already overcommitted, there is no water remaining to appropriate.

X.

Application 62529 was timely protested by the NPS on grounds similar to the protest of Application 59352. The protest is summarized as follows:¹⁰

- In sum, the NPS protests the granting of Application Number 62529, by Frederick C. Fellwock of Las Vegas, State of Nevada, to appropriate and divert ground water, on the following grounds:
 - A. The public interest will not be served if water and water-related resources in the nationally important Death Valley NP including Devil's Hole, are diminished or impaired as a result of the appropriation proposed by this application.
 - B. The appropriation proposed by this application will reduce or eliminate the flows of springs in Death Valley NP which are discharge areas for regional ground water flow systems, thereby impairing senior NPS water rights.

¹⁰ Exhibit No. 7.

- C. The appropriation proposed by this application, in combination with existing appropriations, will cause the water level at Devil's Hole to fall, thereby impairing the senior Federal reserved water right for Devil's Hole.
- D. The proposed appropriation would result in further over-appropriation above the combined perennial yield for the Amargosa Desert area. Since the area's water resources are already overcommitted, there is no water remaining to appropriate.
- E. The proposed appropriation would result in further over-appropriation in the Death Valley System, and the Pahute Mesa (or Alkali-Flat Furnace Creek Ranch) subsystem. Since the system and subsystems are already overcommitted, there is no water remaining to appropriate.
- F. The proposed appropriation, in combination with existing appropriations, would capture water that comprises outflow from the Amargosa Desert to Death Valley. Thus, the NPS's senior water rights, water resources, and water related resources will be impaired.
- G. The State Engineer has denied previous applications to appropriate water for irrigation in the Amargosa Desert, and thus Application Number 62529 should also be denied.

XI.

Application 62529 was timely protested by the U.S. Fish and Wildlife Service (USFWS) on the following grounds:¹¹

Application 62529 was filed by Frederick Fellwock and the David Mulkey Living Trust on October 24, 1996 requesting a diversion rate of 3.0 cubic feet per second from an underground source for irrigation purposes in Basin 230, Amargosa Desert, Nye County, Nevada. The proposed place of use is SW $\frac{1}{4}$, Sec. 18, T.16S., R.49E., M.D.M. in the Amargosa Desert, Groundwater Basin 230, approximately ten miles northwest of the Ash Meadows National Wildlife Refuge (Refuge). The

¹¹ Exhibit No. 6.

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proposed place of use will be referred to as the Amargosa Valley in this protest. The total annual volume is not specified in the application although the application states that 160 acres will be irrigated. Irrigation water rights in this area typically specify an annual duty of five acre-feet per acre. Thus, the total volume of water for this application can be estimated at 800 acre-feet annually.

The U.S. Fish and Wildlife Service (Service) requests that Application No. 62529 be denied because:

- Water may not be available to appropriate in the manner described. The State Engineer has denied previous applications for irrigation in this basin.
- Granting of this application may cause injury to Service-owned senior water rights for water on the Refuge.
- Granting of this application may threaten or damage habitat for species that are endangered, threatened, or considered for future listing under the Endangered Species Act and, therefore, may not be in the public interest.

Additional material was submitted by the Protestant in support of the above protest claims and is contained within Attachment A of the protest within File No. 62529, official records in the Office of the State Engineer.

XII.

Applications 66072, 66077, 66078, 66079 and 66081 were timely protested by the USFWS, NPS and U.S. Department of Energy, as summarized, on the following grounds:¹²

National Park Service:

The NPS protested on grounds very similar to its protests of Applications 59352 and 62529. A representative

¹² Exhibit Nos. 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 24, 25 and 26.

summary of the protests to Applications 66072, 66077, 66078, 66079 and 66081 is as follows:

- There is no unappropriated water at the proposed source.
- The approval and development of this application will impair the senior water rights of the United States.
- The public interest would not be served by granting a permit because the water and water-related resources of the Death Valley National Park would be diminished or impaired, the aesthetic value of the park would be reduced, the application is speculative and the land is not owned by the applicant.

U.S. Fish and Wildlife Service:

The USFWS requests that Application Nos. 66072 through 66081 be denied because:

- Water may not be available to appropriate in the manner described.
- Granting of these applications may cause injury to Service-owned senior water rights for water on the Ash Meadows National Wildlife Refuge.
- Granting of these applications may threaten or damage habitat for species that are endangered, threatened, or considered for future listing under the Endangered Species Act and, therefore, may not be in the public interest.

U.S. Department of Energy:

The United States Department of Energy, Yucca Mountain Site Characterization Office protested on the following grounds:

- This application should not be granted until litigation is concluded regarding the U.S. Department of Energy (DOE), Yucca Mountain Project (YMP) water permit applications.
- The proposed use conflicts with existing rights in Basin 230 and with existing senior YMP water appropriation permits in Basin 227A and Basin 229 and YMP applications currently being litigated.
- The proposed use threatens to prove detrimental to the public interest in protecting the threatened

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and endangered species and critical habitats at Ash Meadows, Devils Hole and/or Death Valley. If the State Engineer determines that the Applicant's proposed use will not prove detrimental to this matter of public interest, the application should nevertheless not be approved unless the Applicant agrees to continue demonstrating that its water use is not causing such harm by implementing a regional groundwater monitoring program designed to identify the potential for and to prevent such impacts to regional water resources.

XIII.

After all parties were duly noticed, a public administrative hearing was held before the Office of the State Engineer on June 12-14, 2006.¹³

FINDINGS OF FACT

I.

State Engineer's Order No. 724, issued May 14, 1979, described and designated the Amargosa Desert Hydrographic Basin as a groundwater basin in need of additional administration under the provisions of NRS § 534.030.¹⁴

All water right applications, which are filed in the Office of the State Engineer, are subjected to an analysis to determine the location of the proposed points of diversion. This determination is a critical part of the initial application review process and establishes which hydrographic basin the proposed points of diversion are located within. The description of the proposed points of diversion found within Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 and their supporting maps were used to plot the location of the proposed well sites.

The State Engineer finds that Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 have proposed

¹³ Transcript and Exhibits, public administrative hearing June 12-14, 2006, official records of the Office of the State Engineer.

¹⁴ State Engineer's Order No. 724, dated May 14, 1979, official records in the Office of the State Engineer.

points of diversion that are located within the geographic boundaries of the designated Amargosa Desert Hydrographic Basin.

II.

An examination of the records of the Office of the State Engineer identified numerous water right applications with proposed points of diversion located within the Amargosa Desert Hydrographic Basin that have been previously denied. Amongst this group of denied applications are several, which requested new appropriations of underground water for irrigation purposes.¹⁵ The State Engineer finds that previous applications to appropriate water for irrigation purposes have been denied in the Amargosa Desert Hydrographic Basin.

III.

The Nevada Revised Statutes (NRS) chapters 533 and 534 and the policies developed by the Office of the State Engineer control the appropriation of water within the State of Nevada. Under the provisions found under NRS § 533.370(5), before an application that requests a new appropriation of underground water can be considered for approval it must be determined, amongst other things, that there is unappropriated water available at the targeted source. The answer to the question of what amount of underground water is available for additional appropriation from the Amargosa Desert Hydrographic Basin can be found in an analysis of the basin's recharge-discharge relationship. Central to this equation is the concept of the perennial yield of the Amargosa Desert Hydrographic Basin.

Perennial yield of a groundwater reservoir may be defined as the maximum amount of ground water that can be

¹⁵ State Engineer's Ruling Nos. 2480, 2793 and 3206, official records in the Office of the State Engineer.

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salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded groundwater levels will decline.¹⁶

Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increase in cost due to increased pumping lifts, land subsidence and possible reversal of groundwater gradients, which could result in significant changes in the recharge-discharge relationship.

The United States Geological Survey (USGS) estimates that the perennial yield of the Amargosa Desert Hydrographic Basin as follows:¹⁷

The physical conditions in Amargosa Desert suggest that the estimate of discharge is the better basis on which to estimate perennial yield in the light of present information. Thus, the tentative perennial yield may be about 24,000 acre-feet per year. Of this, about 17,000 acre-feet can be obtained by full development of the springs in Ash Meadows. The remaining amount would be available for development by wells largely in the area northwest and northeast of the springs. Unused discharge from the springs that is returned to the ground-water reservoir downgradient from the springs toward Death Valley Junction could be withdrawn for use. However, the chemical quality generally becomes progressively poorer by this recycling and the suitability for the intended use should be evaluated carefully.

¹⁶ State Engineer's office, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 13, Oct. 1971.

¹⁷ Walker, G.E. and Eakin, T.E., *Ground-Water Resources - Reconnaissance Series Report 14, Geology and Groundwater of Amargosa Desert, Nevada-California*, Department of Conservation and Natural Resources in Cooperation with the U.S. Geological Survey, p. 29, (1963).

The Office of the State Engineer has for many years relied upon the USGS' estimates of perennial yield. These estimates are critical in determining the degree of regulation, which must be placed upon a groundwater basin's limited underground water resources. An examination of records on file in the Office of the State Engineer indicate that the Amargosa Desert Hydrographic Basin groundwater recharge from precipitation is 600 acre-feet per year, groundwater inflow from Mercury Valley, Rock Valley, Jackass Flats, and Crater Flat totals 44,000 acre-feet per year, groundwater evapotranspiration (ET) is 24,000 acre-feet per year, and subsurface outflow is 19,000 acre-feet per year to the Death Valley area.¹⁸ The State Engineer finds the perennial yield of the Amargosa Desert Hydrographic Basin is currently estimated by the USGS at 24,000 acre-feet annually.

IV.

The Applicant, Nye County, presented expert testimony by Tom Buqo in an attempt to prove that the established perennial yield for Amargosa Desert is underestimated and the actual perennial yield could be as high as 40,000 acre-feet per year¹⁹ or 47,000 acre-feet per year.²⁰ The witness opined that past estimates of recharge over source areas are highly uncertain and some estimates have significantly underestimated recharge over the two major source areas to Amargosa Desert, the Spring Mountains and the Sheep Range. In addition, recharge over the Panamint Range has largely been ignored or discounted. In regards to discharge the witness indicated that past estimates of discharge have

¹⁸ State Engineer's office, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 50, Oct. 1971.

¹⁹ Transcript, p. 535.

²⁰ Exhibit No. 79, p. 30.

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significantly underestimated the total ET losses in Amargosa Desert, especially with regard to losses from bare soil and sparsely vegetated soil.²¹

The witness calculated a water budget based on both recharge and discharge largely using water budget components from previous studies. Components used in formulating total recharge to the Amargosa Basin included recharge from precipitation over mountain block areas, subsurface inflow from tributary groundwater basins, secondary recharge from streambed infiltration and irrigated areas, and recharge from precipitation over groundwater ET areas. The total recharge to the Amargosa Basin was calculated by adding the recharge from precipitation using the Maxey-Eakin method estimated as 1,500 acre-feet per year, recharge from precipitation over valley floor groundwater ET areas which is assumed to equal 1 inch per year occurring over 25,000 acres to yield an estimate of 2,000 acre-feet per year, inflow from primary tributary basins estimated as 45,300 acre-feet per year, secondary recharge from the Amargosa River and Forty-mile Wash estimated as 140 acre-feet per year, and secondary recharge from irrigated land estimated as 850 acre-feet per year. The total recharge to the Amargosa Basin was estimated at 49,790 acre-feet per year.²² Areas within the Amargosa Desert hydrographic basin examined by the witness in formulating total groundwater discharge from ET included groundwater ET from 12,467 acres in the Ash Meadows area as classified in Water-Resources Investigations Report 01-4195 (Laczniak, et al., 2001), plus an additional 58,000 acres with a depth to groundwater of less than 10 feet, and 45,000 acres where the depth to groundwater ranges between

²¹ Exhibit No. 79, pp. 30-34.

²² Exhibit No. 79, Table 12

10 and 50 feet.²³ The total area of groundwater ET classified by the witness for the Amargosa Desert hydrographic area is about 103,000 (58,000 + 45,000) acres, and the total area of groundwater ET classified in Water-Resources Investigations Report 01-4195 (Laczniak, et al., 2001) from Ash Meadows, Franklin Well, and Franklin Lake areas which fall within the Amargosa Desert hydrographic area²⁴ is 15,095 acres.²⁵ Using an area-weighted groundwater ET rate of 1.4 feet per year for the Ash Meadows area given in Water-Resources Investigations Report 01-4195 (Laczniak, et al., 2001), a groundwater ET rate of 0.5 feet per year for areas with depth to groundwater less than 10 feet, and a groundwater ET rate of 0.1 feet per year for areas with depth to groundwater from 10 to 50 feet, the witness claims that the resulting estimate of groundwater ET in the Amargosa Desert Hydrographic Basin is 47,300 acre-feet per year²⁶ as compared to the Water-Resources Investigations Report 01-4195 (Laczniak, et al., 2001) estimate of 19,350 acre-feet per year.²⁷ The discrepancy in total groundwater ET presented by the Applicant as compared to Water-Resources Investigations Report 01-4195 is obviously related to the extent of groundwater ET areas and the respective rates of groundwater ET. The witness attributes the imbalance of total recharge of about 50,000 acre-feet per year and total groundwater ET of about 47,000 acre-feet per year to represent subsurface outflow out of the Amargosa Desert Hydrographic Basin through the Funeral Range and in the area south of Eagle Mountain.²⁸

²³ Exhibit No. 79, p. 33.

²⁴ Transcript, p. 231.

²⁵ Exhibit No. 34, Table 2 and p. 16.

²⁶ Exhibit No. 79, Table 12.

²⁷ Exhibit No. 34, Table 10.

²⁸ Exhibit No. 79, p. 34.

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In rebuttal, Mr. Laczniak testified as an expert witness for the Protestant. Mr. Laczniak explained that the larger area of groundwater ET was considered but it was ultimately decided that the ET rates were so small that they would not play a significant role in the ET estimate and could be accounted for in the error of the estimated total groundwater ET volume. In addition Mr. Laczniak explained that Mr. Buqo's estimate of 47,300 acre-feet per year is a result of his estimation of such a large area of depth to water less than 50 feet and ET rates that are too high.²⁹ Mr. Laczniak went on to explain that the methodology used by Mr. Buqo was flawed citing several examples. First, Mr. Buqo used a rate of 0.1 foot per year for water levels between 10 and 50 feet but if the curve utilized to make this estimate is extended it shows that the evaporative flux is nearly zero by the time you get to just 20 feet in depth. The result is an overestimation of the groundwater ET. Second, the soil type of the area in question is more gravelly and pebbly with not much clay. Gravelly and pebbly soil is coarser than clay and water is more readily evaporated when clay is present. By changing this parameter, the ET rate could be as low as 0.01 foot per year. Third, the maps are biased on the high side in terms of the area where the water table is less than 50 feet.³⁰

The Office of the State Engineer has for many years relied upon the USGS' estimates of perennial yield. These estimates are critical in determining the degree of regulation, which must be placed upon a groundwater basin's limited underground water resources. In several groundwater basins, the USGS has modified their initial

²⁹ Transcript, p. 637.

³⁰ Transcript, pp. 646-651.

reconnaissance level estimates of perennial yield through additional published studies, with the Office of the State Engineer accepting the revised numbers. Although numerous new studies have been conducted, none of the cited studies offer a new and convincing value for perennial yield in the Amargosa Desert Hydrographic Basin. The State Engineer finds that the ET estimates offered by the Applicant are not based on measured rates and it is not certain if the rates proffered will actually occur in these areas of sparse vegetation and bare soil. The State Engineer finds the Protestant has presented a convincing argument that the Applicant has overestimated the groundwater ET. After a thorough review of the reports cited by the expert witnesses and each witnesses conflicting analyses, the State Engineer finds that sufficient data does not exist to modify the currently accepted perennial yield estimate of the USGS.

v.

Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 each request new appropriations of ground water from the Amargosa Hydrographic Basin. When an application is filed with the Office of the State Engineer the date of the filing is noted on the application and a sequential application number is assigned. Nevada water law is based in part on the prior appropriation doctrine, which is simplistically summarized as "first in time, first in right." Applications are prioritized on this basis with the priority of an application, and any later permit or certificate derived from that application, being the date the application was filed. This date is referred to as the priority date. An examination of this group of applications shows that Application 59352 has the senior-most priority date of October 29, 1993. Application 62529 has a priority date of October 24, 1996, and Applications

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66072, 66077, 66078, 66079 and 66091 have priority dates of February 16, 2000.

Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 each request new appropriations of ground water as listed below by descending priority date:

<u>Application No.</u>	<u>Amount Requested</u>
59352	400 acre-feet annually
62529	800 acre-feet annually*
66072	3,800 acre-feet annually**
66077	3,750 acre-feet annually**
66078	3,750 acre-feet annually**
66079	3,300 acre-feet annually**
<u>66081</u>	<u>4,000 acre-feet annually**</u>

*160 acres of irrigation at 5 acre-feet per acre

**Calculated by direct conversion of diversion rate

Under NRS § 533.370(5), the first criteria that must be considered in the issuance of any new water appropriation is a determination of whether water is available at the source. The evidence presented indicated that the committed water resources for all water rights in the Amargosa Desert Hydrographic Basin total over 62,000 acre-feet annually. Within that amount, the committed ground water resources are approximately 24,078 acre-feet annually excluding existing domestic wells and the potential for future domestic well development. The remaining committed water resources are approximately 37,948 acre-feet annually with about 35,541 acre-feet annually of that amount derived from spring sources in the Amargosa Desert Hydrographic Basin.³¹

The issue of existing and future domestic wells merits discussion when considering the committed and future development of groundwater resources in the Amargosa Desert

³¹ Exhibit 51, p. 7.

Hydrographic Basin. A review of well driller reports (well logs) shows 476 domestic wells in the Amargosa Desert Hydrographic Basin.³² Under Nevada water law, a domestic well may use up to 1,800 gallons per day (2.02 acre-feet annually) for domestic purposes without the benefit of a water right permit.³³ This equates to a potential of 961.52 acre-feet annually being pumped from existing domestic wells (476 wells * 2.02 acre-feet annually = 961.52 acre-feet annually). Testimony indicated that 27,904 acres of land are currently available for disposal through the U.S. Bureau of Land Management.³⁴ Further, Nye County is working on an omnibus lands bill to set aside additional land for both community purposes and commercial purposes.³⁵ With the amount of land that is and will be available for development, the potential for a dramatic increase in the number of domestic wells appears certain. Witness Bugo stated that a parceling ordinance exists in Pahrump Valley that requires the purchase and dedication of water rights to offset the impact of any additional domestic wells created due to serial parceling. However, the ordinance does not apply to Amargosa Valley, where parceling can occur in a manner that bypasses the subdivision requirements of the Nevada Division of Water Resources.³⁶

An examination of the amount of water requested by each application shows the smallest appropriation request is for the senior-most application at 400 acre-feet annually. The remaining appropriation requests range from 800 acre-feet annually to 4,000 acre-feet annually with the

³² Nevada Division of Water Resource's Well Log Database, November 13, 2006.

³³ NRS § 534.180.

³⁴ Transcript, p. 467.

³⁵ Transcript, p. 468.

³⁶ Transcript, pp. 519-521.

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total amount of water requested under all of the pending applications adding up to 19,800 acre-feet annually.

The following table illustrates the imbalance that exists between committed resources and perennial yield within the Amargosa Desert Hydrographic Basin and also illustrates the potential increase in this imbalance that could result from any approval of Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66091.

	(-) Committed Resources (afa)	(+) Perennial Yield (afa)	(-) Imbalance (afa)
Committed Groundwater Rights including existing Domestic Wells	25,040	7,000	-18,000
Protestant's Existing Rights to Spring Discharge	17,000*	17,000*	0
Applicants' total requested appropriations	19,800	-----	-19,800
Totals (Rounded to nearest 1,000)	62,000	24,000**	-38,000

*The 17,000 acre-feet annually discharged by springs in Ash Meadows is used to satisfy the certificated rights of the United States Fish and Wildlife Service for wildlife purposes.³⁷

**The USGS estimated perennial yield of 24,000 acre-feet annually consists of 7,000 acre-feet annually potentially available for pumping from the underground water in Amargosa Desert and 17,000 acre-feet annually discharged by the springs in Ash Meadows.³⁸

³⁷ Exhibit No. 51.

³⁸ Walker G.E. and Eakin T.E., *Ground-Water Resources - Reconnaissance Series Report 14, Geology and Groundwater of Amargosa Desert, Nevada-California*. Department of Conservation and Natural Resources in Cooperation with the U.S. Geological Survey, Foreword and p. 29, (1963).

The State Engineer finds that over 24,000 afa of water has been committed under existing permits and certificates for development from wells. The State Engineer finds that existing water rights in the Amargosa Desert Hydrographic Basin exceeds the perennial yield of the basin.

VI.

The State Engineer finds that Protestant Amargosa Resources, Inc. failed to attend the administrative hearing and failed to submit any evidence or testimony in support of its protest claim.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³⁹

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴⁰

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

Protestant Amargosa Resources, Inc., protestant to Application 59352 only, failed to attend the administrative hearing and failed to submit any evidence or testimony in support of its protest claim. After reviewing the protest and in consideration of the lack of any supporting

³⁹ NRS chapters 533 and 534.

⁴⁰ NRS § 533.370(5).

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testimony or evidence, the State Engineer concludes that this protest claim must be dismissed.

IV.

The State Engineer concludes that previous applications, similar to Application 62529, have been denied for irrigation purposes in the Amargosa Desert Hydrographic Basin; therefore, Application 62529 may be considered for denial.

V.

The State Engineer concludes that the best estimate of the perennial yield of the Amargosa Desert Hydrographic Basin is 24,000 acre-feet annually as determined by the USGS. Based upon careful review of the record and the findings contained in this ruling, the State Engineer concludes that there is no justification for changing the accepted perennial yield estimate of the USGS.

VI.

The State Engineer concludes over 24,000 acre-feet annually is currently committed in the form of existing groundwater rights and an additional 962 acre-feet annually is necessary to meet the demand for existing domestic wells. The total demand on the groundwater resource from existing rights total over 25,000 acre-feet annually exclusive of the potential demand from future domestic wells. The estimated perennial yield is only 24,000 acre-feet annually and includes 17,000 acre-feet annually of discharge from springs in Ash Meadows. The committed groundwater resources of the Amargosa Desert Hydrographic Basin currently exceed the groundwater basin's estimated perennial yield. Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 would increase the demand on the Amargosa Desert Hydrographic Basin's groundwater resources by 19,800 acre-feet annually.

The State Engineer concludes that the approval of any of the subject applications would result in the withdrawal of substantial amounts of ground water in excess of the perennial yield of the Amargosa Desert Hydrographic Basin and therefore, would adversely affect existing rights and would threaten to prove detrimental to the public interest.

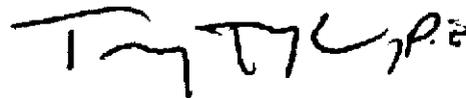
VII.

The State Engineer concludes that to grant permits on applications in an over-appropriated groundwater basin would interfere with the existing water rights; thus, mandating under Nevada law that the State Engineer deny said applications.

RULING

The Amargosa Resources, Inc., protest to Application 59352 is hereby dismissed. The remaining protests to Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 are upheld in part and not ruled on in part. Applications 59352, 62529, 66072, 66077, 66078, 66079 and 66081 are hereby denied on the grounds that there is no unappropriated water in the Amargosa Desert Hydrographic Basin, approval of the applications would conflict with existing rights and approval of the applications would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

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Dated this 16th day of
July, 2007.

EXHIBIT B2

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STATE ENGINEERS OFFICE

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

ORDER

DESIGNATING AND DESCRIBING
THE AMARGOSA DESERT GROUND WATER BASIN,
NYE COUNTY, NEVADA

The State Engineer finds that conditions warrant the designation of the Amargosa Desert Ground Water Basin, Nye County, Nevada, and by this Order designates the following described area of land as a ground water basin coming under the provisions of Chapter 534 NRS (Conservation and Distribution of Underground Waters).

T.11S., R.46E.

Portions of Sections 31, 32, and 33 lying within the Amargosa Desert Drainage Basin.

T.12S., R.46E.

Portions of Sections 1, 2, 3, and 4, all of Sections 5, 6, 7, 8, 9, 10, portions of Sections 11, 12, 13, and all of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 lying within the Amargosa Desert Drainage Basin.

T.12S., R.47E.

Portions of Sections 16, 17, and 18, all of Sections 19 and 20, portions of Sections 21, 22, 26, and 27, all of Sections 28, 29, 30, 31, 32, 33, 34, and the portions of Sections 35 and 36 lying within the Amargosa Desert Drainage Basin.

T.13S., R.46E. (Unsurveyed)

All of said Township lying in the State of Nevada.

T.13S., R.47E.

Portion of Section 1 and all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 lying within the Amargosa Desert Drainage Basin.

T.13S., R.48E. (Unsurveyed)

Portion of the W 1/2 of said Township lying within the Amargosa Desert Drainage Basin.

T.14S., R.46E. (Unsurveyed)

All of said Township lying within the State of Nevada.

T.14S., R.47E. (Unsurveyed)

All of said Township lying within the State of Nevada.

T.14S., R.48E. (Unsurveyed)

All of said Township lying within the Amargosa Desert Drainage Basin.

T.14S., R.49E. (Unsurveyed)

All of said Township lying within the Amargosa Desert Drainage Basin.

T.15S., R.47E. (Unsurveyed)

All of said Township lying within the State of Nevada.

T.15S., R.48E. (Unsurveyed)

All of said Township lying within the Amargosa Desert Drainage Basin.

T.15S., R.49E.

The W 1/2 of Section 3, all of Sections 4, 5, and Sections 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29, and Sections 32, 33, 34, 35, and 36 lying within the Amargosa Desert Drainage Basin.

T.15S., R.50E.

All of Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 lying within the Amargosa Desert Drainage Basin.

T.15S., R.51E. (Unsurveyed)

All sections and portions thereof lying south of the Las Vegas Bombing and Gunnery Range and/or the Nevada Proving Grounds' boundary and lying within the Amargosa Desert Drainage Basin.

T.15S., R.52E. (Unsurveyed)

All sections and portions thereof lying south of the Nevada Proving Grounds' boundary and lying within the Amargosa Desert Drainage Basin.

T.15S. R.53E. (Unsurveyed)

All sections or portions thereof lying south of the Nevada Proving Grounds' boundary and lying within the Amargosa Desert Drainage Basin.

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T.15S., R.54E. (Unsurveyed)

All sections or portions thereof lying south of the Nevada Proving Grounds' boundary and lying within the Amargosa Desert Drainage Basin.

T.16S., R.47E. (Unsurveyed)

All of said Township lying within the State of Nevada.

T.16S., R.48E.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, portions of Sections 18, 19, and 20, all of Sections 21, 22, 23, 24, 25, 26, and 27, portions of Sections 28, 29, 33, and 34, and all of Sections 35 and 36 lying within the State of Nevada that are not part of the Death Valley National Monument.

T.16S., R.49E.

All

T.16S., R.50E.

All

T.16S., R.51E.

All

T.16S., R.52E.

All

T.16S., R.53E.

Portion of Section 1, all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, portions of Sections 12, and 13, all of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, portions of Sections 24, 25, and 26, all of Sections 27, 28, 29, 30, 31, 32, 33, and 34, and the portion of Section 35 lying within the Amargosa Desert Drainage Basin.

T.16S., R.54E.

Portion of Section 6 lying within the Amargosa Desert Drainage Basin.

T.17S., R.48E.

All of Section 1, portions of Sections 2, 3, 11, 12, and 13 lying within the State of Nevada.

T.17S., R.49E.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, portions of Sections 18, 19, and 20, all of Sections 21, 22, 23, 24, 25, 26, and 27, portions of Sections 28, 29, 33, and 34, and all of Sections 35 and 36 lying within the State of Nevada.

T.17S., R.50E.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, and the portions of Section 36 lying within the Amargosa Desert Drainage Basin that are not part of the Death Valley National Monument.

T.17S., R.51E.

All

T.17S., R.52E.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, and the portion of Section 36 lying within the Amargosa Desert Drainage Basin.

T.17S., R.53E.

Portions of Sections 2 and 3, all of Sections 4, 5, 6, 7, 8, and 9, portions of Sections 10, 11, and 14, all of Sections 15, 16, 17, 18, 19, 20, and 21, portions of Sections 22, 23, 27, and 28, all of Sections 29 and 30, and the portions of Sections 31, 32, and 33 lying within the Amargosa Desert Drainage Basin.

T.18S., R.49E.

All of Section 1 and the portions of Sections 2, 3, 11, 12, and 13 lying within the State of Nevada.

T.18S., R.50E.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, portions of Sections 18, 19, and 20, all of Sections 21, 22, 23, 24, 25, 26, and 27, portions of Sections 28, 33, and 34, and all of Sections 35 and 36 lying within the State of Nevada.

T.18S., R.51E.

All

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T.18S., R.52E.

Portion of Section 2, all of Sections 3, 4, 5, 6, 7, 8, 9, and 10, portions of Sections 11 and 14, all of Sections 15, 16, 17, 18, 19, 20, 21, and 22, portions of Sections 23, 24, and 25, all of Sections 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, and the portion of Section 36 lying within the Amargosa Desert Drainage Basin.

T.19S., R.50E.

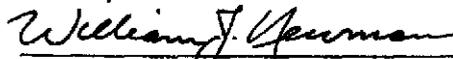
All of Section 1 and the portions of Sections 2, 3, 11, 12, and 13 lying within the State of Nevada.

T.19S., R.51E.

All of Sections 1, 2, 3, 4, 5, and 6, portions of Sections 7, 8, 9, 10, and 11, all of Section 12, and the remaining portions of said Township lying within the Amargosa Desert Drainage Basin and the State of Nevada.

T.19S., R.52E.

Portions of Sections 1 and 2, all of Sections 3, 4, 5, 6, 7, 8, 9, and 10, and the portions of Sections 11, 14, 15, 16, 17, and 18 lying within the Amargosa Desert Drainage Basin.



William J. Newman
STATE ENGINEER

Dated at Carson City, Nevada,

this 14th day of MAY, 1979.

EXHIBIT B3

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OF THE STATE OF NEVADA

ORDER

WHEREAS, NRS § 534.120 provides that within an area that has been designated by the State Engineer where, in his judgment, the ground-water basin is being depleted, the State Engineer in his administrative capacity is empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved;

WHEREAS, the State Engineer designated the Amargosa Desert Hydrographic Basin as provided under the provisions of NRS § 534.030 by Order No. 724, dated May 14, 1979;

WHEREAS, an administrative hearing was held on September 5-6, 2007,¹ where evidence and testimony was received regarding the potential impacts of regional pumping on existing rights, particularly the federally reserved water right at Devils Hole.² The federally reserved water right specifies a threshold water level at Devils Hole. Information provided at the hearing show the water level in Devils Hole is only 0.6 to 0.7 feet above the threshold level mandated by the U.S. District Court;³

WHEREAS, the State Engineer finds that conditions warrant the curtailment of future appropriations of underground water and additional regulation of change applications within a portion of the Amargosa Desert Hydrographic Basin;

WHEREAS, Devils Hole is located within the Amargosa Desert Hydrographic Basin and is further described as being within the SW¼ SW¼ SE¼ of Section 36, T.17S., R.50E., M.D.B.&M. within a detached unit of the Death Valley National Park and the boundaries of the Ash Meadows Wildlife Refuge, Nye County, Nevada;

NOW THEREFORE, it is ordered that, with the following exceptions, any applications to appropriate additional underground water and any application to change the point of diversion of an existing ground-water right to a point of diversion closer to Devils Hole, described as being within a 25 mile radius from Devils Hole within the Amargosa Desert Hydrographic Basin, will be denied;

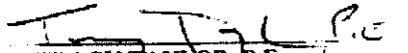
¹ Transcript and Exhibits, public administrative hearing September 5-6, 2007, official records of the Office of the State Engineer

² *Cappaert v. United States*, 426 U.S. 128, (1976).

³ Note. The District Court's decision was upheld by the Court of Appeals and the Supreme Court of the United States. See, *United States v. Cappaert*, 375 F. Supp. 456 (D. Nev. 1974); *Cappaert v. United States*, 426 U.S. 128, 141 (1976); *United States v. Cappaert*, 455 F. Supp. 81 (D. Nev. 1978).

EXCEPTIONS:

1. Any application within the described area that seeks to change an existing point of diversion closer to Devils Hole but remains within its existing place of use and is no more than ½ mile from its original point of diversion.
2. Those applications filed which seek to appropriate 2.0 acre-feet per year or less, may be considered and shall be processed subject to NRS 533 and 534.
3. For projects that require changes of multiple existing rights, the State Engineer may compare the net impact to Devils Hole of the proposed changes to the impacts to Devils Hole of the base rights. If the net impact of the proposed changes is the same or less than the base right impacts, as determined by the State Engineer, such change applications may be considered and shall be processed subject to NRS 533 and 534. In no such case shall new points of diversion be allowed within ten (10) miles of Devils Hole.
4. Those applications for environmental permits filed pursuant to NRS 533.437 to 533.4377, inclusive.
5. Those applications filed pursuant to NRS 533.371.


TRACY TAYLOR, P.E.
State Engineer

Dated at Carson City, Nevada this

04th day of November, 2008.

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EXHIBIT B4

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ASH MEADOWS NWR WATER RIGHTS

Permit	Certificate	Source	POD #	Priority Date	Flow rate (cfs)	Duty (ac-ft)	Combined Flow (cfs) from all PODs	Combined Duty (ac-ft) from all PODs
53597	14399	Sink Hole Spring	1		0.018	13.03	0.02	13.0
53599	14393	White Mound Spring	1	1-6/1948	0.0008	0.58		
54259	14394	White Mound Spring	2	1-6/1948	0.0007	0.51		
62294	15307	White Mound Spring	3	8-29/1962	0.000625	0.45		
53600	14338	Longstreet Spring	1	10-15/1915	0.634	459.00	0.002	1.5
53601	14339	Longstreet Spring	1	7-25/1916	0.7107	514.50		
53602	14340	Longstreet Spring	1	7-2/1959	0.3036	219.80		
53620	14329	Longstreet Spring	1	7-25/1974	0.7909	572.62		
53637	14387	Longstreet Spring	1	1896	0.3108	225.00		
53603	14341	Longstreet Spring	1	11-16/1953	0.011	2.50	2.75	1990.9
54249	14345	Twin Kitchen Spring	2	11-16/1953	0.011	2.50		
53604	14350	Twin Kitchen Spring	1	2-28/1961	0.00625	4.54	0.02	5
54251	14351	McGillivray Spring	2	2-28/1961	0.00625	4.54		
53605	14400	Three Springs Group	1	7-5/1961	0.069	49.95	0.01	9.1
54250	14408	Three Springs Group	1	1886	0.069	49.95		
53636	14406	Three Springs Group	2	1886	0.085	50.00		
53606	14348	Three Springs Group	1	7-25/1961	0.01114	8.06	0.15	99.95
53607	14342	Unnamed Spring	1	7-3/1915	0.9111	659.60	0.01	8.1
53609	14324	Fairbanks Spring	1	3-8/1961	2.2757	1647.52		
53610	14325	Fairbanks Spring	1	4-27/1914	0.6299	456.00		
53611	14326	Fairbanks Spring	1	10-8/1923	0.1933	140.00		
53608	14349	Fairbanks Spring	1	7-6/2016	0.02	12.00	4.01	2903.1
53612	14327	Cold Spring	1	2-10/1961	1.331	965.13	0.02	12.0
53613	14328	Rogers Spring	1	1-25/1918	0.3869	280.10		
53615	14344	Rogers Spring	1	2-28/1961	0.09	65.16	1.72	1245.2
53617	14401	Soda Spring	1	8-18/1932	0.028	20.00	0.09	65.2
53618	14345	Collins Springs	1	4-1/1918	1.5373	1113.00	0.03	20.0
53619	15352	Big Spring	1	3-8/1961	4.9927	3615.52		
53621	14346	Big Spring	1	4-2/1952	6.53	4728.52	6.53	4728.5
53622	14347	Big Spring	1	4-2/1952	0.772	558.90		
53623	14618	Jackrabbit Spring	1	4-16/1964	1.318	954.20		
53624	14619	Jackrabbit Spring	1	7-20/1979	2.09	1513.10	2.09	1513.1
53625	14620	Jackrabbit Spring	1	7-20/1979	6.53	1432.00		
		Crystal Spring	1	7-20/1979	6.53	70.00		
		Crystal Spring	1	7-20/1979	6.53	170.00		
		Crystal Spring	1		6.53	6.53	6.53	1672.0

ASH MEADOWS NWR WATER RIGHTS

53526	14402	Point of Rocks	1	4/24/1970	0.0909	65.77		
53627	14330	Point of Rocks	1	4/2/1952	1.7217	1246.50		
53629	14332	Point of Rocks	1	4/16/1964	0.8288	600.00		
53630	14403	Point of Rocks	1	2/20/1943	0.2486	180.00		
		Point of Rocks			2.89	2092.27		2092.3
53628	14331	Indian Seed Spring	1	3/24/1966	0.1	72.40		
53633	14404	Indian Seed Spring	1	4/7/1950	0.1	72.40		
53634	14333	Indian Rock Springs	1	3/24/1966	0.1027	74.38		
53635	14405	Indian Rock Springs	1	12/9/1948	0.4975	360.00		
53641	14337	Unnamed Springs (11)	2	7/16/1906	0.1037	75.10		
		Indian Rocks			0.8637	581.88		482.1
53638	14334	Bradford Springs	1	11/29/1912	0.4552	329.34		
53639	14335	Bradford Springs	1	9/8/1948	0.3274	237.04		
53640	14336	Bradford Springs	1	11/5/1948	0.3274	237.03		
		Bradford Springs			1.11	803.61		717.9
53642	14407	School House Springs	1	1/22/1907	0.12	86.88		
54252	14409	School House Springs	2	1/22/1907	0.011	7.96		
54253	14410	School House Springs	3	1/22/1907	0.011	7.96		
54254	14411	School House Springs	4	1/22/1907	0.078	56.47		
54255	14412	School House Springs	5	1/22/1907	0.087	62.99		
54256	14413	School House Springs	6	1/22/1907	0.14	101.36		
54257	14414	School House Springs	7	1/22/1907	0.164	118.73		
54258	14415	School House Springs	8	1/22/1907	0.011	7.96		
		School House Springs			0.622	94.84		94.8

53

29.5 17673.8

Many springs have multiple PODs and multiple water rights associated with those PODs. Where a POD has multiple water rights associated with it, there is combined duty listed on the water right certificate. Where the spring has more than one POD, the duty is specified individually for each POD.

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EXHIBIT B5

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Longstreet Spring, through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, T.17S., R.50E., M.D.B.&M.,
or at a point from which the NE corner of said
Section 22 bears N.85°31'02"E., a distance of
1,706.46 feet situated in Nye County, State of
Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator:	U.S. Fish and Wildlife Service
Source:	Longstreet Spring
Manner of Use:	Wildlife
Amount of appropriation:	*0.7909 c.f.s., but not to exceed 572.62 acre-feet annually
Period of use:	January 1st to December 31st of each year
Date of priority of appropriation.	**July 25, 1974

Description of the works of diversion, manner and place of use:

The water is diverted through a natural spring through a six inch fiberglass Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9; E $\frac{1}{2}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 17, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{2}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 30; E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{2}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 15; All of Sections 23 & 24; N $\frac{1}{2}$, Section 25; NE $\frac{1}{4}$, Section 26; T.18E., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 17; All of Sections 18 & 19; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 20; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{2}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53600, 53601, 53602 and 53637 shall not exceed 2.75 c.f.s. and 1,990.92 acre-feet annually, respectively.

continued.....

**This certificate changes the point of diversion, place of use and manner of use of Permit 28548, therefore, the date of priority remains the same as Permit 28548.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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STATE ENGINEERS OFFICE

THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Longstreet Spring, through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, T.17S., R.50E., M.D.B.&M.,
or at a point from which the NE corner of said
Section 22 bears N.85°31'02"E., a distance of
1,706.46 feet situated in Nye County, State of
Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator:	U.S. Fish and Wildlife Service
Source:	Longstreet Spring
Manner of Use:	Wildlife
Amount of appropriation:	*0.6340 c.f.s., but not to exceed 459.0 acre-feet annually
Period of use:	January 1st to December 31st of each year
Date of priority of appropriation:	**October 15, 1915

Description of the works of diversion, manner and place of use:

The water is diverted through a natural spring, through a six inch fiberglass Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9; S $\frac{1}{2}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{2}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 30; E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{2}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 16; All of Sections 23 & 24; N $\frac{1}{2}$, Section 25; NR $\frac{1}{4}$, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 17; All of Sections 18 & 19; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 20; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{2}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53601, 53602, 53620, and 53637 shall not exceed 2.75 c.f.s. and 1,990.92 acre-foot annually, respectively.

continued.....

Page 2

Permit 53600
Certificate 14338

**This certificate changes the point of diversion, place of use and manner of use of Permit 3624 Certificate 761, therefore, the date of priority remains the same as Permit 3624 Certificate 761.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

~ ~ ~ ~ ~

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Longstreet Spring, through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, T.17S., R.50E., M.D.B.&M., or at a point from which the NE corner of said Section 22 bears N.85°31'02"E., a distance of 1,706.45 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator:	U.S. Fish and Wildlife Service
Source:	Longstreet Spring
Manner of Use:	Wildlife
Amount of appropriation:	*0.7107 c.f.s., but not to exceed 514.5 acre-feet annually
Period of use:	January 1st to December 31st of each year
Date of priority of appropriation:	**July 25, 1916

Description of the works of diversion, manner and place of use:

The water is diverted through a natural spring, through a six inch fiberglass Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9; S $\frac{1}{2}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{2}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 30; E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{2}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 16; All of Sections 23 & 24; N $\frac{1}{2}$, Section 25; NE $\frac{1}{4}$, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 17; All of Sections 18 & 19; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 20; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{2}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53600, 53602, 53620, and 53637 shall not exceed 2.75 c.f.s. and 1,990.92 acre-feet annually, respectively.

continued.....

Page 2

Permit 53601
Certificate 14339

****This certificate changes the point of diversion, place of use and manner of use of Permit 4076 Certificate 1109, therefore, the date of priority remains the same as Permit 4076 Certificate 1109.**

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Longstreet Spring, through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, T.17S., R.50E., M.D.B.&M.,
or at a point from which the NE corner of said
Section 22 bears N.85°31'02"E., a distance of
1,706.46 feet situated in Nye County, State of
Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of Appropriator:	U.S. Fish and Wildlife Service
Source:	Longstreet Spring
Manner of Use:	Wildlife
Amount of appropriation:	*0.3036 c.f.s., but not to exceed 219.8 acre-feet annually
Period of use:	January 1st to December 31st of each year
Date of priority of appropriation:	**July 2, 1959

Description of the works of diversion, manner and place of use:

The water is diverted through a natural spring, through a six inch (fiberglass Parshall) flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9; S $\frac{1}{2}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{2}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 30; E $\frac{1}{2}$, R $\frac{1}{2}$ W $\frac{1}{2}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, R $\frac{1}{2}$ SR $\frac{1}{4}$, SW $\frac{1}{4}$ SR $\frac{1}{4}$, Section 31; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{2}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 16; All of Sections 23 & 24; N $\frac{1}{2}$, Section 25; NR $\frac{1}{4}$, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 17; All of Sections 18 & 19; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 20; W $\frac{1}{2}$ NR $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{2}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53600, 53602, 53620, and 53637 shall not exceed 2.75 c.f.s. and 1,990.92 acre-feet annually, respectively.

continued.....

Page 2

Permit 53602
Certificate 14340

**This certificate changes the point of diversion, place of use and manner of use of Permit 18094 Certificate 8440, therefore, the date of priority remains the same as Permit 18094 Certificate 8440.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Longstreet Spring through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

NW 1/4 NE 1/4, Section 22, T.17S., R.50E., M.D.B.&M. or at a point from which the NE corner of said Section 22 bears N. 85°31'02" E., a distance of 1,706.46 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: U.S. Fish and Wildlife Service
Source: Longstreet Spring
Manner of Use: Wildlife
Amount of appropriation: =0.3108 c.f.s., but not to exceed 225.00 acre-feet annually
Period of use: January 1st to December 31st of each year
Date of priority of appropriation: **1896

Description of the works of diversion, manner and place of use:

Water is diverted through a natural spring through a six inch fiberglass Parshall flume to water-based habitats (wetlands, springs, seeps and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, NE 1/4 NE 1/4, NE 1/4 SE 1/4, S 1/2 SE 1/4 Section 9; S 1/2 Section 10; NE 1/4 NE 1/4 Section 12; All of Sections 15 & 16; E 1/2 E 1/2 Section 17; SE 1/4 SE 1/4 Section 19; E 1/2, S 1/2 SW 1/4, Section 20; All of Sections 21 and 22; Lots 3 & 4, W 1/2 NW 1/4, Section 23; S 1/2 Section 26; All of Sections 27, 28, & 29; E 1/2 E 1/2 Section 30; E 1/2 E 1/2 W 1/2, Section 32; All of Sections 33, 34, & 35; W 1/2, S 1/2 SE 1/4 Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE 1/4 NE 1/4, SE 1/4 SW 1/4, E 1/2 SE 1/4, SW 1/4 SE 1/4, Section 31. S 1/2 NW 1/4, SW 1/4, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3, & 4; E 1/2, NW 1/4 Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E 1/2 E 1/2 Section 16; All of Sections 23 & 24; N 1/2 Section 25; N 1/2 Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7, & 8; W 1/2 E 1/2, W 1/2 Section 17; All of Sections 18 & 19; W 1/2 E 1/2, W 1/2 Section 20; W 1/2 NE 1/4, NW 1/4 Section 29; and N 1/2 Section 30; T.18E., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificates issued under Permits 53600, 53601, 53602 and 53620 shall not exceed 2.75 c.f.s. and 1,990.00 acre feet annually, respectively.

**This certificate changes the point of diversion, purpose and manner of use of Proof 02421, therefore, the title to the water remains the same as Proof 02421.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 2th day of AUGUST, A.D. 1996.


State Engineer

cms/sb

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EXHIBIT B6

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Fairbank's Spring, through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

SE 1/4 NE 1/4 Section 9, T.17S., R.50E., M.D.B.&M., or at a point from which the E 1/4 corner of said Section 9 bears S.42°48'07"E., a distance of 746.39 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 535.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: U.S. Fish and Wildlife Service
Source: Fairbank's Spring
Manner of Use: Wildlife
Amount of appropriation: *2.2757 c.f.s., but not to exceed 1,647.52 acre-feet annually
Period of use: January 1st to December 31st of each year
Date of priority of appropriation: **March 8, 1961

Description of the works of diversion, manner and place of use:

The water is diverted from a natural spring through a nine inch wide Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE 1/4 NE 1/4, NE 1/4 SE 1/4, S 1/2 SE 1/4, Section 9; S 1/2, Section 10; NE 1/4 NE 1/4, Section 12; All of Sections 15 & 16; E 1/2 E 1/2, Section 17; SE 1/4 SE 1/4, Section 19; E 1/2, S 1/2 SW 1/4, Section 20; All of Sections 21 & 22; Lots 3 & 4, W 1/2 NW 1/4, Section 23; S 1/2 Section 26; All of Sections 27, 28 & 29; E 1/2 E 1/2 Section 30; E 1/2, E 1/2 W 1/2, Section 32; All of Sections 33, 34 & 35; W 1/2, S 1/2 SE 1/4 Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE 1/4 NE 1/4, SE 1/4 SW 1/4, E 1/2 SE 1/4, SW 1/4 SE 1/4, Section 31; S 1/2 NW 1/4, SW 1/4, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E 1/2, NW 1/4, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E 1/2 E 1/2, Section 16; All of Sections 23 & 24; N 1/2, Section 25; NE 1/4, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W 1/2 E 1/2, W 1/2, Section 17; All of Sections 18 & 19; W 1/2 E 1/2, W 1/2, Section 20; W 1/2 NE 1/4, NW 1/4 Section 29; and N 1/2 Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53607, 53610 and 53611 shall not exceed 4.01 c.f.s. and 2,903.12 acre-feet annually, respectively.

continued.....

**This certificate changes the point of diversion, place of use and manner of use of Permit 19649 Certificate 7736, therefore, the date of priority remains the same as Permit 19649 Certificate 7736.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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STATE ENGINEERS OFFICE

THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

~ ~ ~ ~ ~

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Fairbank's Spring, through a Farshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

SE 1/4 NE 1/4 Section 9, T.17S., R.50E., M.D.B.&M., or at a point from which the E 1/4 corner of said Section 9 bears S.42°48'07"E., a distance of 746.39 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: U.S. Fish and Wildlife Service
Source: Fairbank's Spring
Manner of Use: Wildlife
Amount of appropriation: *0.6299 c.f.s., but not to exceed 456.00 acre feet annually
Period of use: January 1st to December 31st of each year
Date of priority of appropriation: **April 27, 1914

Description of the works of diversion, manner and place of use:

The water is diverted from a natural spring through a nine inch wide Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE 1/4 NE 1/4, NE 1/4 SE 1/4, S 1/2 SE 1/4, Section 9; S 1/2, Section 10; NE 1/4 NE 1/4, Section 12; All of Sections 15 & 16; E 1/2 E 1/2, Section 17; SE 1/4 SE 1/4, Section 19; E 1/2, S 1/2 SW 1/4, Section 20; All of Sections 21 & 22; Lots 3 & 4, W 1/2 NW 1/4, Section 23; S 1/2 Section 26; All of Sections 27, 28 & 29; E 1/2 E 1/2 Section 30; E 1/2, E 1/2 W 1/2, Section 32; All of Sections 33, 34 & 35; W 1/2, S 1/2 SE 1/4 Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE 1/4 NE 1/4, SE 1/4 SW 1/4, E 1/2 SE 1/4, SW 1/4 SE 1/4, Section 31; S 1/2 NW 1/4, SW 1/4, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E 1/2, NW 1/4, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E 1/2 E 1/2, Section 16; All of Sections 23 & 24; N 1/2, Section 25; NE 1/4, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W 1/2 E 1/2, W 1/2, Section 17; All of Sections 18 & 19; W 1/2 E 1/2, W 1/2, Section 20; W 1/2 NE 1/4, NW 1/4 Section 29; and N 1/2 Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53607, 53609 and 53611 shall not exceed 4.01 c.f.s. and 2,903.12 acre-feet annually, respectively.

continued.....

**This certificate changes the point of diversion, place of use and manner of use of Permit 4119 Certificate 763, which changed the point of diversion of Permit 2951, therefore, the date of priority remains the same as Permit 2951.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

~ ~ ~ ~ ~

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Fairbank's Spring, through a Parshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

SE 1/4 NE 1/4 Section 9, T.17S., R.50E., M.D.B.&M., or at a point from which the E 1/2 corner of said Section 9 bears S.42°48'07"E., a distance of 746.39 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: U.S. Fish and Wildlife Service
Source: Fairbank's Spring
Manner of Use: Wildlife
Amount of appropriation: *0.1933 c.f.s., but not to exceed 140.00 acre-feet annually
Period of use: January 1st to December 31st of each year
Date of priority of appropriation: **October 8, 1923

Description of the works of diversion, manner and place of use:

The water is diverted from a natural spring through a nine inch wide Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE 1/4 NE 1/4, NE 1/4 SE 1/4, S 1/2 SE 1/4, Section 9; S 1/2, Section 10; NE 1/4 NE 1/4, Section 12; All of Sections 15 & 16; E 1/2 E 1/2, Section 17; SE 1/4 SE 1/4, Section 19; E 1/2, S 1/2 SW 1/4, Section 20; All of Sections 21 & 22; Lots 3 & 4, W 1/2 NW 1/4, Section 23; S 1/2 Section 26; All of Sections 27, 28 & 29; E 1/2 E 1/2 Section 30; E 1/2, E 1/4 W 1/2, Section 32; All of Sections 33, 34 & 35; W 1/2, S 1/2 SE 1/4 Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE 1/4 NE 1/4, SE 1/4 SW 1/4, E 1/2 SE 1/4, SW 1/4 SE 1/4, Section 31; S 1/2 NW 1/4, SW 1/4, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E 1/2, NW 1/4, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E 1/2 E 1/2, Section 16; All of Sections 23 & 24; N 1/2, Section 25; NE 1/4, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W 1/2 E 1/2, W 1/2, Section 17; All of Sections 18 & 19; W 1/2 E 1/2, W 1/2, Section 20; W 1/2 NE 1/4, NW 1/4 Section 29; and N 1/2 Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53607, 53609 and 53610 shall not exceed 4.01 c.f.s. and 2,903.12 acre-feet annually, respectively.

continued.....

****This certificate changes the point of diversion, place of use and manner of use of Permit 6983 Certificate 1653, therefore, the date of priority remains the same as Permit 6983 Certificate 1653.**

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.



State Engineer

cms/sb

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, David B. Ledig, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Fairbanks's Spring, through a Farshall flume for Wildlife purposes. The point of diversion of water from the source is as follows:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, T.17S., R.50E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 9 bears S.42°48'07"E., a distance of 746.39 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator:	U.S. Fish and Wildlife Service
Source:	Fairbank's Spring
Manner of Use:	Wildlife
Amount of appropriation:	*0.9111 c.f.s., but not to exceed 659.60 feet annually
Period of use:	January 1st to December 31st of each year
Date of priority of appropriation:	**July 3, 1915

Description of the works of diversion, manner and place of use:

The water flows from a natural spring and sub-irrigates water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9; S $\frac{1}{4}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{4}$ E $\frac{1}{4}$, Section 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{4}$, S $\frac{1}{4}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{4}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{4}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{4}$ E $\frac{1}{4}$ Section 30; E $\frac{1}{4}$, E $\frac{1}{4}$ W $\frac{1}{4}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{4}$ SR $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31; S $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{4}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{4}$ E $\frac{1}{4}$, Section 16; All of Sections 23 & 24; N $\frac{1}{4}$, Section 25; NE $\frac{1}{4}$, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{4}$ E $\frac{1}{4}$, W $\frac{1}{4}$, Section 17; All of Sections 18 & 19; W $\frac{1}{4}$ E $\frac{1}{4}$, W $\frac{1}{4}$, Section 20; W $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{4}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53609, 53610, and 53611 shall not exceed 4.01 c.f.s. and 2,903.12 acre-feet annually, respectively.

Page 2

Permit 53607
Certificate 14342

**This certificate changes the point of diversion, place of use and manner of use of Permit 3485 Certificate 1141, therefore, the date of priority remains the same as Permit 3485 Certificate 1141.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1996.


State Engineer

cms/sb

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EXHIBIT B7

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THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

~ ~ ~ ~ ~

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Pete Rogers Spring, through two Parshall flumes for Wildlife purposes. The point of diversion of water from the source is as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T.17S., R.50E., M.D.B.&M., or at a point from which the NE corner of said Section 15 bears N.62°07'44"E., a distance of 1,585.37 feet situated in Nye County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator:	U.S. Fish and Wildlife Service
Source:	Pete Rogers Spring
Manner of Use:	Wildlife
Amount of appropriation:	*1.331 c.f.s., but not to exceed 965.13 acre-feet annually
Period of use:	January 1st to December 31st of each year
Date of priority of appropriation:	**February 10, 1961

Description of the works of diversion, manner and place of use:

The water is diverted from a natural spring through a three inch wide and a six inch wide Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9; S $\frac{1}{2}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{2}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 30; E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{2}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 16; All of Sections 23 & 24; N $\frac{1}{2}$, Section 25; NE $\frac{1}{4}$, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 17; All of Sections 18 & 19; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 20; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{2}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53613 shall not exceed 1.72 c.f.s. and 1,245.23 acre-feet annually, respectively.

continued.....

**This certificate changes the point of diversion, place of use and manner of use of Permit 19556 Certificate 7685, therefore, the date of priority remains the same as Permit 19556 Certificate 7685.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of June, A.D. 1995.



State Engineer

cms/sb

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STATE ENGINEERS OFFICE

THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

~ ~ ~ ~ ~

WHEREAS, Patricia J. Fiedler, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Pete Rogers Spring, through two Parshall flumes for Wildlife purposes. The point of diversion of water from the source is as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T.17S., R.50E., M.D.B.&M.,
or at a point from which the NE corner of said
Section 15 bears N.62°07'44"E., a distance of
1,585.37 feet situated in Nye County, State of
Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of PPS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: U.S. Fish and Wildlife Service
Source: Pete Rogers Spring
Manner of Use: Wildlife
Amount of appropriation: *0.3869 c.f.s., but not to exceed
280.10 acre-feet annually
Period of use: January 1st to December 31st of each
year
Date of priority of
appropriation: **January 25, 1918

Description of the works of diversion, manner and place of use:

The water is diverted from a natural spring through a three inch wide and a six inch wide Parshall flume to water-based habitats (wetlands, springs, seeps, and ponds) within the Ash Meadows National Wildlife Refuge for Wildlife purposes located within the following:

Lots 7 & 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9; S $\frac{1}{2}$, Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12; All of Sections 15 & 16; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19; E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 20; All of Sections 21 & 22; Lots 3 & 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 23; S $\frac{1}{2}$ Section 26; All of Sections 27, 28 & 29; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 30; E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, Section 32; All of Sections 33, 34 & 35; W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36; T.17S., R.50E., M.D.B.&M.

Lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 32; T.17S., R.51E., M.D.B.&M.

All of Sections 1, 2, 3 & 4; E $\frac{1}{2}$, NW $\frac{1}{4}$, Section 9; All of Sections 10, 11, 12, 13, 14, & 15; E $\frac{1}{2}$ E $\frac{1}{2}$, Section 16; All of Sections 23 & 24; N $\frac{1}{2}$, Section 25; NE $\frac{1}{4}$, Section 26; T.18S., R.50E., M.D.B.&M.

All of Sections 5, 6, 7 & 8; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 17; All of Sections 18 & 19; W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, Section 20; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ Section 29; and N $\frac{1}{2}$ Section 30; T.18S., R.51E., M.D.B.&M.

*The total combined rate of diversion and duty of water under this certificate and any certificate issued under Permits 53612 shall not exceed 1.72 c.f.s. and 1,245.23 acre-feet annually, respectively.

continued.....

**This certificate changes the point of diversion, place of use and manner of use of Permit 4866 Certificate 1142, therefore, the date of priority remains the same as Permit 4866 Certificate 1142.

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 12th day of June, A.D. 1996.


State Engineer

cms/sb

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In Response Reply To:
FWS/R8/Refuges

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
2800 Cottage Way, Suite W-2606
Sacramento, California 95825



October 7, 2015

Jason King, State Engineer
Nevada Department of Conservation & Natural Resources
Division of Water Resources
901 S. Stewart St., Suite 2002
Carson City, NV 89701

Dear Mr. King,

Subject: Protest of App No 85417

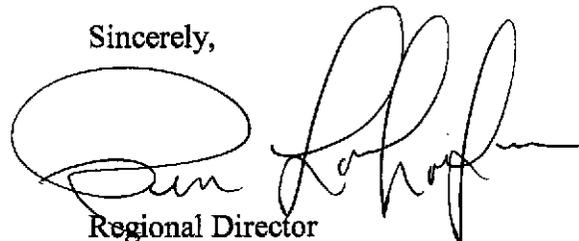
Enclosed is a protest of Application Number 85417, filed by Ministerio Roca Solida Iglesia Cristiana., on August 28, 2015 for permission to change point of diversion and manner of use of waters from Carson Slough in the Amargosa Desert Hydrologic Basin. Also enclosed is a check for \$30 to cover the protest fee.

Please direct all correspondence concerning this protest to Tim Mayer, Supervisory Hydrologist, at the following address:

Tim Mayer
U.S. Fish and Wildlife Service
Water Resources Branch
911 NE 11th Ave
Portland, OR 97232-4181

If you have any questions or need further information, please contact Tim Mayer at (503) 231-2395.

Sincerely,


Regional Director

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