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

FILED
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STATE ENGINEER'S OFFICE

In the Matter of Application No. 85538
Filed By Granite Peak Properties, LC
on October 21, 2015

PROTEST

Comes now Baker Ranches, Inc. ("Protestant"), whose post office address is P.O. Box 170, Baker, Nevada 89311, whose occupation is ranching and farming, by and through its undersigned attorneys of record, and hereby protests the granting of Application No. 85538, filed on October 21, 2015 by Granite Peak Properties, LC ("Granite Peak" or "Applicant"), for permission to appropriate underground water in the Snake Valley Basin (No. 195) situated in White Pine County, State of Nevada, for the following reasons and on the following grounds, to wit:

1. The application requests to appropriate groundwater from an existing well identified as "Well #18" (Application No. 85538, Section 1). Well #18 was also the proposed point of diversion for Application Nos. 78795, 78796, 78797, 84153, and 84156 that were previously denied by the Nevada State Engineer. The Nevada State Engineer should deny the subject application, Application No. 85538, for the same reasons that he previously denied Application Nos. 78795, 78796, 78797, 84153, and 84156, in Ruling No. 6311:

(A) Pumping of water from Well #18 will result in groundwater level declines, reduced flow from Dearden Springs, and reduced flow in Lake Creek, which are fully appropriated sources; and

(B) The reduction in flow from Dearden Springs and from Lake Creek, resulting from pumping Well #18, would conflict with the Protestant's senior existing water rights.

The Protestant's senior water rights in Nevada are supported by a 1922 Decree filed in the Ninth Judicial District Court of Nevada in the County of White Pine and related documents (see files in the office of the Nevada State Engineer for Application Nos. 2442 & 2443), Vested Claim No. V-09610, and the Protestant's senior rights in Utah, are supported by pre-1903 diligence claims filed with the Utah Division of Water Rights (Water Right Nos. 18-244, 18-393, 18-684, and 18-708). These protectable water rights were recognized in, and formed the basis of denial of applications in Ruling 6311. The Protestant's senior and vested rights to water are also protected by NRS 533.085.

2. The State Engineer should deny the application because the application involves a proposed point of diversion which is directly connected to an existing irrigation pipeline system that ties together all of the Applicant's existing wells to irrigate lands in Nevada and Utah, which will conflict with existing rights, create metering issues associated with the pipeline distribution system that connects all the wells together, and because of the Applicant's history of irrigating unauthorized lands (State Engineer Case No. AV-88 and 7th Jud. Dist. Court Case No. CV-14-11139).

3. The application should be denied because the aquifer from which the well would pump has already shown declining water levels in nearby monitoring wells, and has contributed to the drying of Needle Point Spring, correlating with Granite Peak's existing pumping operations. Properties of the aquifer, and simulated and measured adverse effects of groundwater pumping on water levels and spring discharges from the aquifer are documented in several past and recent U.S. Geological Survey ("USGS") Scientific Investigations Reports and modeling results ("SIR"), including, but not limited to, SIR 2007-5261, SIR 2011-5032, and SIR 2014-5103. The declining water level trends and spring flows are also documented in reports published by the U.S. Bureau of Land Management, and are evident in local monitoring well data and spring flow data recorded by the Utah Geological Survey and the USGS. (See <http://geology.utah.gov/resources/data-

databases/groundwater-monitoring/> and <http://waterdata.usgs.gov/nv/nwis>). The already declining trends in groundwater levels and local spring flows would continue at even greater rates if the Applicant's proposed new appropriation from Well #18 is approved and developed, to the detriment of existing creek flows and tributary spring flows, to the detriment of the Protestant's senior rights in Nevada and Utah, and to the detriment of wildlife that are also dependent on those sources of water.

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

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

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

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

8. The Protestant respectfully requests that the Nevada State Engineer order the Applicant, Granite Peak Properties, to cap or otherwise permanently seal the discharge pipeline from Well #18, and permanently disconnect the source of power to the well, such that no water may ever be pumped from the well in the future to the detriment of the Protestant's existing senior water rights.

9. In the alternative, if the Nevada State Engineer is inclined to grant approval of Granite Peak's pending water right application, the Protestant respectfully requests that the State Engineer order Granite Peak to:

(A) Replace the existing well pump and motor with a smaller pump and motor that would ensure a pumping rate limited to 0.11 cfs or 49 gallons per minute (Application 85538 Section 2), noting that information provided by Granite Peak during the February 2015 Hearing indicates the existing well has a potential pumping capacity of 1,250 gallons per minute (see Exhibit GP0061, pages 7 and 25);

(B) Disconnect the discharge pipeline from Well #18 to the existing center pivot irrigation pipeline system, to ensure water pumped from the well for the proposed stockwater use is not used for irrigation on lands in Nevada or Utah; and

(C) Conduct a controlled aquifer test for Well #18, and subsequent monitoring, such that an evaluation may be made of the actual impacts that Granite Peak's pumping has on local water levels and the flow of water in the Big Springs/Lake Creek system that are entirely dependent upon groundwater discharges via local springs.

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

Respectfully submitted,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

By: _____

CHRISTOPHER W. MIXSON, ESQ.
Nevada Bar No. 10685
5594-B Longley Lane
Reno, Nevada 89511
(775) 853-6787/Fax: (775) 853-6774
cmixson@wrslawyers.com
Agents for Protestant

_____ Notary Public

State of Nevada)
)
County of Washoe)

Subscribed and sworn to before me this 4th day of December, 2015.

LAURA SIMAR
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 99-53998-2 - Expires April 23, 2019

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