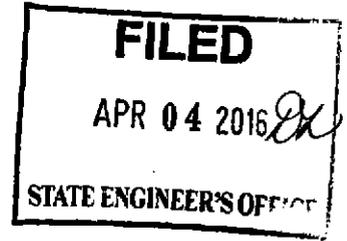


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 85901
FILED BY Rodney St. Clair
ON January 29, 2016



PROTEST



Comes now USDOJ -Bureau of Land Management

Printed or typed name of protestant

whose post office address is 5100 E. Winnemucca Blvd., Winnemucca, NV 89445

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

whose occupation is federal land management agency

and protests the granting

of Application Number 85901

, filed on January 29

, 2016

by Rodney St. Clair

for the

waters of underground (Well BR-01)

situated in Pershing

an underground source or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:

Please see attached statement of reasons

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THEREFORE the Protestant requests that the application be

Denied

Denied, issued subject to prior rights, etc., as the case may be

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed

Agent or protestant

William Mack Jr.

Printed or typed name, if agent

Address

5100 E. Winnemucca Blvd.

Street No. or PO Box

Winnemucca, NV 89445

City, State and ZIP Code

State of Nevada

County of Humboldt

Subscribed and sworn to before me on 4-1-16

775-623-1500

Phone Number

by William Mack Jr.

wmack@blm.gov

E-mail

Handwritten signature of T. Spero

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.



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Winnemucca District Office  
Black Rock Field Office  
5100 East Winnemucca Boulevard  
Winnemucca, Nevada 89445  
Phone: (775) 623-1500 Fax: (775) 623-1503  
Email: wfoweb@blm.gov  
www.blm.gov/nv/st/en/fo/wfo.html

In Reply Refer To:  
7250 (NV010.20)

APR 01 2016

Your Reference: Apps. #85901 and #85902

Mr. Jason King, P.E.  
State Engineer  
Division of Water Resources  
901 South Stewart Street, Suite 2002  
Carson City, NV 89701-5250

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Dear Mr. King:

This letter is a Statement of Reasons, attached to the BLM's protest of water rights application Nos. 85901 and 85902. Approval of these water rights would prove detrimental to the public interest. The grounds for the BLM protest are as follows:

1. The perennial yield for basin 026 is 13,000 AFA. According to the basin summary report, 5,759 AFA of underground water rights have already been permitted within the basin. The combined duty of the two water rights applications is 14,241 AFA, which is 7,000 AFA over the perennial yield.
2. The locations of the proposed wells and associated developments are within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (Black Rock NCA). The Black Rock NCA was designated in 2000 "in order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, cultural, paleontological, scenic, scientific, biological, educational, wildlife, riparian, wilderness, endangered species and recreational values and resources associated with the Applegate-Lassen and Nobles Trails corridors and surrounding areas..." (NCA Act 2000 Sec. 4(a)). The BLM may "only allow such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established." (NCA Act Sec. 5(c)(1)). The proposed wells do not meet the needs of the conservation area. Moreover, the proposed wells and

associated developments would not meet the conservation goals and objectives outlined in the Resource Management Plan for the Black Rock NCA (2004).

3. Application 85902 lies within the Calico Mountains Wilderness. The development of structures and installations, and the use of motorized equipment, are prohibited in designated wilderness areas (Wilderness Act 1964 Sec. 4(c)). The Calico Mountains Wilderness was designated in 2000 with the passage of the NCA Act. No provisions for water developments were provided for in the designating legislation. Application 89501 lies immediately adjacent to the Calico Mountains Wilderness. Development of wells and associated structures may have impacts to the adjacent wilderness.
4. There are many springs located within a 10-mile radius of the proposed pumping sites. All of these springs are within the NCA, and many are in the Calico Mountains Wilderness. There are also several springs located in the northern part of the basin associated with the Soldier Meadows spring complex. This area is habitat for the desert dace, a Federally listed threatened species.

Withdrawing water on the scale proposed in these applications could draw down the water table within the basin, potentially reducing or eliminating flows at springs within the Wilderness and NCA. Highly productive riparian areas associated with these springs could be damaged or eliminated. Some of the sensitive animal species that might be affected by these impacts are spring snails, California bighorn sheep, Golden eagle, Short-eared owl, Western burrowing owl, Western snowy plover, Prairie falcon, Greater sandhill crane, Western least bittern and about six species of bats. Sensitive plants in the region include Barneby Stemflower and Winged Milkvetch.

There are several hot springs in this basin. Studies conducted by the USGS suggest that thermal systems within the Black Rock NCA are recharged locally, possibly through basin fill sediments or along faults. Studies also indicate that there are several distinct geothermal systems within the area which are possibly hydraulically connected. Pumping of groundwater, either in the basin-fill or in a geothermal aquifer, could result in impacts to these hot springs. There are many important historic and prehistoric cultural sites associated with the hot springs of the Black Rock Desert. BLM manages these sites to minimize modern intrusion and preserve the nature of the historic landscape. Changes in spring flow associated with this application could impact these cultural resources.

5. BLM has filed seven Public Water Reserve 107 federally reserved right claims on springs in the basin within 10 miles of the proposed PODs: R04915, R04922, R04923, R04928, R04929, R04930, and R04931. In addition, BLM is evaluating Whiskey Spring and Buffalo Spring for possible PWR 107 status. Both of these springs are less than 2.5 miles

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from the proposed POU of these applications. PWR 107 Notifications will be filed under separate cover. Approval of the water right applications could impact BLM federally reserved water rights.

6. No right-of-way to convey water from the Point of Diversion to the Place of Use exists, nor has one been applied for. The Black Rock NCA Resource Management Plan (RMP) was signed in 2004 and outlines measures for the long-term protection and management of the NCA. The plan did recognize the potential future need of utility rights-of-way to private lands and identified the following management standards:

“LAND-2: Access to private lands and valid existing rights outside wilderness may be authorized by granting rights-of-way that provide for the reasonable use and enjoyment of private lands by their owners while minimizing impacts on resources. “

“LAND-3: No new utility corridors will be established in the planning area.  
”LAND-5: Utility rights-of-way may be granted outside of Wilderness where in conformance with visual quality objectives and the NCA Act.”

“LAND-6: Permanent above-ground facilities will not be allowed on the 104,546 acre playa of the Black Rock Desert.”

If these applications are approved, rights-of-way across the public lands to convey the water from the proposed point of diversion to the proposed place of use would be necessary. Although no right(s)-of-way application or specific drawings have been submitted, visual intrusions to the NCA could be created. There is also a portion of the NCA described as the 104,546 acre playa of the Black Rock Desert that would not allow above-ground facilities. This action could limit potential pipeline routes and proposed facilities within the NCA. The surrounding public land areas in proximity to the proposed well locations are identified in the Black Rock NCA RMP, through the visual resource management process, as Class II. Class II areas would be managed ‘to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape.’

A potential utility right-of-way of this magnitude, along with other ancillary facilities, proposing to export a large amount of water out of the NCA and Pershing County and potentially Humboldt County could be detrimental to the area and resources.

7. Historically, springs are of cultural and religious importance to Native Americans and almost every spring in the area is a prehistoric or protohistoric archaeological site. Part of the rationale for protection of the area through the NCA designation is to protect such

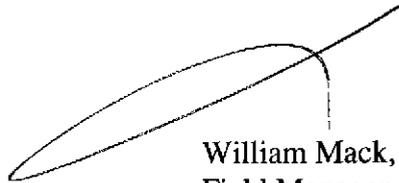
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places. Removal of a significant amount of water could draw down the springs in the surrounding area and affect the spiritual values that Native Americans hold for these areas and could degrade the condition of archaeological sites with research potential.

8. The location of the proposed wells, which are inside the NCA, is within the viewshed of the Nobles Trail, a National Historic Trail through which emigrants traveled from the eastern US to California. The NCA was established in large part to protect the viewshed of historic emigrant trails that traverse the area. The routes of the Applegate, Nobles, and Fremont Exploration Route are surrounded by what are perhaps the most undisturbed landscapes around the historic westward expansion. The establishment of wells and facilities associated with transport of the water could degrade that viewshed.

If you have any further questions please contact Bob Gibson (Hydrologist) at (775) 623-1763.

Sincerely,



William Mack, Jr.  
Field Manager  
Black Rock Field Office

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