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

IN THE MATTER OF APPLICATION NUMBER 85902

FILED BY Rodney St. Clair

ON January 29, 20 16

FILED
MAR 18 2016
PROTEST
STATE ENGINEER'S OFFICE

RECEIVED
2016 MAR 18 PM 1:50
STATE ENGINEER'S OFFICE

Comes now Humboldt River Basin Water Authority
Printed or typed name of protestant

whose post office address is P.O. Box 2008 Carson City, Nevada 89702
Street No. or PO Box, City, State and ZIP Code

whose occupation is local government and protests the granting

of Application Number 85902, filed on January 29, 20 16

by Rodney St. Clair for the

waters of an underground source (Well BR-02) situated in Pertshing
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:

1. The Division of Water Resources has estimated the perennial yield of Basin 026 at 13,000 acre feet. There are currently 5,799.16 acre feet of committed groundwater rights in the Basin. The Applicant has also filed Applications 85263, 85264 and 85901 to appropriate another 21,000 acre feet of groundwater from Basin 026. Granting either or all of Applications 85263, 85264 or 85901 in addition to 85902 would result in Basin 026 being over-apropriated in an amount exceeding at least 7,000 acre feet and as much as 21,000 acre feet. Said over-appropriation will likely adversely impair other more senior groundwater rights in the Basin. (See Attachment A for additional reasons and grounds)

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

Mike Baughman, Executive Director
Printed or typed name, if agent

Address P.O. Box 2008
Street No. or PO Box

Carson City, Nevada 89702
City, State and ZIP Code

775-315-2544
Phone Number

mikebaughman@charter.net
Email

State of Nevada
County of Carson

Subscribed and sworn to before me on March 18, 2016

by Michael Baughman

MORGEN BROWN
Notary Public - State of Nevada
Carson City
APPT. NO. 15-2039-3
My App. Expires June 29, 2019

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.

Attachment A
Continuation Sheet
Reasons and Grounds for Protest
Humboldt River Basin Water Authority
Protest to Application 85902
March 18, 2016

2016 MAR 18 PM 3:
STATE ENGINEER'S OFFICE

2. There are an additional 1,158.31 acre feet of committed spring-sourced water rights within Basin 026. Another 1,158.31 acre feet of spring-sourced claims of vested water rights have been filed with the Division of Water Resources in Basin 026. Said claims of vested water have priority dates between 1912 and 1954. The interconnection of groundwater recharge and groundwater levels in Basin 026 to spring flows in the Basin is not well understood. Over pumping of groundwater resources in the Basin associated with Application 85902 by itself, and jointly with Applications 85263, 85264 and 85901 may result in adverse impacts to the flow of various springs in the Basin and may impair senior committed and vested water rights whose source is said springs.

3. There are another 4,427.28 of committed stream-sourced water rights in the Basin. Another 8,426.58 acre feet of stream-sourced claims of vested water rights have been filed with the Division of Water Resources in Basin 026. Said claims of vested water have priority dates between 1912 and 1954. The interconnection between the base flow of said streams and groundwater pumping in Basin 026 to is not well understood. Over pumping of groundwater resources in the Basin associated with Applications 85902 by itself, and jointly with Applications 85263, 85264 and 85901 may result in adverse impacts to the base flow of various streams in the Basin and may impair senior committed and vested water rights whose source is said streams.

4. The proposed Place of Use for Application 85902 covers an area exceeding 530 square miles in the Fernley, Storey County, Silver Springs, Stagecoach and Dayton areas, all of which have one or more municipal existing municipal water systems. The Applicant is proposing that water appropriated under Application 85902 be utilized for municipal purposes yet the applicant is not a municipality, nor does the Applicant have any known agreements with any municipality in the proposed Place of Use to deliver water. Application 85902 is therefore speculative in nature.

5. The northern-most Proposed Place of Use for Application 85902 is 85-plus miles from the Proposed Point of Diversion. The southern-most Proposed Place of Use is 135-plus miles from the Proposed Point of Diversion. The capital cost of permitting, designing and constructing the proposed groundwater production and transmission system is likely to exceed $220 million, not including the cost of capital. It is not likely that the Applicant currently has demonstrable access to the level of capital required to permit, design and construct the proposed groundwater production and transmission system and is hoping to be able to secure said project capital once Application 85902 is approved. Accordingly, the Applicant cannot demonstrate the financial capability to construct the proposed groundwater production and transmission system required to place the requested water to beneficial use at the proposed Place of Use.

6 Allowing for a modest 8 percent annual return on investment (ROI) to the Applicant over 30

years, total capital and ROI costs for the project required to convey the water requested by Application 85902 may exceed $728 million. Assuming that the proposed production and transmission system delivers the 7,000 acre feet requested by Application 85902 and existing permitted water rights held by the Applicant proximate to the Proposed Point of Diversion of 2,050 acre feet, a total of 9,050 acre feet of water would be delivered for the investment of $728 million, or $80,442 per acre foot. (While it is recognized that the Applicant has additional Applications 85263, 85264 and 85901 pending before the Nevada State Engineer for another 21,000 acre feet of groundwater from Basin 026, production and conveyance of this additional amount of water is not included in this analysis because production of said additional water would greatly exceed the established perennial yield of Basin 026). Assuming that each serviced household requires just 1 acre foot, the annual cost per household served would be $2,681 over 30 years. This would equate to a monthly water cost of approximately $223 per household served. This level of cost does not include the costs of permitting, designing, constructing, operating and maintaining the water treatment and delivery systems to convey the water to households. Including said costs could easily result in the monthly cost of 1 acre foot of water served to each household being in excess of $240 to $290 per month. This amount is approximately 2-3 times what households in the Proposed Place of Use are currently paying and very likely not feasible given other more cost effective sources of water in and near the Proposed Place of Use (i.e. purchase and conversion of irrigation rights to municipal use). Accordingly, the proposed production and transmission system to serve municipal customers in the proposed Place of Use for the water requested under Application 85902 is likely not feasible, is speculative in nature and would not be in the public interest.

7. Pumping and export of the groundwater requested through Application 85902, particularly in concert with groundwater requested through Applications 85263, 85264 and 85901 will adversely impact the static water level of Basin 026 resulting to impairment of existing committed and vested senior ground and surface water rights in the basin.

8. Pumping and export of the groundwater requested through Application 85902, particularly in concert with groundwater requested through Application 85263, 85264 and 85901 will adversely impact the static water level of Basin 026 resulting in adverse impacts to the environment and to other existing permitted land uses in Basin 026 such as livestock grazing. Accordingly, approval of Application 85902 is not in the public interest.

9. The point of diversion for Application 85902 is less than 2,640 feet from the point of diversion associated with Applicant's other filed Application 85901 and it is highly unlikely that the requested amounts of water from each application could not be pumped without the cone of depression from each well impacting the production from the other well.

2016 MAR 18 PM 1:06
STATE ENGINEERS OFFICE