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

PROTEST

FILED
APR 07 2016
STATE ENGINEER'S OFFICE

Comes now Gerlach General Improvement District
Printed or typed name of protestant

whose post office address is P.O. Box 209 Gerlach, Nevada 89412
Street No. or PO Box, City, State and ZIP Code

whose occupation is political subdivision of the state of Nevada and protests the granting

of Application Number 85901, filed on January 29, 20 16

by Rodney St. Clair for the

waters of underground source 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:
See Exhibit "A" attached hereto

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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 Courtney, Chairman Gerlach GID
Printed or typed name, if agent

Address P.O. Box 209
Street No. or PO Box

Gerlach, Nevada 89412
City, State and ZIP Code

775-557-2601
Phone Number

E-mail

State of Nevada
County of Washoe

Subscribed and sworn to before me on April 6, 2016
by William Courtney

SUSAN O. JACKSON
Notary Public, State of Nevada
Appointment No. 13-9863-2
My Appt. Expires Sep 27, 2016

SUSAN O. JACKSON
Notary Public, State of Nevada
Appointment No. 13-9863-2
My Appt. Expires Sep 27, 2016

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.

Exhibit "A"

Applications 85901 and 85902 are revised versions of Applications 85263 and 85364 (filed in 2015) which are revised versions of Applications 84429 and 84430 (filed in 2014). It is apparent that the Applicant, rather than respond to the State Engineer's previous requests for additional information, refiles relatively insignificantly different applications and withdraws its previously filed applications for Hydrographic Basin 26 groundwater proposed to be exported in support of its "project" located somewhere in the Fernley Area, Tracy Segment, Churchill Valley and Dayton Valley Hydrographic Basins. In this regard, on or about December 1, 2015 the State Engineer requested the following:

> Prior to approval or rejection of Applications 85263 and 85264, the State Engineer is requesting that the following information be provided [within 60 days of the date of this letter]:
>
> - Justification of the need to import the water form the Mud Meadow Hydrographic Basin to the Fernley Area, Tracy Segment, Churchill Valley, and Dayton Valley Hydrographic Basins as defined by the proposed place of use in Applications 85263 and 85264, pursuant to Nevada Revised Status (NRS), 533.370(3)(a);
> - The Applicant's intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence, pursuant to NRS 533.370(1)(c)(1);
> - The Applicant's financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence, pursuant to NRS 533.370(1)(c)(2) and NRS 533.375(2);
> - A detailed description of the proposed project and the specific amount of water needed for the project, pursuant to NRS 533.375(2) and Supreme Court of the State of Nevada Case No. 42699, *Bacher et al. vs. the State Engineer*; and,
> - If the water in intended to be used by a third-party, please provide evidence of an existing legal contract granting the use of the water requested in Applications 85263 and 85264, pursuant to Supreme Court of the State of Nevada Case No. 42699, *Bacher et al. vs. the State Engineer* and State Engineer's Ruling No. 5782.
>
> (Amanda Brownlee December 1, 2012 letter to Rodney St. Clair)

The requested information was not provided, Applications 85901 and 85902 were filed and Applications 85263 and 89264 were withdrawn on March 12, 2012.

Grounds for denial of the subject Applications 85901 and 85902 include:

1. The perennial yield of Mud Meadow Hydrographic Basin No. 26 is 13,000 AFA with 5,759 appropriated. The perennial yield of Black Rock Hydrographic Basin

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No. 28 is 30,000 AFA with 32,696 AFA appropriated. USGS Recon. Report No. 20. The combined duty sought under Applications 85901 and 85902 is some 7,000 AFA over the perennial yield of Mud Meadow Basin, but given the interflow connection with Black Rock Basin impacts are not limited to the basin of origin. See, USGS Recon. Report No. 20. Diversion and export of such a quantity of water from the Mud Meadow Basin will unreasonably lower the static water level in the subject and interconnected basins adversely effecting the quality of remaining groundwater and further threaten springs, seep and phreatophytes which provide water and habitat critical to the survival of wildlife, grazing livestock and other surface area existing use.

2. The granting of the subject Application with regard to interbasin flows will conflict with and adversely impact existing rights, including those of the Protestant.

3. There is no unappropriated water in the proposed source.

4. The subject Application was filed for purposes of speculation with no specified ultimate use or project and accordingly is in violation of this state's anti-speculation doctrine as espoused in Bacher v. State Engineer, 122 Nev. 1110 (2006).

5. The Applicant does not intend to put the water to use for its own benefit and the Applicant does not have any contractual or agency relationship with a party intending to put the water to beneficial use.

6. The granting of the subject Application, particularly when considered with the other Application filed concurrently by this Applicant, will deprive the area of origin of water needed for its environmental and economic well being.

7. The proposed diversion and export of groundwater from the source basin(s) is not environmentally sound and will have and irreparable adverse impact on the values sought to be protected by High Rock - Black Rock Emigrant Trails National Conservation Area established by Congress in 2000.

8. The Applicant lacks the financial capability and reasonable expectation to actually construct the works necessary to apply the water to the intended beneficial use with reasonable diligence. This is underscored by the Applicant's pattern and practice of withdrawing and filing applications as described above.

9. The subject Application should be denied because it individually and cumulatively with the other Application of this proposed project will exceed the safe yield of the source and related basins.

10. The Applicant does not own or control the proposed place of use or right of way necessary to convey water to the proposed place of use.

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