FILED
APR 26 2016
STATE ENGINEER'S OFFICE

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

IN THE MATTER OF APPLICATION NUMBER 85981
FILED BY BONAVENTURE NEVADA, INC.
ON MACH 3, 2016 TO APPROPRIATE
THE PUBLIC WATERS OF THE STATE OF NEVADA

PROTEST

Comes now William Hansen, on behalf of the United States Department of the Interior, National Park Service, whose post office address is 1201 Oak Ridge Drive, Suite 250, Fort Collins, Colorado, 80525, whose occupation is Chief, Water Rights Branch, Water Resources Division, National Park Service, and protests the granting of Application Number 85981, filed on March 3, 2016, by Bonaventure Nevada, Inc. to appropriate 2.0 cubic feet per second, 210 acre-feet annually, situated in Nye County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Exhibit A attached.

THEREFORE the protestant requests that the application be denied.

Signed: Wm. R. Hansen
Agent or protestant

William R. Hansen
Printed or typed name, if agent

Address: 1201 Oak Ridge Dr., Suite 250
Street No. or P.O. Box No.

Fort Collins, CO 80525
City, State and Zip Code No.

Subscribed and sworn to before me this 23th day of April, 2016.

Notary Public

State of Colorado
County of Larimer

JOSEPH F CHAFEY
NOTARY PUBLIC - STATE OF COLORADO
Notary Identification #20154014606
My Commission Expires 4/10/2019

My Commission expires 4-10-2019.

IN THE MATTER OF APPLICATION 85981

EXHIBIT A

Protest by William Hansen, on behalf of
the United States Department of the Interior,
National Park Service

I. Death Valley National Monument was created by Presidential Proclamation in 1933 to preserve unusual features of scenic, scientific, and educational interest. The national significance of Death Valley and the surrounding area was elevated in October 1994 through enactment of the California Desert Protection Act. The Act acknowledged Death Valley's extraordinary and inestimable value, increased its area, and changed the land status to a National Park. Springs and water-related resources are important features of Death Valley National Park. The Act charged the Secretary of the Interior to take all steps necessary to protect the reserved water rights and water resources of the Park.

II. The mission of the National Park Service (NPS) may be paraphrased from 54 U.S.C. § 100101(a) (2014) (previously 16 U.S.C. §1) as conserving scenery, natural and historic objects, and wildlife, and providing for enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations. The public interest will not be served if water and water-related resources in the nationally important Death Valley National Park (NP) are diminished or impaired as a result of the appropriation proposed by this application.

III. The NPS is entitled to Federal reserved water rights for reserved lands within Death Valley NP. The priority dates for reserved rights are senior to the appropriation sought by this application. These reserved rights have not been judicially quantified.

A. In the eastern part of Death Valley NP, Grapevine, Stainingers, Keane Wonder, Nevares, Texas, and Travertine Springs provide water for park facilities, domestic use, public campgrounds, resorts, vegetation, wildlife, public enjoyment, scenic value and other related needs.

B. Public visitation to Death Valley NP for 2000 – 2015 has been reported annually as follows:

2000	1,179,094
2001	1,014,636
2002	897,596
2003	890,375
2004	764,820
2005	800,113
2006	744,440

2007	704,122
2008	871,938
2009	828,574
2010	984,775
2011	946,867
2012	984,568
2013	951,972
2014	1,101,312
2015	1,154,843

The Park supplies water for visitors from the above-named springs.

C. The springs and riparian areas in Grapevine Canyon and the Grapevine Springs complex represent a unique ecosystem within Death Valley National Park. The Grapevine Springs complex is the largest spring complex in the park and supports the largest riparian area in the park. Moderate to high-density riparian vegetation covers an area of about 240 acres. Typical vegetation communities include desert willow, honey mesquite, desert baccharis, yerba mansa, salt grass and desert wild grape. These systems provide habitat for a number of rare and endemic plants and invertebrate species. The riparian areas are known to host breeding populations of the Least Bell's Vireo. In addition, Grapevine Springs hosts several endemic springsnails, including the Grapevine Springs elongate tryonia (Tryonia margae) and the Grapevine Springs squat tryonia (Tryonia rowlandsi), both of which are NPS species of special concern.

D. Surprise Spring has an appropriative water right for domestic water supply purposes. Stainingers Spring is used as part of the water supply for visitors at Scotty's Castle and to support riparian vegetation at that location.

E. A small quantity of groundwater underflow is thought to occur between Sarcobatus Flat and Grapevine Canyon. A number of springs arise in the alluvium of Grapevine Canyon, including Stainingers Spring. Groundwater underflow in Grapevine Canyon is thought to be the source of water supplying Stainingers Spring (Malmberg and Eakin, 1962).

IV. Application 85981, filed by Bonaventure Nevada Inc. of Reno, Nevada, is seeking to appropriate groundwater at a rate of 2.0 cubic feet per second for Mining and Milling purposes. The water is to be pumped from a location in the SW¼ NW¼, Sec. 23, T8S, R44E MDB&M, within the Sarcobatus Flat hydrographic basin.

V. According to Nevada Department of Conservation and Natural Resources (1992), the perennial yield for Sarcobatus Flat is 3,000 afy. The Hydrographic Area Summary for Sarcobatus Flat indicates that existing appropriations for Sarcobatus Flat total 3,395 afy.

That does not include the 375.5 acre-feet held in trust for the Timbisha Shoshone Tribe and described in the Timbisha Shoshone Homeland Act (Public Law 106-423). Existing and senior appropriations in this basin already exceed the stated perennial yield of the basin. The withdrawal proposed by this application, when added to existing and senior pending appropriations, will exacerbate the already over-appropriated condition of the basin. Thus, there is no water available for appropriation.

VI. The Nevada State Engineer issued Order 999 designating Sarcobatus Flat as a groundwater basin in need of additional administration in August 1989. The described point of diversion and place of use under Application 85981 are within the designated portion of the Sarcobatus Flat hydrographic basin.

VII. In sum, the NPS protests the granting of Application Number 89851 on the following grounds:

A. There is no water available for appropriation because the committed ground water resources and existing water rights exceed the perennial yield of Sarcobatus Flat.

B. The approval and development of the appropriation proposed by this application will impair the water rights of the United States because ground water withdrawn from Sarcobatus Flat will eventually reduce the amount of underflow to springs within Death Valley National Park, which are discharge areas for regional ground water flow systems.

C. The public interest would not be served by granting this application because the water and water-related resources of nationally important Death Valley National Park would be diminished or impaired as a result of the appropriation proposed by this application.

VI. The NPS reserves the right to amend this exhibit as more information becomes available.

REFERENCES CITED

Harrill, J.R., Gates, J.S., and J.M. Thomas, 1988. Major ground-water flow systems in the Great Basin region of Nevada, Utah, and adjacent states: U.S. Geological Survey Hydrologic Investigations Atlas HA-694-C, 2 sheets.

Malmberg, G.T., and T.E. Eakin, 1962. Ground-Water Appraisal of Sarcobatus Flat and Oasis Valley, Nye and Esmeralda Counties, Nevada: U.S. Geological Survey Ground-Water Resources Reconnaissance Series, Report 10, 39p.

Nevada Department of Conservation and Natural Resources, 1992. Hydrographic Basin Statistical Summary, Ground Water Basins 001-232: unpublished report, Division of Water Resources and Water Planning, Carson City, Nevada.

Nevada Department of Conservation and Natural Resources, 2000. Hydrographic Basin Summary – by status for active groundwater sources for Sarcobatus Flat (Basin 146), dated March 6, 2000. Carson City, Nevada.