

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

IN THE MATTER OF APPLICATION NUMBER 53988

FILED BY the Las Vegas Valley Water District

PROTEST

ON October 17, 1989 TO APPROPRIATE THE

WATERS OF Underground

Comes now the County of Nye, State of Nevada, whose post office address is P.O. Box 1767, Tonopah, NV, 89049, whose occupation is Political Subdivision, State of Nevada, and protests the granting of Application Number 53988, filed on October 17, 1989, by the Las Vegas Valley Water District to appropriate the waters of Underground situated in Lincoln County, State of Nevada, for the following reasons and on the following grounds, to wit:

See attached.

THEREFORE the protestant requests that the application by DENIED and that an order be entered for such relief as the State Engineer deems just and proper.

Signed

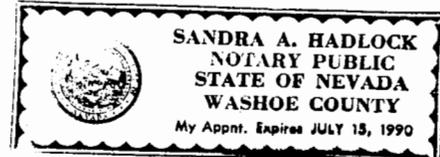
Stephen T. Bradhurst
Stephen T. Bradhurst, Agent

Address: P.O. Box 1510, Reno, NV 89505

Subscribed and sworn to before me this 6th day of July __, 1990.

Sandra A. Hadlock
Notary Public

State of Nevada
County of Washoe



REASONS AND GROUNDS FOR PROTEST BY NYE COUNTY

The Nye County Board of Commissioners, State of Nevada, does hereby protest the above-referenced Application for the following reasons and on the following grounds, to wit:

1. Upon information and belief protestant asserts that there is not sufficient unappropriated ground water in host water basin to provide the water sought in the above-referenced Application and all other pending applications involving the utilization of surface and ground water from the basin.
2. The appropriation of this water when added to the already approved appropriations and existing uses and water rights in host water basin will exceed the annual recharge and safe yield of the basin. Appropriation and use of this magnitude will lower the water table; degrade the quality of water from existing wells; cause negative hydraulic gradient influences; and threaten springs, seeps and phreatophytes which provide water and habitat that are critical to the survival of wildlife and grazing livestock.
3. The granting or approval of the above-referenced Application would unreasonably lower the water table and sanction water mining, which is contrary to Nevada law and public policy.
4. This Application is one of 146 applications filed by the Las Vegas Valley Water District seeking a combined appropriation of some 864,195 acre-feet of ground and surface water primarily for municipal use in Clark County. Diversion and export of such a quantity of water will deprive the area of origin of the water needed to protect and enhance its environment and economic well-being; and the diversion will unnecessarily destroy environmental, ecological, scenic and recreational values that the State holds in trust for all its citizens.
5. The granting or approval of the above-referenced Application in the absence of comprehensive water-resource development planning, including, but not limited to, environmental-impact considerations, socioeconomic-impact considerations, cost/benefit considerations, water-resource evaluation by an independent entity, and a water-resource plan for the Las Vegas Valley Water District (such as is required by the Public Service Commission of water purveyors) is detrimental to the public welfare and interest.
6. The granting or approval of the above-referenced Application would be detrimental to the public interest in that it, individually and together with other applications of the water importation project, would:
 - a. Likely jeopardize the continued existence of endangered and threatened species recognized under the federal Endangered Species Act and related state statutes;

12. The subject Application should be denied because it individually and cumulatively with other applications of the proposed project will exceed the safe yield of host water basin thereby adversely affecting phreatophytes and creating air contamination and air pollution in violation of State and Federal Statutes, including, but not limited to, the Clean Air Act and Chapter 445 of the Nevada Revised Statutes.
13. The Application cannot be granted because the applicant has failed to provide information to enable the State Engineer to properly safeguard the public interest. The adverse effects of this Application and related applications associated with the proposed water appropriation and transportation project (largest appropriation of ground water in the history of the State of Nevada) cannot properly be evaluated without an independent, formal and publicly reviewable assessment of the following:
 - a. The water resources of the proposed area of diversion and the cumulative effects of the proposed diversions;
 - b. Mitigation measures that will reduce the impacts of the proposed extraction; and
 - c. Alternatives to the proposed extraction, including, but not limited to, the alternatives of no extraction and aggressive implementation of all proven and cost-effective water-demand management strategies.
14. The above-referenced Application should be denied because the applicant has failed to provide the protestant relevant information regarding this Application and other applications which comprise the proposed importation project (works) as required by N.R.S. 533.363. The failure to provide such relevant information denies protestant due process of law under Chapter 533, N.R.S., in that said relevant information may provide protestant with further meaningful grounds of protest, and that protestant may be forever barred from submitting such further grounds of protest because the protest period may end before Applicant provides such required information. The failure of applicant to provide such information denies protestant the meaningful opportunity to submit protests to this Application and other applications associated with the water importation project as allowed by Chapter 533, N.R.S.
15. The subject Application should be denied because the population projections upon which the water-demand projections are based are unrealistic and ignore numerous constraints to growth, including traffic congestion, increased costs of infrastructure and services, degraded air quality, protection of rare and endangered species, etc.
16. The subject Application should be denied because previous and current conservation programs instituted by the Las Vegas Valley Water District are inefficient public-relations-oriented efforts that are unlikely to achieve substantial water savings. Public-policy and public-interest considerations should preclude the negative environmental and socioeconomic consequences of the proposed transfers on areas of origin when the potential water importer has failed to make a good-faith effort to efficiently use currently available supplies.

Gold, however, is not the only mineral found in minable quantities and qualities in the region. Silver, molybdenum, and copper also are an important part of the economies of the three counties and so, to a lesser degree, is the extraction of mercury, fluorspar, calcium borate, zinc, lead and perlite. Each of these minerals is currently being produced in the region. As demand in the world changes for minerals, these and others may make important contributions to the region's and the state's economy. The effect on mining of removal of ground water from the region should be fully understood before the applications are approved.

- d. *Manufacturing:* Space-requiring industries (e.g., Aero-Jet, Southern California Aerospace, etc.), which are increasingly constrained in the Los Angeles metroplex, could choose locations in the Nevada desert, particularly if other infrastructure (rail, highways, electric power, water, etc.) were available. Those interested could include:
- Manufacturers requiring Nevada's clean air or large expanses of uninhabited land
 - Industry serving the U.S. Departments of Defense and Energy
 - Producers of gaming devices or photovoltaic equipment
 - Manufacturers dependent upon minerals extracted in Nevada, or serving those industries.
- e. *Tourism:* Though slow to develop, tourism and travel could increase between Interstate Highways 80 and 15. Development could include facilities such as attractions for those enjoying Nevada's laws on gaming, and health spas centered around thermal hot springs and Nevada's clean air and quiet, empty landscapes.

Geothermal wells deserve particular mention regarding tourism. The region has many documented geothermal sources with varying temperatures suitable for a variety of uses. It is widely believed that the extraction of ground water will decrease the flow of these springs before their potential is fully developed. The Japanese, for instance, especially enjoy thermal waters and often make them a part of their vacations as well as daily life; Europeans have flocked to health spas for centuries. It is possible that geothermal springs could be developed into a lucrative tourist attraction, but not if the ground water is so depleted that it reduces or eliminates geothermal sources.

Wildlife could also be adversely affected. The National Park Service, in a publication about outside threats to Death Valley, says that "Environmental impacts are probable to . . . Sunnyside/Kirch Wildlife Management Area, Railroad Valley wetlands areas, Key Pittman Wildlife Management Area, Pahrangat National Wildlife Refuge, and the Ash Meadows National Wildlife Refuge if the [LVVWD] applications are approved." Damage to or loss of wildlife areas could cause a decline in tourist visits to the region and prevent expansion.

An unpublished assessment of Las Vegas Valley Water District's project by Mike L. Baughman reports that the three counties "contained 275 [water-

30. The undersigned additionally incorporates by reference as though fully set forth herein and adopts as its own, each and every other protest to this Application and/or any application filed that is associated with the water-importation project and filed pursuant to N.R.S. 533.365.