

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

IN THE MATTER OF APPLICATIONS 53987	)	
THROUGH 53992, INCLUSIVE, FILED BY	)	
LAS VEGAS VALLEY WATER DISTRICT TO	)	<b>SUMMARY OF</b>
APPROPRIATE THE UNDERGROUND	)	<b>PROTEST ISSUES</b>
WATERS OF DELAMAR VALLEY (182)	)	
DRY LAKE VALLEY (181), CAVE VALLEY	)	
(180) HYDROGRAPHIC BASINS	)	
LINCOLN AND WHITE PINE COUNTIES,	)	
NEVADA	)	
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Pursuant to the State Engineer's direction during the pre-hearing conference in the above-captioned proceeding, the undersigned counsel submits this summary of protest issues on behalf of the following Protestants to the applications listed in the above caption: Carter-Griffin Inc. d.b.a. Carter Cattle Co.; County of Inyo, California; County of White Pine, Nevada; Gardner's Quarter Circle 5 Ranch; Frank Delmue; Debra Whipple (who filed her protest under her previous, married, name of Debra Lani); James I. Lee; Mick and Lynn Lloyd; Lund Irrigation & Water Co.; Virginia Kreimeyer; Nevada Cattlemen's Association, Eastern Unit; Chester R. Johnson; Preston Irrigation Company; Toiyabe Chapter of the Sierra Club; Town of Alamo Water and Sewer Board; John M. Wadsworth.

The summary list of protest issues set forth below incorporates by reference the more specific allegations contained in the individual protests that relate to and support the generalized issues contained in the following list.

1. There is no unappropriated water, or insufficient unappropriated water, available in the three basins in which these applications have been made. (NRS 533.370.5)

2. The appropriations proposed in these applications will grossly exceed the perennial yield and safe yield of each of the three basins. As such, granting the applications would sanction ground water mining – which is contrary to Nevada law and policy – on a vast scale. (Nevada Natural Resources Status Report, Nevada Department of Conservation and Natural Resources, June 2001, at 23.)

3. The appropriations proposed in these applications will conflict with and impair existing water rights, uses, and protectible interests – including permitted water rights, vested water rights, subsisting water rights, and protected interests in domestic wells – in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahranaagat, Lake, and Meadow Valleys. (NRS 533.370.5)

4. The appropriations proposed in these applications would prove detrimental to the public interest in one or more of the following ways. (NRS 533.370.5)

5. The proposed appropriations are environmentally unsound insofar as they would deplete the groundwater systems, lower the water tables, and reduce or eliminate the flows of springs, seeps, streams, marshes, wet meadows, wetlands, and phreatophytes in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahranaagat, Lake, and Meadow Valleys, to such an extent as to unduly degrade or destroy phreatophytes and other plant species, including species protected under federal or state law. (NRS 533.370.6(c))

6. The proposed appropriations are environmentally unsound insofar as they would deplete the groundwater systems, lower the water tables, and reduce or eliminate the flows of springs, seeps, streams, marshes, wet meadows, and wetlands in the three basins of origin and in the

surrounding hydrologically connected basins, including White River, Pahranaagat, Lake, and Meadow Valleys, to such an extent as to cause undue harmful impacts to riparian habitat, meadow habitat, shrubland habitat, and other types of wildlife habitat. (NRS 533.370.6(c))

7. The proposed appropriations are environmentally unsound insofar as they would deplete the groundwater systems, lower the water tables, and reduce or eliminate the flows of springs, seeps, streams, marshes, wet meadows, and wetlands in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahranaagat, Lake, and Meadow Valleys, to such an extent as to cause undue harmful impacts to livestock and wildlife, including species protected under federal or state law. (NRS 533.370.6(c))

8. The proposed appropriations are environmentally unsound insofar as they would deplete the groundwater systems and lower the water tables in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahranaagat, Lake, and Meadow Valleys, to such an extent as to cause a reversal of the groundwater gradient in places and the degradation of water quality in the remaining groundwater in the affected areas. (NRS 533.370.6(c))

9. The proposed appropriations are environmentally unsound insofar as they would deplete the groundwater systems, lower the water tables, and reduce or eliminate the flows of springs, seeps, streams, marshes, wet meadows, and wetlands in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahranaagat, Lake, and Meadow Valleys, to such an extent as to dry up existing vegetation and cause potentially severe air pollution through increased dust emissions, or storms, which would be harmful to human,

wildlife, and livestock health and diminish visibility in the affected areas. (NRS 533.370.6(c))

10. The proposed appropriations are environmentally unsound insofar as they would deplete the groundwater systems, lower the water tables, and reduce or eliminate the flows of springs, seeps, streams, marshes, wet meadows, and wetlands in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahrangat, Lake, and Meadow Valleys, to such an extent as to create an unreasonably increased likelihood of subsidence that could damage the groundwater systems and man-made structures in the affected areas. (NRS 533.370.6(c))

11. The proposed appropriations would unduly limit future growth and development in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahrangat, Lake, and Meadow Valleys, by depleting the available water supplies to such an extent as to prevent any potential growth of ranching, farming, or other agricultural operations, including those for which water rights applications have been filed with the Division of Water Resources. (NRS 533.370.6(d))

12. The proposed appropriations would unduly limit future growth and development in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahrangat, Lake, and Meadow Valleys, by depleting the available water supplies to such an extent as to prevent any potential growth of water or wildlife dependent recreational activities such as fishing, hunting, boating, swimming, and bird watching. (NRS 533.370.6(d))

13. The proposed appropriations would unduly limit future growth and development in the three basins of origin and in the surrounding hydrologically connected basins, including White

River, Pahranaḡat, Lake, and Meadow Valleys, by depriving the existing communities in those areas, such as Preston, Lund, Hiko, Alamo, Panaca, Pioche, Caliente, and Ursine, of sufficient water to allow additional municipal, residential, commercial, or industrial uses. (NRS 533.370.6(d))

14. The proposed appropriations would unduly limit future growth and development and undermine the long-term socioeconomic viability of individual operations and communities in the three basins of origin and in the surrounding hydrologically connected basins, including White River, Pahranaḡat, Lake, and Meadow Valleys, by depleting the water sources and supplies on which those individuals and communities depend, and thereby undermining their existing economy and social structure. (NRS 533.370.6(d) & (e))

15. The proposed appropriations will interfere with, or eliminate, wildlife access to water sources customarily used by wildlife in the form of springs, seeps, wet meadows, marshes, and wetlands in the three basins of origin and the surrounding hydrologically connected basins. (NRS 533.367)

16. The applications should not be approved because there is insufficient data and understanding of the groundwater systems in the three proposed source basins and the

surrounding hydrologically connected basins to allow the State Engineer to make a scientifically sound, reasonably informed determination as to what the long-term effects of granting the applications would be. (NRS 533.368, 533.375)

Respectfully submitted this 21<sup>st</sup> day of September, 2007.

Simeon Herskovits *AEG*

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#### CERTIFICATE OF SERVICE

I hereby certify that on September 21<sup>st</sup> 2007, I mailed a copy of this document to the parties listed in the attached service list by First-Class, U.S. Mail:

Simeon Herskovits *AEG*

Simeon Herskovits

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