

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

IN THE MATTER OF APPLICATION NUMBER 93079
FILED BY Michael J. DeMartini and Renate DeMartini
ON October 23, 20 23



PROTEST

Comes now Washoe County, A Political Subdivision of the State of Nevada

Printed or typed name of protestant

whose post office address is 1001 E. 9th Street, Reno, NV 89520

Street No. or PO Box, City, State and ZIP Code

whose occupation is A political subdivision of the State of Nevada

and protests the granting

of Application Number 93079

, filed on October 23

, 20 23

by Michael J. DeMartini and Renate DeMartini

for the

waters of White Lake

situated in Washoe County

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:

Please refer to attached "Exhibit A"

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.

Pursuant to NRS 53.045, I hereby certify, under penalty of perjury of the laws of the State of Nevada, that the foregoing is true and correct.

Signed

Agent or protestant

Alexis Hill, Washoe County Board of Commissioners Chair

Printed or typed name, if agent

Address 1001 E 9th Street

Street No. or PO Box

Reno, NV 89520

City, State and ZIP Code

775-954-4626

Phone Number

tweiss@washoecounty.gov

E-mail

+\$30 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Exhibit "A"

Application 93079

Application #93079 proposes to change the place of use of all 3.0 cfs and 2,000 acre-feet from Permit 31321, from White Lake, located in Cold Springs Valley.

This application identifies the source of water as Surface Waters that flow to and/or are within White Lake. The proposed manner of use under this application is Ground Water Recharge, Quasi-Municipal and Domestic.

Washoe County requests the State Engineer to consider the following:

- 1) The source of water under this application is surface water resulting from severe precipitation events. The applicant confirms this by stating on their application that they will "reduce the flow of water into recognized flood prone area of the closed basin thereby alleviating the flood threat" and "...controlling 2 feet of flood level for peak flood events associated with migrating or intercepted surface waters derived from precipitation."

This is not a consistent source of water as storms are infrequent and not predictable long-term. This application affirms the applicant's intention to serve existing and planned permanent subdivisions. Often, water is not available at the source during drought years as White Lake does indeed become dry during these periods of drought. Therefore, this is not a suitable nor a sustainable source for quasi-municipal water.

- 2) The granting of a permit under this application would prohibit or severely limit Washoe County's ability to mitigate regional flooding by removing the flood waters from flood prone areas within Cold Springs. Washoe County is the governmental body responsible for protecting Washoe County residents by managing flood waters generated by precipitation events. The applicant expresses their intent in the application to appropriate surface waters that flow into White Lake and water that would flow into flood prone areas. If this application were to be granted, the floodwaters that Washoe County would otherwise mitigate and control would have to be left to flow into flood prone areas, placing Washoe County residents at risk, so that the applicant would have the ability to divert water from their proposed point of diversion.

The manner of use, point of diversion and place of use of this permit may be contrary to the local government's mitigation methods, who are ultimately responsible for flood mitigation efforts. This application would be detrimental to public interest for this reason.

- 3) The applicant is required to provide data, analysis, findings, evidence, design, or substantial information to the State Engineer regarding the viability of using the water specified in this application for recharge. This information has not been provided with this application.

The applicant's proposal to use this water for recharge purposes is not feasible and may very well be impossible to achieve. It is doubtful that it is possible to recharge at a rate of 3.0 cfs at the locations identified by the applicant, as the target recharge areas will also be saturated during precipitation events large enough to generate the water source identified in this application. The canals, ditches, ponds/pits or pipes identified in the application will also likely be flooded or compromised during flood-producing precipitation events, severely limiting the potential for conveyance of water under this application.

- 4) Water Quality concerns and Great Basin Water Company source water protection by appropriate regulating agencies, such as NDEP, may prohibit permitting and any recharging of these very poor-quality flood waters. The discharge of this water would need to comply with NRS 445A, NAC 445A, and the Safe Drinking Water Act of 1977. The applicant has not provided to the State Engineer or NDEP any data, analysis, findings, evidence, or any substantial information describing the quality of water proposed to be recharged into the aquifer under this application.
- 5) The applicant has not provided the financial ability to divert water from the proposed point of diversion. With the proposed place of use under this application being expanded to cover the Great Basin Water Company Service area, an agreement between the applicant and Great Basin Water Company must be confirmed and provided by the applicant prior to the granting of any permit under this application. There has been no concrete evidence of such an agreement presented by the applicant or Great Basin Water Company.

NRS 533.370 (2) states that:

The State Engineer is prohibited by law from granting an application to appropriate the public waters of State of Nevada where:

- A. There is no unappropriated water at the proposed source;*
- B. The proposed use or change conflicts with existing rights;*
- C. The proposed use or change conflicts with protectable interests in the existing domestic wells as set forth in NRS 533.024; or*
- D. The proposed use or change threatens to prove detrimental to the public interest.*

Therefore, Washoe County requests that this application be denied as granting it would be contrary to the provisions of NRS 533.370 (2) A & D, listed above. The applicant has not provided substantive information to support approval of any permit under this application. Furthermore, the State Engineer has authority to cancel the existing base right, Permit 31321, by denying any applications for extension of time for the reasons described above.