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PROTEST FEE PAID

18-61612 *ML*
\$15.00

Attorney for Protestant
Washington County Water Conservancy District

BEFORE THE UTAH STATE ENGINEER

IN THE MATTER OF APPLICATION TO APPROPRIATE WATER A81080 (41-3747) FILED BY WATER HORSE RESOURCES, LLC	PROTEST OF WASHINGTON COUNTY WATER CONSERVANCY DISTRICT
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Pursuant to Utah Code Ann. § 73-3-7 (1995) and Utah Administrative Code R655-2-4 (1997), Washington County Water Conservancy District (“District”) files this Protest to the Application to Appropriate Water A81080 (41-3747) (“Application”) filed by Water Horse Resources, LLC (“Applicant”).

1. District is the owner of numerous water rights located in Washington County, Utah which allow for the diversion of water from the Virgin River, various spring sources, and underground wells.
2. The Virgin River is a tributary to the Colorado River.
3. District’s Virgin River Water Rights which may be impaired by approval of the Application include, but are not limited to, 81-93, 81-507, 81-1382, 81-4974, 81-4977, and 81-5060.

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4. District is the owner of pending, unapproved Application to Appropriate Water A63668 (89-1525) which seeks to appropriate water from the Colorado River for use in Washington County, Utah. District's ability to obtain approval of its earlier priority application will be impaired by approval of the Application.

5. District is an intended beneficial user of Water Right No. 41-3479, owned by the State of Utah Board of Water Resources, which will be impaired by approval of the Application.

6. District also requests that the Utah State Engineer protect the public interest by denying the Application which seeks to export a significant portion of Utah's limited water resource for use in Colorado.

7. Applicant seeks to appropriate 76 cfs or 55,000 acre-feet of water from the Green River, a tributary to the Colorado River, from two points of diversion located below Flaming Gorge Reservoir in Utah and export the full quantity of the water to Colorado for a number of ill-defined uses. Based upon the available information, it appears the full quantity of water will be depleted in Colorado and there will be no return flow to the system available for use in Utah.

8. Applicant claims that the water to be appropriated under the Application is a portion of the Colorado River water apportioned to the state of Colorado under the Colorado River Compact. However, Applicant provides no evidence that the state of Colorado supports this assertion or that the state of Colorado will recognize the proposed diversion of water in Utah, under a Utah water right, as part of Colorado's apportionment. Without certainty that the water sought under the Application will be accounted for as a portion of Colorado's apportionment, approval of the Application will, in actuality, allow for the diversion of a portion of Utah's Colorado River allocation for use in Colorado.

9. Allowing Utah's limited water resource to be exported to Colorado for consumptive use will allow Colorado to benefit from the development and economic use of Utah's limited water resource and will be detrimental to the public welfare of the citizens of Utah.

10. Export of such a large quantity of water from the Green River within Utah for full depletion in Colorado is not consistent with Utah's reasonable water conservation policies or objectives; is likely to impair the natural stream environment; and will negatively impact Utah's ability to meet its fish recovery obligations on the Green River.

11. The proposed project is massive in scale and will be exceedingly costly to build and maintain. Applicant is a private entity with no taxing authority, no authority to charge impact fees for water development, and no authority to charge water use fees. Applicant has not shown any financial ability to complete the proposed project or that the project is physically and economically feasible.

12. Applicant has not specifically identified the proposed beneficial uses for the water it seeks to appropriate. Rather, Applicant has identified the entire "Colorado Front Range Corridor" as the potential place of use and has referenced unidentified municipalities, unidentified industries, and "to be determined" irrigation, stockwater, and mining uses as the potential beneficial uses. Applicant is not a public water supplier. Accordingly, the Application is speculative at best and approval will result in a private entity monopolizing a significant quantity of Utah's water resource.

13. For the foregoing reasons the Application fails to meet the requirements for approval under Utah Code Ann. §§ 73-3-8 and 73-3a-108 and the State Engineer should reject the Application.

DATED this 4th day of April, 2018.

PARSONS BEHLE & LATIMER

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Conservancy District