



United States Department of the Interior

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125 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84138

December 20, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

Jerry Olds, State Engineer
Utah Division of Water Rights
P.O. Box 146300
1594 West North Temple, Suite 220
Salt Lake City, Utah 84114-6300

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WATER RIGHTS
SALT LAKE

Subject: Protest to Application to Appropriate Nos. A76675 (Water Right No. 19-399), A76676 (Water Right No. 14-118), and A76677 (Water Right No. 69-101)

Dear Mr. Olds:

The following protest is being submitted on behalf of the Bureau of Land Management (BLM) with respect to Application Nos. A76675 (Water Right No. 19-399), A76676 (Water Right No. 14-118), and A76677 (Water Right No. 69-101).

Application to Appropriate No. A76675 (19-399). This Application seeks the right to divert 10,000 acre-feet per year from twelve (12) new underground water wells, 16" in diameter and at depths of between 100 and 2,000 feet, in Township 31 South, Ranges 18 and 19 West, and Township 32 South, Ranges 18 and 19 West, Salt Lake Base & Meridian (SLB&M), in the Hamlin Valley, in Iron County, Utah for: (i) the stock watering of 2,000 equivalent livestock units from January 1 to December 31 of each year; and (ii) municipal uses from January 1 to December 31 of each year within the District's service area and the Hamlin Valley.

Application to Appropriate No. A76676 (14-118). This Application seeks the right to divert 15,000 acre-feet per year from ten (10) new underground water wells, 16" in diameter and at depths of between 100 and 2,000 feet, in Township 28 South, Range 17 West, Township 29 South, Ranges 16, 17, and 18 West, and Township 30 South, Ranges 16 and 17 West, SLB&M, in the Pine Valley, in Beaver County, Utah for: (i) the stock watering of 2,000 equivalent livestock units from January 1 to December 31 of each year; (ii) municipal uses from January 1 to December 31 of each year within the District's service area and the Pine Valley.

Application to Appropriate No. A76677 (69-101). This Application seeks the right to divert 12,000 acre-feet per year from twenty (20) new underground water wells, 16" in diameter and at depths of between 100 and 2,000 feet, in Township 27 South, Ranges 13 and 14 West, and Township 28 South, Range 14 West, SLB&M, in the Wah Wah Valley, in Beaver County, Utah for: (i) the stock watering of 2,000 equivalent livestock units from January 1 to December 31 of each year; (ii) municipal uses from January 1 to December 31 of each year within the District's service area and the Wah Wah Valley.

None of the 3 above-referenced Applications provides any information on the specific source of the underground water (valley fill aquifers, carbonate aquifers, or both) that is sought to be tapped, the depths at which the applied-for water would be diverted, anticipated pumping rates, coordination between wells, etc. Thus, it is difficult to assess the complete extent to which the diversion of water under any of the 3 Applications, if approved, would interfere with and impair the vested water rights BLM holds in the areas. However, given the hydrology of the Hamlin, Pine, and Wah Wah Valleys, and the large volumes of underground water diversions proposed under each Application, it appears that the diversion and use of water under any of the Applications, if approved, would interfere with and impair a number of BLM's vested water rights in the Pine and Wah Wah Valleys, including Water Right Nos. 19-109, 19-110, 19-113, 19-114, 19-118, 19-128, 19-155, 19-156, 19-157, 19-167, 19-170, 19-175, 19-176, 19-18, 19-180, 19-181, 19-182, 19-183, 19-185, 19-187, 19-189, 19-190, 19-192, 19-193, 19-194, 19-203, 19-205, 19-210, 19-212, 19-219, 19-221, 19-223, 19-225, 19-227, 19-229, 19-232, 19-234, 19-235, 19-243, 19-244, 19-245, 19-246, 19-248, 19-249, 19-250, 19-274, 19-275, 19-280, 19-289, 19-292, 19-335, 19-65, 19-83, 19-84, 71-1788, 71-2042, 71-2444, 71-2858, 71-3011, 71-3012, 71-3015, 71-3016, 71-3742, 71-755, 14-110, 14-27, 14-30, 14-31, 14-36, 14-39, 14-41, 14-54, 14-62, 14-65, 14-66, 14-71, 14-76, 14-91, 14-92, 14-94, 71-2120, 71-3007, 71-3013, 69-64, 69-86, 71-1083, 71-1575, 71-1624, 71-2041, 71-2054, 71-2055, 71-2127, 71-2128, 71-2129, 71-2153, 71-2161, 71-2174, 71-2216, 71-2219, 71-2246, 71-2250, 71-2272, 71-2468, 71-2862, 71-3109, 71-3723, 71-4111, 71-4264, 71-4301, 71-893, 71-896, 71-900, 71-901, 71-917, 69-25, 69-96, 69-21, and 69-70.

The diversion of water under any or all 3 of the Applications would result in adverse impacts to the riparian environment in the valleys, including several sensitive plant species known to occur in the Pine and Wah Wah Valleys, and be detrimental to the public welfare.

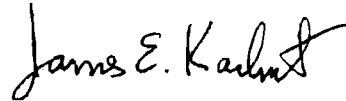
It appears that 6 of the 12 new wells proposed under Application to Appropriate No. A76675 (19-399), 5 of the 10 new wells proposed under Application to Appropriate No. A76676 (14-118), and 15 of the 20 new wells proposed under Application to Appropriate No. A76677 (69-101) would be situated on federal public land administered by BLM. The applicant currently does not have any right-of-way or authorization to utilize such public land for any of the proposed diversions and/or conveyances of water and has not applied to the BLM for any such right-of-way or authorization. In the event an application was submitted to the BLM, an analysis in compliance with the National Environmental Policy Act (NEPA) would need to be completed on the proposed use(s) prior to any BLM decision on such application.

For these reasons, each of the 3 above-referenced Applications does not satisfy the statutory criteria in Section 73-3-8 of the Utah Code governing the approval or rejection of applications to appropriate, and BLM respectfully requests that each Application be denied. BLM also requests a hearing before the Utah State Engineer on each Application and reserves the right to submit additional information and evidence in support of this Protest in connection with such hearing.

Please have a copy of any notice, correspondence, or decision concerning the respective Applications mailed to Craig Egerton, Cedar City Field Office, Bureau of Land Management, 176 East D.L. Sargent Drive, Cedar City, Utah 84720. I would appreciate it if a copy of the same would also be mailed to me c/o Department of Interior, Office of the Regional Solicitor, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138.

Please contact me at your convenience (524-5677, ext. 225) if you have any questions.

Sincerely,



James E. Karkut
Attorney - Advisor

cc: Tom Mendenhall, Bureau of Land Management
Craig Egerton, Bureau of Land Management
Roy Smith, Bureau of Land Management
Scott Wilson, General Manager, Central Iron County Water Conservancy District