



United States Department of the Interior

PROTEST FEE PAID

11-1224-12

OFFICE OF THE SOLICITOR

SUITE 6201, FEDERAL BUILDING
125 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84138

June 21, 2011

HAND-DELIVERED

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

RECEIVED

JUN 21 2011

WATER RIGHTS
SALT LAKE

Subject: BLM Protest to Change Application a37400 (Water Right No. 09-2349)

Dear Mr. Jones:

The following protest is being submitted on behalf of the Bureau of Land Management ("BLM") to Change Application a37400 (Water Right No. 09-2349, A37788e) filed by the San Juan Spanish Valley Special Service District, 4775 Sunny Acres Lane, Moab, Utah 84532. Under the proposed change, an approved but undeveloped surface water right for 5,000 AFY from the San Juan River near Bluff, Utah, would be converted to a water right diverting surface flows from the Colorado River and ground water from 24 underground water wells in the area of Moab, Utah. Enclosed is a check (No. 1195) in the amount of \$15.00 for payment of the protest filing fee.

The following background is based on information in the Division of Water Rights' internet-accessed database:

- The Change Application is based on Water Right No. 09-2349 (A37788e), which is an administrative segregation from Water Right No. 97-438 (A37788). Water Right No. 97-438 was applied for by the San Juan County Water Conservancy District in 1966 and approved by the Utah State Engineer in 1967 for 25,000 AFY of surface water from the San Juan River and Cottonwood Wash near Bluff, in San Juan County, Utah, for storage in a 25,000 acre-foot reservoir in Sections 13, 19, and 30 in T38S, R24E, SLBM, from January 1 to December 31 of each year. The approved use of the water was the irrigation of 2,500 acres in T38S, R25E and T39S, R25E from March 15 to November 15, and reservoir recreation from January 1 to December 31 each year.
- A total of 9,508.6 AFY has been administratively segregated from Water Right 09-438 over the years as follows: (1) 3,588.6 AFY in 1984 under WR 09-1282, A37788a; (2) 400.0 AFY in 1996 under WR 09-1981, A37788b; (3) 500.0 AFY in 2009 under WR 09-2327, A37788c; (4) 20.0 AFY in 2010 under WR 09-2334, A37788d; and (5) 5,000 AFY on April 27, 2011 under WR 09-2349, A37788e. Consequently, Water Right No. 09-438 is now for 15,491.4 AFY for the irrigation of 1,175.6 of the 2,500 acres approved under the original application. The San Juan County Water Conservancy District has received extensions of time to submit proof of

beneficial use of water under Water Right No. 09-438 to the Division, and the current due-date is August 31, 2012.

- On April 9, 2011, the San Juan County Water Conservancy District assigned 5,000 AFY of Water Right No. 09-438 to the San Juan Spanish Valley Special Service District. On April 27, 2011, the Special Service District submitted an "Application to Segregate a Water Right" to the Division covering the recently assigned 5,000 AFY, and that application was approved on the same day. Also on the same day, the Special Service District (the Applicant) filed Change Application a37400.
- Change Application a37400 (Water Right No. 09-2349, A37788e) proposes that the 5,000 AFY of undeveloped surface water from the San Juan River near Bluff, Utah, be converted to a water right diverting surface flows from one point of diversion on the Colorado River and ground water from 24 underground water wells in the area of Moab, Utah. The proposed 24 wells would be 8 to 12 inches in diameter and 200 ft to 2,500 ft in depth, and located in T26S, R22E; T26S, R23E; T27S, R23E; T27S, R22E; and T28S, R22E, which is in the Spanish Valley and Kane Springs area. The diverted water would be used for municipal uses from January 1 to December 31 of each year within the service area of the San Juan Spanish Valley Special Service District. In particular, it would be used to service proposed residential development on State of Utah School and Institutional Trust Administration lands located to the south of Moab in Spanish Valley and near the Kane Springs and the Hole n' Rock areas.

There is no information in the Change Application on the specific source of the underground water that is sought to be diverted, the depths at which such diversion would take place, anticipated pumping rates, coordination between wells, etc. Thus, it is difficult to assess the complete extent to which the diversion of water under the proposed change, if approved, would interfere with and impair the vested water rights the BLM holds in the relevant areas. However, the 24 proposed underground water wells would constitute a well field that will very likely produce substantial water level declines over a wide area. And, given the large volume of ground water diversions proposed under the Change Application, it appears that the diversion and use of water under it, if approved, may interfere with and impair certain of BLM's vested water rights, including Water Right No. 05-3067 (A75894). This right is for 6.73 AFY from an underground water well in the vicinity of Ken's Lake (within ½ mile of at least one well and surrounded by at least 13 more in the Change Application), for domestic use in the Moab Interagency Fire Center, which is a critical fire fighting facility (estimated 43 full time employees). Other BLM water rights that appear to be at risk of impairment include Water Right Nos. 05-2163 (A61692), 05-1902 (D3825), and 05-1901 (D3824), which are critical rights for wildlife and livestock watering. Water Right Nos. 05-2163 and 05-1902 provide water for use in areas of the Black Ridge Grazing Allotment that have no other nearby sources, and Water Right No. 05-1901 provides water for use in an area of the Kane Springs Grazing Allotment that has no other nearby sources.

Given the lack of detail in the Change Application, in addition to it not being possible at this time to conclusively assess its potential effects on BLM water rights, it is also not possible for a reasoned determination to be made at this time as to whether it satisfies the State of Utah statutory standards governing the rejection or approval of change applications. Consequently, any determination on the Change Application would be premature and it should not be processed further until the Applicant provides the appropriate geologic and hydrologic information to the Division, and makes such information available for review by the BLM and other protestants. In particular, a predictive analysis of potential aquifer drawdowns in the vicinity of the proposed points of diversion must be completed.

RECEIVED

JUN 21 2011

WATER RIGHTS
SALT LAKE

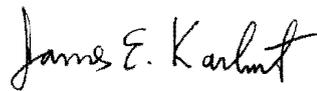
Unless an analysis of aquifer conditions is made that would include aquifer tests to obtain aquifer parameters, accompanied by preparation of a ground water characterization report that includes simulations of pumping, the potential effects of this proposed, substantial allocation of ground water cannot be determined.

The BLM is concerned about the lack of information in the Change Application, and its potential effects on the BLM's water rights, and believes that it would be appropriate for a hearing to be held to provide the Applicant the opportunity to provide more information about the Change Application. The Applicant indicates that, assuming the proposed change is approved, it would respect prior water rights through the use of adaptive management and ensuring safe aquifer yield. Given the existing concerns about the sustainable yield of the Spanish Valley Aquifer, it would be very helpful for the Applicant to provide information demonstrating that such goals could be met. Consequently, the BLM requests a hearing before the Utah State Engineer on the Change Application and reserves the right to submit additional information and evidence in support of this protest in connection with the hearing. In the event the Applicant contacts the BLM to provide relevant information regarding the BLM's concerns, the BLM would consider withdrawing its protest and/or request for a hearing.

Please mail a copy of any decision, notice, or correspondence concerning the Application to Jeffrey Smith, Moab Field Office Manager, BLM, 82 East Dogwood Lane, Moab, Utah, 84532, and to me, c/o Department of Interior, Office of the Solicitor, Intermountain Region, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138.

Please contact me at your convenience at 801-524-5677, ext. 225, if you have any questions.

Sincerely,



James E. Karkut
Attorney – Advisor

Enclosure

cc: Jeffrey Smith, Moab Field Office Manager, BLM
Roy Smith, Colorado State Office, BLM
Paul Summers, National Operations Center, BLM
San Juan Spanish Valley Special Service District.

RECEIVED

JUN 21 2011

WATER RIGHTS
SALT LAKE