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June 20, 2011

HAND DELIVERED

Kent L. Jones
Utah Division of Water Resources
1594 West North Temple
Salt Lake City, UT 84114

RECEIVED
JUN 20 2011
WATER RIGHTS
SALT LAKE

Re: Change Application No. 09-2349 (a37400)

Dear Mr. Jones:

Enclosed for filing on behalf of The Nature Conservancy is a protest to the San Juan Spanish Valley Special Service District's above referenced Change Application. Also enclosed is a check for \$15.00 to cover the required filing fee.

Thank you for your help with this matter. If you have any questions, give me a call at (801) 536-6943.

Sincerely,

Parsons Behle & Latimer

Elizabeth A. Schulte

EAS:rls

cc: San Juan Spanish Valley Special Service District

SC #11-02464



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BY HAND DELIVERY

Kent L. Jones
State Engineer
Division of Water Rights
1594 W. North Temple, Suite 220
P.O. Box 146300
Salt Lake City, UT 84114

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JUN 20 2011
WATER RIGHTS
SALT LAKE

**Re: San Juan Spanish Valley Special Service District, Change Application
No. 09-2349 (a37400)**

Dear Mr. Jones:

The Nature Conservancy (the "Conservancy") hereby submits the following protest to the San Juan Spanish Valley Special Service District's (the "District") recent Change Application a37400 on Water Right No. 09-2349 filed April 27, 2011 (the "Change Application").

The Conservancy has an ownership interest in and manages the Scott M. Matheson Wetlands Preserve (the "Matheson Preserve"), which is located in Moab, Grand County, Utah, adjacent to the Colorado River. The Matheson Preserve is a significant and valuable natural resource for both the Grand County community and the State of Utah. The Conservancy is also the owner of significant and vested water rights, including those used exclusively to support the Matheson Preserve. These rights include:

05-629
05-1612
05-2762

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05-3113
05-3456
05-585
05-586
05-614
05-615
05-616
05-617
01-1101 (a17304--surface rights from the Colorado River)
01-94 (a17305--surface rights from the Colorado River)

The District's proposed Change Application seeks, among other things, to change its surface points of diversion for 5,000 acre feet of water from the San Juan River and Cottonwood Wash in San Juan County, Utah to the Colorado River in Grand County, Utah more than 60 miles north of its current points of diversion. This significant change in the proposed points of diversion for a large quantity of water is tantamount to a new appropriation as it not only seeks to change the source of the water but it also implicates different counties as well. In addition, the District's Change Application is ambiguous because it fails to explain how much water will be withdrawn from three different sources including the proposed Colorado River (surface right) and different groundwater sources in both San Juan and Grand Counties, Utah. Further, the Conservancy is also concerned that the Change Application seeks to enlarge the District's current rights. Moreover, the application is proposing to change points of diversion for an approved yet undeveloped Application to Appropriate Water in the Upper Colorado River Basin.

Therefore, as a threshold matter, the State Engineer must first determine whether the District's change application satisfies the provisions of Utah Code Ann. § 73-3-3. If so, then the State Engineer must consider whether there is surface and groundwater available which the District may develop without impairing existing water rights, including those of the Conservancy. The District must demonstrate that it has satisfied all of the provisions of Utah Code Ann. § 73-3-8, which govern the approval and denial of a change application. As various studies have shown, however, there is only a limited water supply in this hydrologic area. This strongly suggests that additional appropriations in this area are inappropriate and do not accord with the statutory provisions.

If the Division of Water Rights conducts a hearing on the Change Application, the Conservancy requests a notice of the hearing and further reserves the right to submit additional information and evidence in support of its protest in connection with any such hearing.

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Thank you for considering the Conservancy's concerns with the proposed Change Application.

Sincerely,

Parsons Behle & Latimer



Dallin W. Jensen

Elizabeth A. Schulte

Attorneys for The Nature Conservancy

DWJ

cc: San Juan Spanish Valley Special Service District

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