

LIVING RIVERS

COLORADO RIVERKEEPER[®]

PROTEST FEE PAID
10-04732 *SL*

December 22, 2010

Mr. Kent L. Jones
State Engineer
Utah Division of Water Rights
1594 W. North Temple Suite 220
P.O. Box 146300
Salt Lake City, UT 84114-6300
(801) 538-7240
Fax: (801) 538-7467

Re: Protest of Application to Appropriate Water ~~A~~78992; Water Right 01-1183

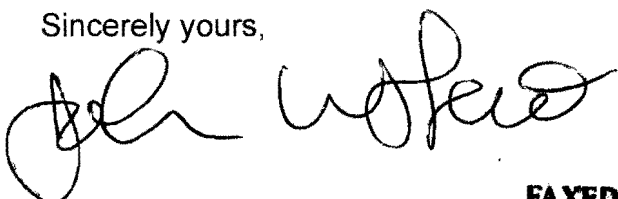
Dear Mr. Jones

Living Rivers requests that you please accept the following Protest for Application to Appropriate Water a78992 for Water Right 01-1183, which seeks to conduct potash exploration at Sec.14, T24S, R19E in Grand County, Utah. Enclosed is a check for \$15 to file the protest as required by Utah Revised Statutes.

Living Rivers is a non-profit organization based in Moab, Utah. Our membership includes residents and visitors who frequent Grand County to enjoy the national parks and the Colorado River. The proximity of this site to Arches National Park is a great concern for reasons of additional impairment to the quality of air and water in the region. Another concern is impairment to water quantity, since the depletion of groundwater would likely dewater the seeps and springs of the existing riparian ecosystems in this region of the Colorado Plateau.

Thank you for your considerations. Please do not hesitate to contact us if you have any questions.

Sincerely yours,



John Weisheit
Conservation Director
Colorado Riverkeeper

RECEIVED ✓

DEC 2 / 2010 *W*

FAXED COPY RECEIVED

WATER RIGHTS
SALT LAKE

Dec. 22, 2010

PO Box 466 • Moab, UT 84532 • (435) 259-1063 • Fax (435) 259-7612
www.livingrivers.org

LIVING RIVERS

Fax Transmission

P.O Box 466, Moab, UT 84532

21 N. Main St.

Tel: 435.259.1063

Fax: 435.259.7612

Date: 12/22/2010Pages: COVER+1To: KENT JONESFax: 801-538-7467From: JOHN WEISHEITRe: COPY OF LETTER SENT
VIA POST ON 12/22/2010**Notes:****RECEIVED**

DEC 22 2010 TG

WATER RIGHTS
SALT LAKE

**People for the Integrity
of Rivers & Watersheds**

LIVING RIVERS

COLORADO RIVERKEEPER[®]

December 22, 2010

COPY

Mr. Kent L. Jones
State Engineer
Utah Division of Water Rights
1594 W. North Temple Suite 220
P.O. Box 146300
Salt Lake City, UT 84114-6300
(801) 538-7240
Fax: (801) 538-7467

Re: Protest of Application to Appropriate Water #78992; Water Right 01-1183

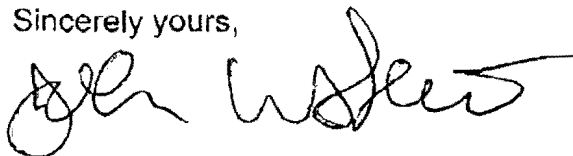
Dear Mr. Jones

Living Rivers requests that you please accept the following Protest for Application to Appropriate Water #78992 for Water Right 01-1183, which seeks to conduct potash exploration at Sec. 14, T24S, R19E in Grand County, Utah. Enclosed is a check for \$15 to file the protest as required by Utah Revised Statutes.

Living Rivers is a non-profit organization based in Moab, Utah. Our membership includes residents and visitors who frequent Grand County to enjoy the national parks and the Colorado River. The proximity of this site to Arches National Park is a great concern for reasons of additional impairment to the quality of air and water in the region. Another concern is impairment to water quantity, since the depletion of groundwater would likely dewater the seeps and springs of the existing riparian ecosystems in this region of the Colorado Plateau.

Thank you for your considerations. Please do not hesitate to contact us if you have any questions.

Sincerely yours,



John Weisheit
Conservation Director
Colorado Riverkeeper

RECEIVED

DEC 22 2010 TG

WATER RIGHTS
SALT LAKE

PO Box 466 • Moab, UT 84532 • (435) 259-1063 • Fax (435) 259-7612
www.livingrivers.org



United States Department of the Interior

OFFICE OF THE SOLICITOR

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

PROTEST FEE PAID

11-00051 *82*

January 3, 2011

FIRST CLASS MAIL

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

Subject: BLM Protest to Application to Appropriate A78992 (Water Right No. 01-1183)

Dear Mr. Jones:

The following protest is being submitted on behalf of the Bureau of Land Management ("BLM") to Application to Appropriate No. A78992 (Water Right No. 01-1183) filed by Robert and Diane Norman, P.O. Box 1300, Moab, Utah 84532 ("Applicants"). Enclosed is a check (#1190) in the amount of \$15.00 in payment of the protest filing fee.

Information in the Division of Water Rights' internet-accessed database shows that the Applicants seek to divert 5.73 acre feet annually from an underground water well located in Bartlett Wash, approximately 16 miles to the northwest of Moab, in Grand County, Utah, at a point described in the Application as N 87 ft W 111 ft from the S $\frac{1}{4}$ corner, Sec 14, T24S R19E, S.L.B.M., for potash mining and exploration in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec 14, T24S, R19E, from January 1 to December 31 of each year.

The BLM holds water rights that would be impaired by approval and development of the Application. Water Right No. 01-451 is a point to point right, located less than 1000' southwest of the proposed water well in T24S R19E sec 23. This is a diligence claim with a priority date of 1879. BLM holds another water right less than one half mile to the northwest, No. 01-465, for use of spring water in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of sec 14. These springs all originate along a major fault line, and are most likely connected. By pumping water from a well in this location, water flow at adjacent spring sites could be impacted.

The BLM protests the Application for the following reasons:

1. The underground water well that is the proposed point of diversion would be located in the large floodplain of Bartlett Wash. This is a matter of concern to the BLM because of potential impacts to a spring located within 200' of the proposed well location and because surface disturbance in this floodplain will impact wildlife (critical big horn sheep habitat), recreationist uses, livestock uses and floodplain stability.

RECEIVED
JAN 04 2011 ✓
WATER RIGHTS
SALT LAKE CITY

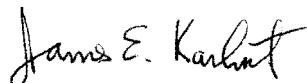
2. The map enclosed with the Application shows that the underground water well that is the proposed point of diversion would be located very close to a spring in the Section 14, within 200' of the spring. Although the BLM does not hold a water right on the spring, BLM does hold a water right located less than 1000' upstream of the proposed well location, in Bartlett Wash. The spring and the upstream stream segment are most likely connected by a large fault system. Because the well would be located so close to the spring, the diversion of 5.73 acre-feet of water per year from the well will likely impair the spring and its uses.
3. The proposed place of use (SE¼SW¼, Sec 14, T24S) is not, as indicated on the Application, on land owned by the Applicants. Rather, the proposed place of use is located on public lands managed by the BLM. The Applicants do not have any land use authorization for the proposed use (potash mining and exploration) and, to-date, has not contacted BLM regarding the steps that would need to be completed before BLM would be in a position to decide whether to grant such authorization. In the event the Applicants were to submit an application for such authorization, the BLM would need to complete an analysis in compliance with the National Environmental Policy Act (NEPA) and other applicable law prior to any BLM decision on such application. The BLM recognizes that land use authorizations are outside of the scope of the State Engineer's review of a water right application. However, the BLM is concerned that the Applicants may not fully understand their obligations to obtain appropriate authorizations for the uses they may wish to undertake on BLM-managed public land.

The BLM is also concerned about the lack of information in the Application and believes that it would be appropriate for a hearing to be held to provide the Applicants the opportunity to provide more information about the Application. Consequently, the BLM requests a hearing before the Utah State Engineer on the 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 Applicants contact the BLM to provide relevant information and/or to seek the appropriate authorization(s), the BLM would consider withdrawing its protest and/or request for a hearing.

Please have a copy of any decision, notice, or correspondence concerning the Application mailed 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: Roy Smith, Colorado State Office
Jeffrey Smith and Ann Marie Aubry, Moab Field Office
Lisa Bryant, Utah State Office
Robert and Diane Norman

RECEIVED
JAN 15 2011
BUREAU OF LAND MANAGEMENT
SALT LAKE CITY



United States Department of the Interior

OFFICE OF THE SOLICITOR

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

PROTEST FEE PAID
11-11-11

January 3, 2011

VIA FIRST CLASS MAIL

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

Subject: NPS Protest to Application to Appropriate A78992 (Water Right No. 01-1183)

Dear Mr. Jones:

The following protest is being submitted on behalf of the National Park Service ("NPS") concerning Application to Appropriate No. A78992 (Water Right No. 01-1183) filed by Robert and Diane Norman, P.O. Box 1300, Moab, Utah 84532 ("Applicants"). The NPS is processing a check in the amount of \$15.00 for payment of the protest filing fee, and will directly forward the check to the Division of Water Rights.

Information in the Division of Water Rights' internet-accessed database shows that the Applicants seek to divert 5.73 acre feet annually from an underground water well located in Bartlett Wash, approximately 16 miles to the northwest of Moab, in Grand County, Utah, at a point described in the Application as N 87 ft W 111 ft from the S $\frac{1}{4}$ corner, Sec 14, T24S R19E, S.L.B.M., for potash mining and exploration in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec 14, T24S, R19E, from January 1 to December 31 of each year.

The Application does not provide enough information for the NPS to determine at this time whether the diversion of water under the Application, if approved, would impair NPS water resources in nearby Arches National Park. In particular, the Application does not provide any information concerning the source formation for the proposed well or its location with respect to the Moab Fault. If the target formation for the well is on the west side of the Moab Fault and at a great enough depth, it might be disconnected from the Entrada sandstone on the east side of the Fault (the source for springs and seeps in Arches National Park) and, thus, not be of concern to the NPS. On the other hand, if the target formation is on the west side of the Fault at a shallow depth, or on the east side of the Fault, the diversion of water under the Application, if approved, may impair certain water resources of the Park.

Consequently, as a precautionary matter, the NPS protests the Application. The NPS requests a hearing before the Utah State Engineer on the Application to allow the Applicants to provide more information about the Application, and the NPS reserves the right to submit additional information and evidence in support of this protest in connection with the hearing. In the event the Applicants, prior to any such hearing, provide information regarding the Application to the NPS that is sufficient to allow

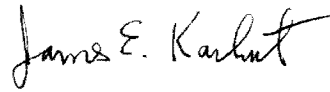
RECEIVED
JAN 03 2011
WATER RIGHTS
SALT LAKE CITY

it to assess the impacts of the proposed diversion on water resources in Arches National Park, the NPS will consider withdrawing its protest and/or request for a hearing if it appears that such resources may not be impaired by use of water under the Application if approved.

Please have a copy of any decision, notice, or correspondence concerning the Application mailed to James Harte, National Park Service, Water Resources Division, 1201 Oakridge Drive, Suite 250, Fort Collins, Colorado 80525, 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

cc: James Harte, National Park Service
Robert and Diane Norman

RECEIVED
JAN 9 2011
NATIONAL PARK SERVICE
SALT LAKE CITY



Kate Cannon/CANY/NPS
01/05/2011 12:25 PM

To Paul Henderson/CANY/NPS@NPS
cc
bcc
Subject Fw: Water Right App A78992

History: This message has been forwarded.

Paul,

This may give you the info you'd like to backup the check to the Division of Water Rights - I have a copy of the protest letter, but don't have it digitally.

Kate

----- Forwarded by Kate Cannon/CANY/NPS on 01/05/2011 12:24 PM -----



James
Harte/FTCOLLINS/NPS
01/03/2011 03:25 PM

To Kate Cannon/CANY/NPS@NPS
cc "Karkut, James" <James.Karkut@sol.doi.gov>
Subject Water Right App A78992

Hi Kate,

We just got off the phone with Jim Karkut. He'll go ahead and send in the protest letter today, with his signature.

Please have the check for \$15 made out to Utah Division of Water Rights and FedEx to:

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

In the note space at the bottom of the check you could write:
NPS Protest A78992, 01-1183

You could include a short note with the check explaining it's the fee for NPS' protest of water right Application Number A78992, Water Right Number 01-1183.

Thanks Kate,

Jim

Jim Harte, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Drive, Suite 250, Fort Collins, CO 80525
(970) 225-3538, (970) 225-9965 fax
james_harte@nps.gov

RECEIVED
JAN 13 2011
WATER RIGHTS
SALT LAKE