



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

Reply to:  
1050 East Flamingo Road  
Suite 319  
Las Vegas, Nevada 89119  
Tel: (702) 388-6125  
FTS: 598-6125

TO: John J. Linehan, Director, HLPD  
Division of High-Level Waste Management, M/S 4-H-3

FROM: Paul T. Prestholt, Sr. On-Site Licensing Representative *PTP*

DATE: March 13, 1989

SUBJECT: LETTERS REGARDING WATER APPLICATION NO. 52338 FOR  
DIVERSION OF 30.9 MILLION GALLONS OF WATER FOR YUCCA  
MOUNTAIN PROJECT FROM WELL J-13

Please find enclosed the above-referenced letters  
obtained from Mr. Carl Gertz, YMPD; Jack Parry, ACNW asked that  
these be forwarded and he would like a copy as soon as possible.

PTP:nan  
cc: Jack Parry, M/S P-315 (Phillips Building)

8903210047 890313  
PDR WASTE  
WM-11 PDC

FULL TEXT ASCII SCAN

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WPI-11  
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ROLAND D. WESTERGARD  
Director

STATE OF NEVADA

PETER G. MORROS  
State Engineer

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF WATER RESOURCES

Capitol Complex

201 South Fall Street, Carson City, Nevada 89710

January 20, 1989

In reply refer to  
No. 52338

Address All Communications to  
the State Engineer, Division  
of Water Resources  
Telephone (702) 885-4380

U.S. Department of Energy  
P.O. Box 98518  
Las Vegas, Nevada 89193-8518

You are hereby notified that a formal protest was filed in this office on January 3  
19 89 by Owen R. Williams  
against the granting of your application....., under the above mentioned serial number..... A copy of this protest is enclosed  
herewith.

Very truly yours,



PETER G. MORROS  
State Engineer

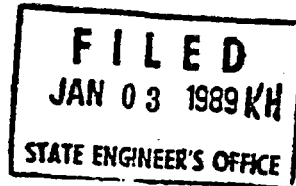
PGM/kh  
Cert. Mail No. P 491 802 959  
Enclosure  
cc: Southern Nevada Branch Office  
Steve Frishman

Newby / Compliance File

Pysto

~~McL...~~

~~McL...~~



STATE OF COLORADO )  
 )  
COUNTY OF LARIMER ) ss:

I, Owen R. Williams, Chief of the Water Rights Branch of the Water Resources Division of the National Park Service, on behalf of the United States of America, National Park Service, do hereby protest water application no. 52338 by the U.S. Department of Energy for 0.2 cfs underground water.

The application, if granted, may cause injury to reserved and appropriative water rights of the United States, National Park Service, Death Valley National Monument, including the United States' reserved water rights at Devil's Hole, a detached unit of Death Valley National Monument.

I request that this permit be denied.

My address is as follows:

Owen R. Williams  
Water Resources Division  
National Park Service  
301 S. Howes St. Rm 353  
Fort Collins, CO. 80521

*O.R. Williams*  
Signature of Protestant

subscribed and sworn to before me this 30th day of December, 1988. Witness my hand and official seal.

*Dana R. Bawter*  
Notary Public  
Address: 305 W. Oak  
H. Collins, Co 80521

My Commission Expires:

9-29-91

ER  
mor

STATE OF NEVADA

ROBERT R. LOUX  
Executive Director



AGENCY FOR NUCLEAR PROJECTS  
NUCLEAR WASTE PROJECT OFFICE

Capitol Complex  
Carson City, Nevada 89710  
(702) 885-3744

*INFO*  
ACTION EPD  
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January 27, 1989

Peter G. Morros  
State Engineer  
Division of Water Resources  
Nye Building  
201 S. Fall St.  
Carson City, NV 89710

RE: U.S. Department of Energy Application For  
Water Permit No. 52338

Dear Mr. Morros:

Enclosed please find a formal protest of Application  
No. 52338 which was filed by the United States Department of  
Energy. Please file our protest and recognize for purposes  
of the administrative process before your office, the  
appearance of my office in this matter.

Very truly yours,

ROBERT R. LOUX  
Executive Director

RRL\*jm

Encl.

ACTION ~~W. B. ...~~  
CC: KAISER/DUNN  
CC: GASSMAN/OC  
CC: WILKINSON  
CC: HUGHES/ROBINSON  
CC: CLANTON/MCCANN/JACOBS  
CC: POWELL <sup>SAC</sup>  
CC: SELF/WILSON  
CC: SMITH/PENSON-HQ  
CC: VOELK-SAC  
CC: \_\_\_\_\_

REC'D IN WMPO  
2-21-89

RECORD COPY

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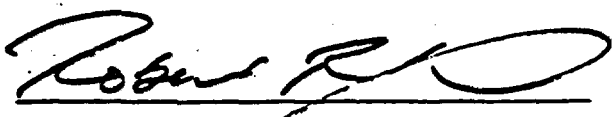
STATE OF NEVADA )  
 )  
COUNTY OF CARSON CITY )

ss.

A F F I D A V I T

I, Robert Loux, Executive Director of the Nevada Nuclear Waste Project Office/Agency for Nuclear Projects, being first duly sworn, do hereby protest water Application No. 52338 filed by the U.S. Department of Energy for a diversion rate of 0.2 cfs and an annual consumptive use not to exceed 30.9 million gallons (95 acre-feet) for the first seven years.

The basis of my protest is that there is no unappropriated water in the proposed source of supply; the proposed use will conflict with existing rights, particularly private agricultural water rights and federal reserved water rights within the underground water basin; the applicant has not secured the necessary ownership, control and/or jurisdiction over the proposed place of use; and the approval of Application No. 52338 will prove detrimental to the public interest for the following reasons: 1) the general public and the Governor of the State of Nevada adamantly oppose the construction of a high-level nuclear waste repository at Yucca Mountain; 2) the State of Nevada is in litigation with the DOE concerning the requisite institutional land use authorization which encompasses the place of use; 3) the U.S. Department of Energy, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Secretary of the Interior, the U.S. Department of Defense, and the National Park Service have not entered into consultation to evaluate whether the activities involved in the withdrawal of water from Well J-13, the proposed source of supply, in the quantities applied for, will jeopardize the continued existence of endangered species and destroy or adversely modify critical habitat in the groundwater basin and Death Valley National Monument, including in these categories but not limited thereto, the pupfish in Devil's Hole; and 4) withdrawals of water in the quantities applied for will jeopardize endangered species and destroy or modify critical habitat. See Cappaert v. United States, 426 U.S. 128 (1976); see also 50 C.F.R. Part 402.



SUBSCRIBED & SWORN to  
before me 27<sup>th</sup> day  
of January, 1989.

Margaret M. Osborne  
NOTARY PUBLIC

