

January 29, 2007

Hon. Thomas Shedden
Hearing Officer
Arizona Office of Administrative Hearings

OAH No-07-TR001-DWR

Electronically filed at: TR001@azoah.com

Dear Hearing Officer Shedden:

My name is Mike Small. I am a resident of St. George, Utah. I am the Conservation Chair for the Red Cliffs Audubon Chapter based in St. George, Utah. I am also the Chapter's liaison to the Utah Audubon Council. From 1986 to 2005 I was a federal wildlife biologist employed by the Bureau of Land Management on the Arizona Strip and as such am familiar with fauna and flora of the Beaver Dam/Littlefield and Mormon Well areas. I have gone birding and wildlife viewing in this area many times.

I am writing to protest the application for a permit to transfer water from the Beaver Dam Wash in northern Arizona to the State of Nevada.

I am doing this for the following reasons:

1. First, the Beaver Dam Wash from above Mormon Well to its confluence with the Virgin River is ecologically unique and provides valuable habitat for a number of rare wildlife species. The desert tortoise, black hawk, southwest willow flycatcher, Virgin River Spinedace, and others come quickly to mind. Over the years, state and federal agencies have spent thousands of dollars to manage and protect these species. It is unclear that this habitat would be protected if the water were to be transferred.
2. My understanding is that Arizona statutes require the applicant to submit hydrologic studies indicting the probable hydrological impacts on the area from which the water would be removed and that in this case the studies are not adequate, the information is old, and not specific.
3. Removing up to 14,000 acre feet of water per year from the lower Beaver Dam drainage would likely adversely affect the Virgin River flows and thus adversely impact the rare and federally protected fish in the Virgin River, including the Woundfin, Virgin River Chub, and Virgin River Spinedace. Much of the Virgin River floodplain in this area has also been designated as critical habitat for the Southwestern Willow Flycatcher, a federally listed endangered species.
4. On the surrounding uplands on federal land, most of the area has been designated as critical habitat for the desert tortoise, a federally listed threatened species. Much of the same area has also been designated a Desert Wildlife Management Area. New

rights-of-way may not be appropriate. It is unclear how the water would be transported or piped from Mormon Well to Mesquite, Nevada, without a right-of-way for a pipeline issued by BLM.

5. Allowing the transfer of up to 14,000-acre feet of water per year from Arizona across the state line to Nevada sets a troubling precedent in the Mojave Desert, where good water is so valuable.
6. If the proposed transfer of water is permitted, accepting back into Arizona treated wastewater also sets a very troubling precedent. The water would be of lesser quality and may contain additional arsenic.
7. There is not enough information at this time to make a sound decision. More information about the aquifer and the hydrology of the area should be gathered before this permit is even considered.
8. Beaver Dam Wash from Lytle Ranch in Utah to the confluence of the wash with the Virgin River in Arizona is a well-known and popular birding spot. Birders from all over the nation come to this location. It is very popular with birders from northern Utah. The removal of the water as proposed threatens the continued existence of what is probably the number one birding destination in northwest Arizona. Clearly the birds and other wildlife are presently dependent upon the existing water and habitat in the lower Beaver Dam Wash. They would have no other place to go if this habitat is lost.
9. Mormon Well is the base water for a federal grazing permit. It is unknown if the proposed removal of water would eliminate the base water.
10. Beaver Dam Wash provides the best, the largest, and just about the only riparian Cottonwood gallery in the area, probably because of the Wash's good water. Loss of this cottonwood habitat would be a significant impact.

Thank you for the opportunity to comment on this proposal.

Sincerely,

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