

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

FILED  
SEP 03 1998  
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 63993,  
FILED BY WASHOE COUNTY,  
ON MARCH 27<sup>TH</sup>, 1998, TO APPROPRIATE THE  
WATERS OF WASHOE CO., NEVADA  
UNDERGROUND SOURCE

PROTEST

Comes now JOHN & VELLA TORVIK  
Printed or typed name of protestant  
whose post office address is 455 N. HARMON, FALLON, NV 89406  
Street No. or P.O. Box, City, State and Zip Code  
whose occupation is RANCHER, LANDOWNER, and protests the granting  
of Application Number 63993, filed on MARCH 27<sup>TH</sup>, 1998  
by WASHOE COUNTY to appropriate the  
waters of AN UNDERGROUND SOURCE situated in WASHOE  
Underground or name of stream, lake, spring or other source

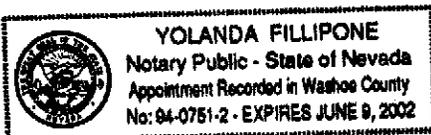
County, State of Nevada, for the following reasons and on the following grounds, to wit:

SEE ATTACHED EXHIBIT 'A'

THEREFORE the protestant requests that the application be DENIED  
Denied, issued subject to prior rights, etc., as the case may be  
and that an order be entered for such relief as the State Engineer deems just and proper.

Signed [Signature] (AGENT)  
Agent or protestant  
JASON GILIES  
Printed or typed name, if agent  
Address 255 UNIVERSITY TERRACE  
Street No. or P.O. Box No.  
RENO, NV 89503  
City, State and Zip Code No.

Subscribed and sworn to before me this 3rd day of September, 1998.  
[Signature]  
Notary Public  
State of Nevada  
County of Washoe



**\$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.  
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.**

[Handwritten mark]

## Exhibit "A"

Before ruling on an application to appropriate waters of the State of Nevada, the State Engineer must determine if three basic criteria are being satisfied. These criteria are as follows:

1. Is there unappropriated water at the source?
2. Does the proposed use conflict with existing rights.
3. Is the appropriation in the best interest of the public?

The Protestant does not believe that the applicant has satisfactorily met any of the above criteria for the following reasons.

### Is there unappropriated water at the source

The applicant asserts that sufficient perennial yields exist within the region to appropriate underground waters (Water Basin 21 "Smoke Creek Desert"). However, not all of the relative rights, such as claims to vested rights have been fully determined.

The applicant has not provided any type of analysis or hydrological study that would indicate that unappropriated water exists, and that it exists in such quantities to justify the approval of these applications. Approval of these applications might result in consumptive withdrawals in excess of the basins perennial yield.

If the water were exported out of the basin, the system hydrology would be affected to the extent that depletion of the resource could occur. Withdrawal of underground water and the lowering of the static groundwater levels would induce recharge from surface water resources that the protestant has relied on. One cannot withdraw water for Human Consumption and continue the natural discharge of the resource. In the current condition, discharge in the form of springs, seeps, etc., are used for stock watering, grazing and related ranching/farming purposes. Springs are considered natural discharges that have senior rights to the applicant. Once the groundwater potentiometric surface has been lowered and Human Consumption replaces natural consumption, these valuable resources may cease to exist. The state engineer must consider mitigation in any decision that is made, should he continue with the approval of any appropriation.

**Summarizing C.V. Theis' (1940) the following observation was made:**

*"Prior to development by wells, aquifers are in a state of dynamic equilibrium, in that over long periods of time recharge and discharge virtually balance. Discharge from wells upsets this balance by producing a loss from storage, and a new state of dynamic equilibrium cannot be reached until there is no further loss from storage. This can only be accomplished by:*

1. Increase in recharge (natural or artificial)
2. Decrease in natural discharge
3. A combination of 1 and 2

**Definition of "perennial yield" —**

*"The maximum amount of water that can be withdrawn from the ground-water system for an indefinite period of time without causing a permanent depletion of the stored water or causing a deterioration in the quality of the water." - Walker and Eakin*

### **Does the proposed use conflict with existing rights**

The Protestant believes that an approval of these applications could result in an unreasonable lowering of the static ground water level and negatively affect surface water sources. Appropriations such as these could also effect the quality of water in the basin. In past rulings, the State Engineer has determined that a large appropriation such as these can lower the water table to a point where brackish waters from other aquifers infiltrate and dominate existing wells. This infiltration of brackish water significantly reduces the quality of the water, rendering the existing use of the well impossible.

The applicant has not provided any analysis or study to show that these appropriations will not cause a permanent depletion of stored water or cause deterioration in the quality of the existing water table. They have provided no analysis proving conclusively that the basin is not connected to the Pyramid Lake Valley ground water system. If the systems are connected and the appropriations are approved then existing rights in said basin may be effected as well as those in the Smoke Creek Basin.

The Protestant believes that these appropriations will reduce the value of all existing rights in the basins. This reduction in value will be caused from an increase in pumping costs because of the lowering of the static ground water level.

**Is the appropriation in the best interest of the public**

The Applicant has not demonstrated the financial ability to put the large quantities of appropriated water to beneficial use. The applicant has not supplied project descriptions nor growth projections commensurate with the quantity of these appropriations to justify their appropriation, nor has the applicant proven the financial ability to put the water to beneficial use. They have not demonstrated any type of routing or method to convey this water to the place of use. The applicant has not obtained the necessary easements and/or permits for right of way to convey the water to its ultimate place of use. Groundwater in the area has a high mineral content. It is unlikely that it will be acceptable for municipal use without excessive cost to the public for processing said water to the quality needed for human consumption. The Protestant believes that the applicant is simply speculating, and these rights would be held in anticipation of the eventual sale to private and/or public developments, which is contrary to the public interest, based on previous State Engineer Rulings.

The approval of these applications could result in a depletion of endangered species and non-endangered species. It could have an adverse affect on native indigenous and migratory animal species. In particular shore birds, waterfowl, and over-wintering raptors as well as various big game animals that rely on the area's groundwater, marshlands, riparian zones and other rangelands that rely on phyreatophytic consumption.

Again, the applicant has preformed no analysis or study that would satisfy environmental and ecological concerns.

The Protestant feels that until all of these concerns and questions have been satisfactorily answered, with a complete and through analysis of the basins, all of the applicant's applications to appropriate water should be **denied.**