FILED
JUN 24 2002
STATE ENGINEER'S OFFICE

Before The State Engineer, State of Nevada
Department Of Conservation and Natural Resources
Division of Water Resources

In The Matter of **Application Number 68543** Filed by **Applicant Joann H. McCloskey** To Change The Place Of Use Of The Waters Of The Truckee River	)	**PROTEST**

Comes Now, Churchill County, whose post office address is 155 North Taylor Street, Suite 153, Fallon, Nevada 89406, whose occupation is Political Subdivision of the State of Nevada, with the nondelegable and nondiscretionary responsibility to protect the health, safety and welfare of the residents of the County and to protect and guard against threats to the County's public assets and protests the granting of **Application Number 68543**, filed on March 6, 2002, by Joann H. McCloskey to change the place of use of appropriate waters of the Truckee River situated in the State of Nevada, for the following reasons and on the following grounds, to wit:

1. The application, if granted, would violate federal reclamation law, 43 U.S.C. §389, in several respects including, but not limited to: i) the detrimental effect on existing water rights within the Newlands Reclamation Project; and, ii) violation of the trust and contract obligations of the United States of America to all owners of Newlands Project water rights including Churchill County.

2. The application, if granted, would violate the Alpine Decree and the Orr Ditch Decree, *United States v. Alpine Land and Reservoir Co.*, Equity No. D0183, BRT (D.Nev. 1980), and *United States v. Orr Water Ditch Co.*, Equity No. A-3 (D.Nev. 1944), respectively, and the Order and Judgment entered in the case of *Nevada v. United States*, 463 U.S. 110, (1983).

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3. The application, if granted, would be detrimental to the public interest because it would remove water resources from lands within aquifer recharge areas and consequently deplete the groundwater supply from which Churchill County's appropriated Nevada water rights rely to supply its residents drinking water.

4. The application, if granted, would conflict with and impair existing underground water rights because it would remove water resources from lands within aquifer recharge areas and consequently deplete the groundwater supply from which Churchill County's citizens rely to supply drinking water.

5. The application, if granted, would adversely affect the cost of charges for water delivery and lessen the efficiency in the delivery of water to water right owners served by the Newlands Project, including the City of Fallon, in violation of Nevada law.

6. The application, if granted, would have an adverse effect on the tax base of Churchill County and consequently would be detrimental to the public interest of the State of Nevada.

7. The application, if granted, would create the potential for dust hazards and air pollution within Churchill County and consequently would be detrimental to the public interest of the State of Nevada.

8. The application, if granted, would present a hazard and danger to the health, safety and welfare of the residents of Churchill County and the community at large because it would jeopardize many thousands of people's drinking water supply.

9. The application, if granted, would be contrary to and violate federal law, 42 U.S.C. §4300, the National Environmental Policy Act ["NEPA"] because it would implement major federal actions prior to the required environmental analysis of the cumulative and synergistic effects of said actions to the human environment by way of a programmatic environmental impact statement.

10. The application, if granted, would be contrary to and violate federal law, Title II, Public Law 101-618, The Truckee-Carson Pyramid Lake Water Settlement Act ["The Act"] because it would violate NEPA.

11. The application, if granted, would violate The Act because it would violate the Alpine Decree and the Orr Ditch Decree.

12. The application, if granted, would violate The Act because it would harm vested and perfected water rights.

13. The application, if granted, would violate The Act because it is prior to the Congressionally mandated and prerequisited groundwater studies and mitigation agreements which must determine and mitigate the effect of such proposed water transfers to the domestic drinking water supply of Churchill County.

14. The application, if granted, would be detrimental to the public interest of the State of Nevada because it is prior to the Congressionally mandated and prerequisite groundwater studies and mitigation agreements which must determine and mitigate the effect of such proposed water transfer to the domestic drinking water supply of Churchill County.

15. The application should be subject to Nevada law, N.R.S. §533.368, to determine whether hydrologic and environmental studies are necessary to determine and mitigate the effect of said proposed transfer.

16. The application, if granted, would violate the federal Safe Drinking Water Act because its depletion of groundwater quantity would have a corresponding negative impact on groundwater quality upon which Churchill County depends to supply drinking water to its residents.

17. The application, if granted, should be conditioned on compliance with Chapter 17.77 of the Code of Churchill County regarding the control of emissions of dust and sands.

Therefore the Protestant requests that the Application be denied or granted subject to conditions consistent with this Protest, and that an Order be entered for such relief as the State Engineer deems just and proper.

CAMPBELL AND CAMPBELL

By: _____
Ryan T. Campbell, Esq.
4745 Caughlin Parkway
Suite 200
Reno, Nevada 89509
(775) 332-0707

SUBSCRIBED AND SWORN to before me this 18th day of June, 2002.

_____
Notary Public, Washoe County, Nevada

CINDY HELLER
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 92-1995-2 - Expires January 29, 2004

Certificate of Service

I, the undersigned, declare under penalty of perjury, that I am an employee of *Campbell & Campbell* that I am over the age of eighteen (18) years, and that I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the document described herein by the method indicated below, and addressed to the following.

Document Served: *Protest*

Person(s) Served:

Bruce R. Scott RESOURCE CONCEPTS, INC. 340 North Minnesota Street Carson City, Nevada 89703	_____ X _____ _____	Hand Deliver U.S. Mail Overnight Mail Facsimile

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of June, 2002, at Reno, Nevada.

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STATE ENGINEERS OFFICE