

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

FILED
NOV 07 2003
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER.....70271.,

FILED BY DAN AND DENNY HELTON.,

ON JULY 26., 2003., TO APPROPRIATE THE WATERS OF

...UNNAMED SPRING FOR WILDLIFE USE.

} PROTEST

Comes now.....Catherine Armstrong.....
Printed or typed name of protestant

whose post office address is.....6355 Quaking Aspen Road, Reno (Warm Springs) Nevada 89510.....
Street No. Or P.O. Box, City, State and Zip Code.

whose occupation is .Psychological Consultant and protests the granting

of Application Number70271....., filed on7/26/03....., 2003.....

by..Dan and Denny Helton..... to appropriate the

waters ofunnamed stream.....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:

Please see Attachment A.

THEREFORE the Protestant requests that the application be ...Denied.....
Denied, unless 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.

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Signed
Agent or protestant

.....Catherine Armstrong.....
Printed or typed name, if agent

Address.....6355 Quaking Aspen Road, Reno, NV 89510.....
Street No. or P.O. Box No.

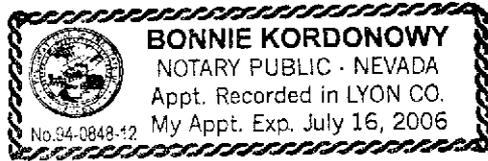
.....
City, State and Zip Code No.

Subscribed and sworn to before me this 7th day of November, 2003.

.....Bonnie Kordonowy.....
Notary Public

State of.....Nevada.....

County of.....Carson City.....



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

Attachment A:

RE: Application No. 70271
Helton/Unnamed Spring for Wildlife Use

My 40 acre parcel is downstream from Applicant/Helton's proposed diversion project. For the past 6 months, I have had the distinction of getting to know Mr. Helton and observing, first hand the environmental consequences of his *present, ongoing* diversion activities. The following details form the basis for this protest:

- The *necessity for use* proposed by Mr. Helton has not been established. If need exists, it has been created by applicants ongoing water diversions and related environmental degradation as a direct result of his activities on and near unnamed stream.
Mr. Helton has drilled underground to spring for water, so there is NO surface water left to divert!
- Immediately downstream of Helton's diversion/storage area, including the some 800 feet of stream that ran through my parcel, has dried up and has remained dry for the past 6 months, resulting in substantial forage loss. Pollywogs and other instream water and plant life have died or have been desecrated due to grading activities. Wildlife and cattle once frequented this area of the stream system. Wildlife have not been inclined, based on my observations, to visit Mr. Helton's artificially created riparian paradise, perhaps due to inhospitable environment; e.g., extensive grading, containment/storage of water too close to living quarters, large barking dog & puppies, heavy foot/vehicle traffic, tractor and heavy equipment noise/activity due to nature of Mr. Helton's occupation. *PER NR5533 030, Legislature intended the provision of water for wildlife - as a recreational need for wildlife to have water.*
- I have confronted Mr. Helton in a neighborly manner several time about the following situation: Stream began flowing irregularly (flow would stop and start like a faucet) in May of 2003 and subsequently dried up completely in late June of 2003. This coincided with applicant's "development activities" located upstream from my residence. I have spoken to the previous owner of my parcel and nearby neighbors, who report natural stream system in locations in question have flowed uninterrupted. When/if stream has recessed, due to seasonal heat, decline has occurred *late* in the summer and for a few days or weeks, *not as the pattern described and experienced above*. Vegetation present confirms this.
- Mr. Helton has maintained that his activities are totally unrelated, that the stream system has dried up due to "drought conditions" or some sort of underground banana belt that exists precisely downstream from his diversion activity (my property). He continues to characterize reports by neighbors, previous owners and others who contradict him as "liars." Mr. Helton has discouraged me from seeking expert advise or from exercising my rights because it will cost me "thousands of dollars" and would result in "all of us losing our water."
- Mr. Helton continues to assure me that the water will return when it cools down. Historically, following rain or snowfall, this stream system flowed heavily and even overflowed in some areas. *It is now November 7. After 7 snow falls, stream remains dry with the exception of area where Mr. Helton diverts and stores water from stream system for his private use.*
- Mr. Helton's diversion activities and the environmental degradation created by his activities have been observed by many, including the party holding first deed of trust on my parcel located just downstream. The 40 acre no longer has a stream running through it; aesthetically has also been compromised. The property value will certainly be affected unless Mr. Helton returns the stream system to its natural flow.
- Helton's response to the situation has clearly demonstrated his inability to respect the public's interest and the concept of *beneficial usage*. This little stream system is a critical

component of the ecosystem in the Home Ranch Canyon. Mr. Helton's actions should serve one purpose: To demonstrate clearly to the State Engineer that applicant lacks good faith intentions to implement a diversion project that is based on beneficial use/need ; applicant should be denied the privilege.

ACK

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