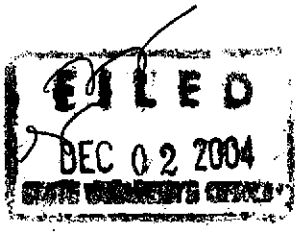
Before the State Engineer, State of Nevada

Department of Conservation and Natural Resources

Division of Water Resources



In the Matter of **Application Number 71382**)
Filed by the City of Fernley, To Appropriate the :
Public Waters of the State of Nevada) **Protest**

COMES NOW, Churchill County, a 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, whose address is 155 North Taylor Street, Suite 153, Fallon, Nevada 89406, by and through its undersigned counsel, hereby protests the granting of Application Number 71382, filed June 30, 2004, by the City of Fernley to appropriate 5.57 acre feet of underground water near the Truckee River in close proximity to Wadsworth, Nevada. This Protest is based on the following reasons and grounds, to wit:

1. The amount of the appropriations exceeds the perennial yield of the groundwater basin and is therefore detrimental to existing water right owners and detrimental to the public interest.

2. Capture of groundwater recharge, which discharges to the Truckee River and induced recharge from the Truckee River, amount to a new appropriation of Truckee River water with a 2004 priority date, which will be diverted out of priority under a groundwater pumping scenario.

3. Reduction of flows in the Lower Truckee River is inconsistent with the United States Fish and Wildlife Service and Pyramid Lake Paiute Tribe's efforts to increase flows for the purposes of fish spawning and to maintain and stabilize the level of the Lake for fish spawning purposes and is therefore adverse to the public interest.

4. Reduction of flows in the Lower Truckee River will further increase pressures to obtain water from sources above Derby Dam including the Newlands Project and therefore, if granted, would adversely affect the cost of charges for water delivery and lessen the efficiency in the

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delivery of water to water right owners served by the Newlands Project including Churchill County, all in violation of N.R.S. 533.370.

5. Albeit a new appropriation of groundwater, this is essentially a new appropriation of surface water on the Lower Truckee River with at 2004 priority, which would never be approved if filed in such a manner.

THEREFORE, the Protestant requests that the Application be dismissed, or in the alternative, notice and hearing requirements of N.R.S. be followed and after hearing, if approved, certain restrictions and conditions be imposed on such approvals, and that an Order be entered for such relief as the State Engineer deems just and proper.

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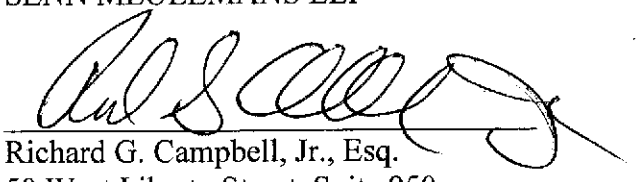
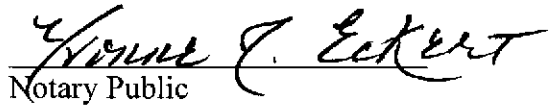
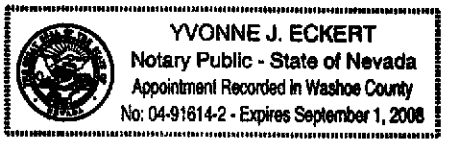


Richard G. Campbell, Jr., Esq.
50 West Liberty Street, Suite 950
Reno, Nevada 89501
Attorney for Churchill County

SUBSCRIBED AND SWORN
To before me this ~~3rd~~ 2nd day of
December, 2004.



Notary Public



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Certificate of Service

I, Arlene P. Hallmark, declare that:

I am over 18 years of age and not a party to, or interested in, the within entitled action. I am an employee of SENN MEULEMANS, LLP and my business is at 50 West Liberty Street, Suite 950, Reno, Nevada 89501.

On December 2, 2004, I served the following document(s) described as follows:

PROTEST

[ ] BY HAND DELIVERY: I caused a copy to be hand delivered by a messenger service with which this firm maintains an account, addressed as follows;

[ ] BY FACSIMILE: I served on interested parties in said action, by transmitting a true copy of the attached document, via facsimile, to the facsimile numbers listed on the Service List. The facsimile machine complied with Nevada Rules of Court Rule 5(b) and no error was reported by the machine. Pursuant to Nevada Rules of Court, Rule 5(b), I caused the machine to print a transmission record of the transmission, a copy of which is attached to the file copy of this declaration;

[X] BY MAIL [N.R.C.P. 5(b)] I caused each envelope to be placed for deposit with the U.S. Postal Service in a sealed envelope, with postage prepaid, and that each envelope was placed for collection and mailing on that date following ordinary business. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the U.S. Postal Service. Correspondence so collected and processed is deposited with the U.S. Postal Service that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit;

[ ] BY OVERNIGHT COURIER By placing the document(s) listed above in a sealed FEDERAL EXPRESS envelope and affixing a pre-paid air bill, No., causing the envelope to be delivered to the person(s) listed below; on the parties addressed as follows:

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Reno, Nevada 89501
(775) 322-7400

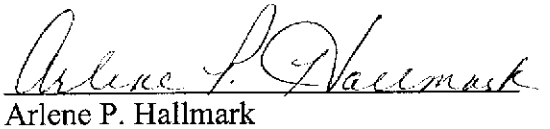
Paul Taggart, Esq.
King, Taggart & Wasick, Ltd.
108 N. Minnesota Street
Carson City, NV 89703

Martin Ugalde, P.E.
595 Silver Lace Blvd.
Fernley, NV 89408

Executed on December 2, 2004, at Reno, Nevada.

[X] (State) I declare under penalty of perjury under the laws of the State of Nevada that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



Arlene P. Hallmark

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