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

IN THE MATTER OF APPLICATION NUMBER 73418,
FILED BY U.S. Fish & Wildlife Service
ON Nov. 1, 20 05, TO APPROPRIATE THE
WATERS OF Carson River

**PROTEST**

FILED
FEB 01 2006
STATE ENGINEER'S OFFICE

Comes now Albert Mussi
Printed or typed name of protestant
whose post office address is 4780 Tarzyn Rd, Fallon, Nv. 89406
Street No. Or P.O. Box, City, State and Zip Code.
whose occupation is rancher and protests the granting
of Application Number 73418, filed on Nov. 1, 2005, 20
by United States of America, Fish & Wildlife Service to appropriate the
waters of Carson River situated in Lyon & Churchill
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:

- Adversely effect lower Carson River water users in Segment 8
- Transfer application, as written, is contrary to the provisions of Alpine Decree & would set precedence to make entire river system unmanageable.
- Application has incorrect proposed place of diversion & was not published in proper newspaper to give adequate public notice.
- Please see Attachment "A"

THEREFORE the Protestant requests that the application be Denied, - if approved priority date of water right should be changed to Nov. 1, 2005
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 Albert Mussi
Agent or protestant

Printed or typed name, if agent

Address 4780 Tarzyn Rd.
Street No. or P.O. Box No.

Fallon, Nv. 89406
City, State and Zip Code No.

Subscribed and sworn to before me this 31st day of January, 2006

Jonna Van Dyke
Notary Public

State of Nevada

County of Churchill

JONNA VAN DYKE
Notary Public - State of Nevada
Appointment Recorded in Churchill County
No: 05-99715-4 - Expires September 20, 2009

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

# Attachment "A"

- reasons for protest

- United States of America, Fish & Wildlife Service (USFWS) is trying to change place of use of water from Segment 7 to Segment 8. of Carson River. As stated in Alpine Decree, each segment of river is autonomous. State Engineer has long held that when water is moved from one segment of river to another the priority date of water is lost. In the past, the State Engineer has adjusted the priority to the date of change application. This is the only way to maintain fairness to all. U.S.FWS is attempting to circumvent this process by claiming the same Segment 7 point of diversion. In reality they are trying to change the point of diversion from Segment 7 to Segment 8 (approximately 30 miles downstream)

- This change application, if granted, would have a chaotic effect on the customary use of the lower Carson River. Return flows, conveyance losses, conflicting priorities in different segments, monitoring usage, & water deliveries are all problems.
  - There is a substantial amount of return flow water in Segment 8 regardless of the flow in Segment 7. USFWS should have no claim to this water on a Segment 7 water right.
  - There would be an enormous loss of water through evaporation & seepage by transporting the water an additional 30 miles downstream. This loss should be charged to U.S.F.W.S. How would this loss be calculated & charged to USFWS so as to not adversely effect other water users? Moving water such a great distance downstream is terribly inefficient.
  - Since each segment of the river is autonomous, moving senior water rights from one segment into another

Attachment "A" (continued)

will only create conflict & turmoil. As the owner of claim numbers 795 & 796 in Segment 8, I will directly be adversely affected by the proposed change. USFWS currently holds excess water rights in Segment 8 with a priority date of approximately 1950. They are the most junior water rights in Segment 8. I often have problems with water being diverted to USFWS ahead of my senior 1898 & 1908 priorities.

- If approved, U.S.FWS would be using water rights from Segment 7 in both Segment 7 & Segment 8. Adequate safeguards are not in place to insure that no excess diversions are made by using water in both places.

- With point of diversion & place of use effectively being moved into Segment 8, application should have been advertised in Segment 8 newspaper, Lahontan Valley News, to provide proper public notice

- Wildlife would be better served by using water in place

- Moving water from one segment to another without losing priority would set dangerous precedence & allow segmentation system of river in Alpine Decree to be eroded. Since each segment has unique characteristics, practices, customs, agreements, & decrees the consequences are unknown & could be very serious.

- Water not available for transfer due to forfeiture, abandonment, or lack of perfection