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

IN THE MATTER OF APPLICATION NUMBER 74528,
FILED BY Colvin and Son, LLC,
ON July 19, 2006, TO APPROPRIATE THE
WATERS OF State of Nevada

PROTEST

FILED
OCT 10 2006
STATE ENGINEER'S OFFICE

Comes now Jeff Kerbel
Printed or typed name of protestant
whose post office address is HCR 76 Box 6100 Tonopah, Nevada 89049
Street No. Or P.O. Box, City, State and Zip Code.
whose occupation is Commercial Fisherman/ Farmer and protests the granting
of Application Number 74528, filed on July 19, 2006
by Colvin and Son, LLC to appropriate the
waters of Underground situated in Nye
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 attachment 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 for protestant

Jeff Kerbel
Printed or typed name, if agent

Address HCR 76 Box 6100
Street No. or P.O. Box No.

Tonopah, Nevada 89049
City, State and Zip Code

254 387 1537
Phone Number

RECEIVED
2006 OCT 10 AM 11:40
STATE ENGINEER'S OFFICE

Linda Boyken-Notary Public
State of Nevada
White Pine County-Nevada
Certificate#05-94455-17
Appt. Exp. Feb. 08, 2009

Subscribed and sworn to before me this 6th day of October 2006

Linda Boyken
Notary Public

State of Nevada

County of White Pine

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

Attachment A

Protestant is owner of Proof #02055 for .75 cfs and vested water rights in Hot Creek Canyon. Granting of this Application may injure water rights of protestant put to beneficial use through domestic, irrigation, stock water, hydroelectric and commercial hatchery uses. The protestants lands are unique for their scenic beauty with 100 year old trees, sub-irrigated lands, irrigated lands, free flowing springs, both warm and cold totaling approximately 1 cfs. Protestants lands are home to many species of wildlife including Desert Bighorn and a priority 3 refugia population of the threatened Railroad Valley Springfish. Protestant feels that the majority of this water is from basin charge in Little Fish Lake Valley, and that quantity and quality (temp. ect.) would be adversely impacted by the granting of this application.

This Application is one of 11 being concurrently applied for by applicant on July 19, 2006. All Applications are in Little Fish Lake Valley, Basin 150. Protestant asks the State Water Engineer not only to consider the merits and impact of this application individually but the merits and impact of all 11 applications as a group.

The total flow of underground water requested in these applications is 6.9 cfs and the total acreage to be irrigated is 847.89.

September 7, 2004 Applications 71659-71663 were filed by same Applicant. June 22, 2006 Applications 71659-71663 were amended to reduce the amount of acres to be put into irrigation. The total reduction of these 5 Applications is 920.89 acres.

The current applications 74520-74530 replace all the acreage that had been reduced by the amended 71659-71663 applications, except the 73 acres of the surface of Little Fish Lake itself.

The obvious purpose of these applications, 71659-71663 and 74520-74530, is to acquire essentially all the water in Little Fish Lake Valley that has been "Determined" to be Surplus by the State Water Engineer, 10,000 acre feet annually.

The State Water Engineers' determination of Surplus is based on the Nicholes Report (2000). The values this report states for evapotranspiration and outflow in Little Fish Lake Valley, Basin 150, are contestable and not properly founded.

Applicants deeded lands are approximately 6,500 feet in elevation, land at this elevation is estimated to have a growing season of 75 to 100 days. Proposed well site and deeded acreage to be irrigated in this Application are accessed by remote seasonal dirt roads. Trucking of crops and/or fuel would be difficult and expensive. Pumping costs would be higher due to the need to generate power at the proposed well site. Delivery of water is proposed through ditches, this method is an economical way to prove a water use, but compared to more modern technology, the least economical use of pumped well water. This method, used extensively with free water (gravity fed water) is not often used in this manner viably. A ditch system of this size would be labor intensive. Land to be put into irrigation would require extensive work to be effective, leveling, removal of brush, filling ect... Projected productivity compared to pumping and labor costs would shed doubt on profitability, or in this case that agricultural profitability is even the goal of the Applicant. It would be difficult at best, if possible at all, to put all deeded acres claimed into irrigation.

In the light of the aforementioned difficulties and expenses, Applicants "plan" would seem to be in acquiring water for some other purpose than an economically viable farming venture.

Protestant feels this application is for speculative purposes, is wasteful and that the desertification of Little Fish Lake Valley to "Conserve water" for this Application and/ or group of Applications or any other large scale scheme be it agricultural or not would destroy large amounts of wild life habitat and scenic beauty and would not be in the public interest.