

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

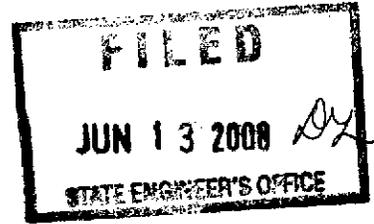
IN THE MATTER OF APPLICATION NUMBER.....76942.....

}PROTEST

FILED BY....FALCON CAPITAL, LLC....., ON...APRIL 15,

2008, TO APPROPRIATE THE WATERS OF: BROWN'S CREEK &

TRIBUTARIES



Comes now..... Nevada Department of Wildlife.....
Printed or typed name of protestant

whose post office address is.....1100 Valley Road, Reno, Nevada 89512-9921
Street No. Or P.O. Box, City, State and Zip Code.

whose occupation isState wildlife agency..... and protests the granting

of Application Number76942....., filed onApril 15, 2008

byFalcon Capital, LLC..... to appropriate the

waters ofBrown's Creek and tributaries..... situated in
Underground or name of stream, lake, spring or other source

Washoe County, State of Nevada, for the following reasons and on the following grounds, to wit:

The decree that governs the allocation of the waters of Brown's Creek and its tributaries, as established by District Judge John Gabrielli on August 18, 1976, states that water appropriated under Amended Proof No. 02757 shall be applied to pasture and crop ground within Sections 25 and 26 of T. 17N. R. 19 E. M.D.M. The Nevada Department of Wildlife (NDOW) also owns water rights in Brown's Creek and its tributaries under Third Amended Proof 02442. The 02442 water is also appurtenant to pasture and wetland property within Sections 25 and 26 of T. 17N. R. 19 E. M.D.M.. The waters under Amended Proof 02757 and Third Amended Proof 02442 share a common point of diversion and a common conveyance system with much of the water ending up in the same pasture and wetland area that straddles the boundary between property owned by the Bureau of Land Management and the Scripps Wildlife Management Area which is owned by the Nevada Department of Wildlife. Given the fact that the waters appurtenant to Amended Proof 02757 make up about 75% of the total allocation of water in Brown's Creek, it is apparent that the diversion of that flow away from the currently used conveyance system would have a significant negative impact on NDOW's ability to maintain an efficient flow of its water within the system. The reduction of water flow would translate into a greatly reduced ability to maintain the historic wetland that is now served by the combined flow of the two water sources. That, in turn, would reduce the quality of the wildlife habitat and reduce the recreational value for the public that currently enjoys using the area for hiking, bird watching, hunting etc..

THEREFORE the Protestant requests that the application bedenied.....
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 Elmer Bull
Agent or protestant

..... Elmer Bull / Wildlife Staff Specialist
Printed or typed name, if agent

Address..... 50 Hatchery Way
Street No. or P.O. Box No.

..... Yerington, NV 89447
City, State and Zip Code No.

Subscribed and sworn to before me this 12 day of June 2008.....

..... Karen C Smith
Notary Public

State of..... Nevada

County of..... Lyon



OK