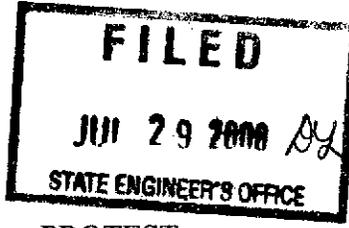


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER.....77106.....,
FILED BY. DESERT GUN CLUB, A NEVADA CORPORATION C/O
JIM HARDISON.,
ON.....JUNE 5....., 2008....., TO TRANSFER THE WATERS OF
.....THE TRUCKEE RIVER.....



PROTEST

2008 JUL 29 AM 11:29
STATE ENGINEERS OFFICE
RECORDED

Comes now.....Truckee Carson Irrigation District.....
Printed or typed name of protestant
whose post office address is.....P.O. Box 1356, Fallon, NV 89407-1356.....
Street No. Or P.O. Box, City, State and Zip Code.
whose occupation is and protests the granting
of Application Number77106....., filed on June 5....., 2008
byDesert Gun Club, a Nevada Corporation c/o Jim Hardison.....to transfer the
waters ofthe Truckee River.....situated inStorey.....
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 the attached Exhibit A for the reasons of protest.....
.....
.....
.....
.....
.....
.....

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 *David P. Overvold*
Agent or protestant

.....David P. Overvold.....
Printed or typed name, if agent

Address.....P.O. Box 1356.....
Street No. or P.O. Box No.
.....Fallon, NV 89407-1356.....
City, State and Zip Code No.

Subscribed and sworn to before me this *24* day of *July*, 20*08*.

Merliza A. Curtis
Notary Public



State of.....NEVADA.....
County of.....Churchill.....

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

dx

Exhibit A – Reasons for Protest to Application #77106

1. The Operating Criteria and Procedures (“OCAP”) for the Newlands Project imposes requirements with respect to efficiency improvements in the delivery of water. The granting of this transfer application would adversely impact conveyance efficiency and the ability to achieve the referenced objectives and requirements. The approval of this transfer will shift the burden to achieve the OCAP objectives on other water right owners within the Newlands Project, and specifically those on the Truckee Division of the Project. The water rights proposed for transfer are located in the Hazen area, approximately fifteen miles downstream on the Truckee Canal from Derby Dam. Accordingly, unless additional diversions are authorized, other users within the Truckee division of the Project will have to absorb the loss of additional water needed to meet efficiency requirements, particularly when losses due to delivery of water through the system, beginning at Derby Dam, are considered.
2. The transfer is for use other than on the agricultural schedule of its prior use and would have impacts on the delivery of water to the Hazen area. In addition, the OCAP does not contemplate deliveries outside the regular and normal irrigation schedule for the Newlands Project.
3. Reference is made to the protest of the United States Government, Bureau of Indian Affairs, Phoenix area office, on behalf of the Pyramid Lake Paiute Tribe of Indians to the granting of application number 55964, as evidenced by the Department of Interior letter dated October 4, 1991. Therein, the United States protested the transfer of waters of the Truckee Rivers by Thomas A. and Meridee R. Wiley on the basis that:

“The water transfer sought conflicts with and hinders the Secretary of the Interior’s ability to reach the efficiencies required by the Newlands Project Operating criteria and procedures...”
4. The applicant seeks to transfer the full duty of 4.5 acre feet. If the application is granted, thus allowing the full duty transferred, there would be adverse consequences and impact with respect to groundwater recharge. At a minimum, if the transfer is approved over the protests herein cited, the amount of water should be reduced to the consumptive use requirements otherwise applicable to similar transfers of Newlands Project water rights.
5. The water rights sought to be transferred in this application are subject to the pre-existing contractual rights and obligations as manifested in water right contracts entered into initially with the United States Bureau of Reclamation or TCID, and which are administered by TCID. The provisions of these contracts provide that the water available to the applicants’ property is an allocable share of available water in any given irrigation year to all of the Project water users. Accordingly, if the transfer is approved without requiring its use to be reduced the same as other Project water rights in a water short irrigation season, the burden of the loss of the water proposed for transfer will have to be assumed by other users within the Project on a pro rata basis.

Exhibit A – Reasons for Protest to Application #77106

6. The transfer is from a location in Churchill County to a location outside Churchill County and Churchill County should be provided notice of such transfer in accordance with NRS 533.363.
7. The application is to transfer water to an instream flow in the Truckee River below Derby Dam. However, applicant has no interest in such flows and is not such a person that would be able to ensure that the water is used for its intended purpose, and as such cannot show with satisfactory proof to the State Engineer that the water will be used for its intended purpose. See NRS 533.370(c)(2). In addition, there is no guarantee that the O&M fees will continue to be paid by the applicant after the transfer is approved as the applicant will no longer have an interest in the continued use of the water. In accordance with NRS 533.370(1)(b), the State Engineer cannot approve a transfer within an irrigation district if such transfer increases the cost to others within the irrigation project.
8. Approval of this transfer will adversely affect the cost of water to other water right owners within the District; lessen the District's efficiency in its delivery and use of the water; may result in a decreased amount of water available to other water right owners because of efficiency requirements; and may not continue with the intended purpose of the transfer as the applicant is not the real party in interest to its intended use. Such results are against the public interest, and under N.R.S. 533.370, the State Engineer is required to disapprove such an application.
9. The Newlands Project was the first reclamation project established under the Reclamation Act of 1902. Pursuant to that act, the Bureau of Reclamation appropriated and set aside water from the Truckee and Carson Rivers specifically for the use of settlers within the Newlands Project and specifically for agricultural and related purposes. (See Claim 3 Orr Ditch Decree, September 8, 1943). The water so appropriated and beneficially used within the Project is appurtenant thereto and is necessary and appropriate for purposes of properly managing the Project for the benefit of the users. The applicant herein is attempting to transfer those water rights for alleged beneficial use outside of the Project. The proposed transfer of these water rights for use outside the Project is prohibited.

THEREFORE, TCID respectfully requests that the State Engineer hold a hearing on application #77106 and that said application be denied and an order be entered by the State Engineer denying said application.