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

IN THE MATTER OF APPLICATION NUMBER 77677,
FILED BY Anne Louise Britton
ON December 11, 20 08, TO APPROPRIATE THE
WATERS OF Pleasant Valley Basin

PROTEST

FILED
FEB 13 2009
STATE ENGINEER'S OFFICE

Comes now Merle Erickson
Printed or typed name of protestant
whose post office address is 2100 Rhodes Road, Reno, Nevada 89521
Street No. Or P.O. Box, City, State and Zip Code
whose occupation is Retired and protests the granting
of Application Number 77677 filed on December 11, 20 08
by Anne Louise Britton to appropriate the
waters of an underground source situated in Washoe
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 attached.

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.

2009 FEB 13 PM 12:25
STATE ENGINEER'S OFFICE

Signed Merle Erickson
Agent or protestant

Merle Erickson
Printed or typed name, if agent

Address 2100 Rhodes Road
Street No. or P.O. Box No.

Reno, Nevada 89521
City, State and Zip Code No

Subscribed and sworn to before me this 12 day of February, 20 09

Kristiana Snippen
Notary Public

State of Nevada

County of Washoe

KRISTIANA SNIPPEN
NOTARY PUBLIC - STATE OF NEVADA
COUNTY OF WASHOE
APPT. No. 08-7185-2
MY APPT. EXPIRES NOVEMBER 27, 2011

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

02

GROUNDS FOR PROTEST: APPLICATION NO. 77677

The proposed change, if granted, will conflict with existing rights, or with protectible interests in domestic wells, or will threaten to prove detrimental to the public interest for the following reasons.

The Truckee River decreed surface water rights (Claims 696, 696.5 and 697) appurtenant to the proposed place of use, APN 017-400-34, as shown on Nevada Division of Water Resources Drawing No. TR-021 approved February 5, 2008, **are physically incapable of delivery.** The Big Ditch rights indicated by the Drawing (.41 afa) have no physical connection to or means of conveyance from the Big Ditch. The Meadow Ditch as shown in the drawing has been completely severed by the water ski lake and other impediments to historical flow situated southwest of the proposed place of use. Thus, the Meadow Ditch is also physically incapable of delivering the corresponding decreed rights (7.11 afa) to the proposed place of use.

The proposed place of use now receives a varying and unquantifiable amount of surface water solely as waste water, or tail water, by way of gravity flow resulting from surface water irrigation by upstream Big Ditch water rights users. This water is received coincidentally, or by default, but not pursuant to decree. As a result of the circumstances described above, the proposed place of use **does not receive any of its decreed duty of surface water rights**.

Therefore, the granting of the proposed change would, in effect, elevate the supplemental groundwater in issue to the status of a primary source of supply and stand alone right (because zero duty of surface water is being delivered), and allow, both in theory and practice, the pumping of 10 afa of groundwater on a **permanent, regular and continuing basis.**

Supplemental groundwater rights are not intended for use as a substitute for surface water rights, or as an annual source of supply. Such rights are intended for intermittent use on an irregular basis, and only to supplement or fill a void in a duty of surface rights not received. As stated above, the void in this case on a continuing annual basis is the entire duty of appurtenant decreed surface water rights.

The proposed place of use is surrounded by existing domestic wells, or parcels with existing rights to domestic wells. The pumping of 10 afa of groundwater, an amount equal to the allowed annual consumption for 5 domestic wells, at the proposed point of diversion in a designated basin, will conflict with existing rights and protectible interests in nearby domestic wells.

Until such time as a means of conveyance and delivery of the decreed appurtenant surface water rights can be reestablished, and the duty received thereby can be quantified, the Application is premature. Otherwise, as explained above, the proposed change, if granted, would make the supplemental right the functional equivalent of a primary right and threaten to prove detrimental to the public interest.