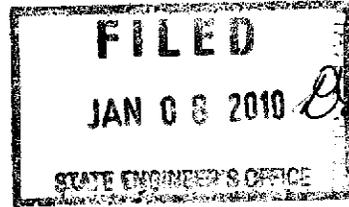


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER.....78914.....  
FILED BY...Borsini Ranch, Inc.....  
ON...October 15....., 2009....., TO CHANGE THE  
WATERS OF ...Walker River.....



2010 JAN -8 PM 1:27

PROTEST

Comes now.....Walker Lake Working Group.....  
Printed or typed name of protestant  
whose post office address is..... P.O. Box 867, Hawthorne, NV 89415.....  
Street No. Or P.O. Box, City, State and Zip Code.  
whose occupation is .....Non-Profit Organization..... and protests the granting  
of Application Number .....78914....., filed on .....October 15....., 2009.....  
by.....Borsini Ranch, Inc.....to change the place of  
use of the waters of .....Walker River..... situated in .....Lyon.....  
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:

.....Please see attachment.....  
.....  
.....  
.....

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 *Glenn E. Bunch*.....  
Agent or protestant

.....Glenn E. Bunch, Chairman.....  
Printed or typed name, if agent

Address.....P.O. Box 867.....  
Street No. or P.O. Box No.  
.....Hawthorne, NV 89415-0867.....  
City, State and Zip Code No.

Subscribed and sworn to before me this .....6<sup>th</sup>..... day of.....January....., 2010.....



*Cassandra Rucker*.....  
Notary Public

State of.....Nevada.....

County of .....Mineral.....

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

*GR*

**ATTACHMENT TO PROTEST OF APPLICATION NO. 78914  
FILED OCTOBER 15, 2009  
BY BORSINI RANCH, INC.**

Borsini Ranch, Inc. seeks to change the place of use of 1.92 cfs of Walker River surface water associated with Permit No. 68402. The Walker Lake Working Group (“Working Group”) is a non-profit citizens organization dedicated to the preservation of Walker Lake. Members of the Working Group use Walker Lake for fishing, recreation, and enjoyment of its scenic beauty, and the property and business interests of Working Group members depend on Walker Lake’s vitality. The Working Group may be significantly and adversely affected by Borsini Ranch Inc.’s proposed change. Therefore, the Working Group protests Application No. 78914 on the following grounds:

1. The Working Group supports an effort to correct defects and inconsistencies in water rights permits which will assist in the proper management of the Walker River and Lake Basin, but the Working Group is concerned that such corrections will overlook potential impacts associated with changed points of diversion and places of use. The Working Group thus urges the State Engineer to evaluate Borsini Ranch Inc’s Application as one to change the place of use rather than to correct an existing place of use, as the effects of the new place of use have not yet been evaluated by the State Engineer. In that vein, the Working Group urges the State Engineer to evaluate the new place of use’s and the underlying water rights’ effect on the Walker River to ensure that it will not have, and is not having, a detrimental effect on downstream water rights or Walker Lake. The State’s public trust duty to protect Walker Lake requires no less.
2. The Working Group believes that the State Engineer should hold Application No. 78914 in abeyance pursuant to NRS § 533.370(5) because the proposed change may prove to be contrary to the public interest as described in detail below.
3. Walker Lake is a rare desert terminus lake located in Mineral County, Nevada. By far the predominant source of water for Walker Lake is inflow of surface water and underground water from Walker River and the hydrologically connected groundwater system in the Walker River and Lake Basin, with lesser additional inflow from other local groundwater sources, local surface water runoff, and precipitation on the lake surface. Walker Lake supports a fragile balance of algae, zooplankton, small crustaceans, insects, and two endemic fish species: the Tui chub and Lahontan cutthroat trout. The Lahontan cutthroat trout is listed as threatened under the federal Endangered Species Act. The Tui chub is identified as a “subspecies of concern” by the American Fisheries Society because of a lack of spawning habitat and high total dissolved solids (“TDS”) in Walker Lake. Walker Lake provides rare and valuable habitat for a variety of migratory birds, including American white pelicans, common loons, snowy plovers, long-billed curlews, double crested cormorants, white-faced ibis, gulls, herons, terns, grebes, avocets, and many others. The region around the Lake has been named a “Globally Important Bird Area” by the National Audubon Society, acting as the United States partner of Birdlife International.

4. The reckless overappropriation of water from the Walker River and Lake Basin has caused water levels in Walker Lake to decline drastically. As water levels have decreased, salinity TDS levels in the Lake have increased. The Nevada Division of Wildlife has estimated that without far greater inflows of fresh water the Walker Lake ecosystem will cease to function in the near future. If the fish that reside in Walker Lake die out, the birds that feed on them will be forced to relocate or perish. Studies by National Geographic at Walker Lake indicate that relocation of the migratory paths is devastating to bird populations.
5. Since the late 1800s, the State and the Federal District Court for the District of Nevada (the "Decree Court") have authorized the appropriation of water from the Walker River system above Walker Lake for use in irrigated agriculture. Currently, approximately 143% of the surface water in the Walker River system is appropriated for out-of-stream uses. Since the 1960s, groundwater pumping in the Walker River Basin has dramatically increased, thereby increasing the draw on an already seriously over-allocated system. Since 1960, groundwater pumping in the Smith and Mason Valleys has diminished flows in the Walker River to catastrophically minimal levels. Due to the increased development of groundwater, the State Engineer has classified four valleys within the Walker River Basin as "designated" under state law.
6. As a result of this cumulative devastating over-appropriation, the surface elevation of Walker Lake has declined by over 100 feet, the Lake's depth has decreased from 224 feet to 90 feet, and its total volume has shrunk to approximately 2 million acre-feet from over 9 million acre-feet in 1882. Between 1986 and 1993, groundwater elevations dropped as much as 80 feet in Smith Valley and 40 feet in Mason Valley. River flows further decreased as a result of the groundwater pumping, as 161,000 acre feet of water were removed from the Walker River to replenish groundwater drawdown areas in Smith and Mason Valleys. During many years over the past two decades virtually no water has flowed from the Walker River Basin into Walker Lake.
7. The decline in Walker Lake's volume has produced pronounced effects on the Lake's water quality. Over the past 100 years, the concentration of total dissolved solids in Walker Lake has increased sevenfold, from approximately 2,500 mg/liter to about 16,000 mg/liter in September of 2008. This increase in total dissolved solids has caused the extinction of Walker Lake's Sacramento Perch population and seriously threatens the Lake's Lahontan cutthroat trout and Tui chub populations. Lahontan cutthroat trout can no longer reproduce in the Lake, and hatchery-raised fish now make up the Lake's entire Lahontan cutthroat trout fishery. As the TDS level in Walker Lake has approached and surpassed 16,000 mg/liter even hatchery-raised Lahontan cutthroat trout have suffered very high mortality rates and may not be able to survive. Fisheries biologists with the Nevada Division of Wildlife and the United States Fish and Wildlife Service predict that without substantial increased inflows of fresh water, Walker Lake's Lahontan cutthroat trout fishery will be lost in the imminent future.
8. The decimation of Walker Lake's water quality and ecological health due to the overappropriation of surface and groundwater in the Walker River Basin has, in turn, devastated the navigational, recreational, aesthetic, wildlife, environmental, and public health values of Walker Lake, and the economic base and quality of life for

Mineral County and its residents, which have always been predicated on the vitality of Walker Lake.

9. Thus, granting Borsini Ranch Inc.'s change application could prove to be contrary to the public interest, as the entire ecosystem and economy downstream of the proposed place of use already is in a state of serious decline due to such changes and the underlying appropriations on which they are predicated. As a result, Walker Lake's ecosystem, the communities that depend on Walker Lake, and the citizens of Nevada who recreate at Walker Lake would be adversely affected by the proposed change in place of use.
10. The State Engineer and State of Nevada have a clear public trust duty to ensure adequate levels of water in Walker Lake to protect its economic and ecological viability. The State cannot abdicate the public's interest in Walker Lake to the use and control of private parties, and cannot authorize or allow the substantial impairment of the public uses and values in Walker Lake, such as navigation, fishing, recreation, and wildlife habitat. In fact, the Working Group filed a petition before the Nevada Supreme Court seeking to compel the State to discharge its public trust duty to safeguard Walker Lake. As noted in the Supreme Court's order on that petition, the public trust issue is being addressed by the Decree Court in the context of Mineral County's Motion to Intervene and Complaint in Intervention in the Walker River Decree case, 3:73-cv-00128-ECR-RAM, which asserts a claim seeking to enforce the State's public trust duties concerning Walker Lake and reallocate water rights in the Walker River Basin accordingly. That public trust claim currently is pending before the Decree Court, and until such time as the claim has been ruled on by the Decree Court, it would be premature for the State Engineer to approve Borsini Ranch Inc.'s proposed change and risk further violating the State's public trust obligations to protect Walker Lake.

For the above reasons, the Walker Lake Working Group protests Borsini Ranch Inc.'s Application No. 78914.