

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

IN THE MATTER OF APPLICATION NUMBER 79366
FILED BY John Charles McCoy
ON April 6, 2010, TO APPROPRIATE THE
WATERS OF Permit 49810

FILED
APR 05 2010
STATE ENGINEER'S OFFICE

PROTEST

Comes now John Charles McCoy
Printed or typed name of protestant
whose post office address is 715 Hwy 395, Washoe Valley, NV 89704
Street No. or PO Box, City, State and ZIP Code
whose occupation is retired and protests the granting

of Application Number 79366, filed on 1/29, 2010

by Michael Buschelman to appropriate the

waters of Town Springs aka Unnamed Spring 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:

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THEREFORE the Protestant requests that the application be Denied

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed John Charles McCoy
Agent or protestant

John Charles McCoy
Printed or typed name, if agent

Address 715 Hwy 395
Street No. or PO Box

Washoe Valley, NV 89704
City, State and ZIP Code

775/721-0523
Phone Number

Subscribed and sworn to before me this 5 day of April, 2010



Julie A. Toth
Notary Public

State of Washoe Nevada

County of Washoe

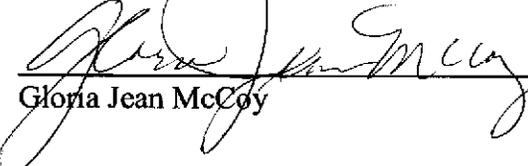
† \$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

dy

John Charles McCoy
715 Hwy. 395
Washoe Valley, NV 89704


John Charles McCoy

Gloria Jean McCoy
4565 Gateshead Bay
Oxnard, CA 93035


Gloria Jean McCoy

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PROTEST – Application for Water No. 79366, Permit 9810, Certificate 2090

The application/accompanying documents obtained from the Department of Water Resources would lead one to believe the Comstock Compadres LLC consists only of Jon Walters/Linda Walters and Charles Gentry/Patricia Gentry.

This is a misrepresentation, fabrication by Walters and Gentrys, and in fact, the Comstock Compadres is comprised of 6 couples, of which it appears, 4 have been purposefully left out of this application process.

We Protest this Application for Water No. 79366 based on the following.

1. NRS 533.370 1. (b) – states “*State Engineer shall approve an application which contemplates the application of water to beneficial use IF: (b) the proposed use or changes....does not adversely affect the cost of water for other holders of water rights...*” – Jon Walters diversion of water is for his and Gentry’s personal use only and not for the beneficial use of other members’ rights. This action if allowed, would adversely affect the cost/availability of water “*for other holders of water rights*” i.e., remaining Comstock Compadres members.

In addition, Application 79366 does not provide information necessary to convey a full understanding (to the balance of the CC, LLC membership) of the proposed change(s). Comstock Compadres LLC has historically been used for irrigation and domestic purposes. While the source of water has been the “Town Spring”, Vya has been a ghost town and is now populated with only a handful of residents. A diversion of this water if allowed would be detrimental to other members of the LLC. If the use is to be changed to quasi-municipal (serving many households), we would like to know – feel we are entitled to know - where those residences are and who owns them. Otherwise, we feel the appropriate type of use should remain irrigation and domestic for Comstock Compadres, LLC.

2. NRS 533.370 1 (c) 1 states “*The applicant provides proof satisfactory to the State Engineer of the applicant’s: 1) intention in good faith...*” – Jon Walters intentionally misrepresented the LLC as being owned by ONLY he and Gentrys instead of the entire membership. We feel this is a blatant and obvious example of lack of good faith intentions. Jon Walter/Charles Gentry are deliberately and consciously, attempting to conceal their intentions from other members of the LLC and diminish the water asset from the LLC. Not to mention mislead at best, the representation of the Comstock Compadres LLC to the State of Nevada, Water Board and State Engineer.

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3. NRS 533.370 1(c) 2 states "*Financial ability and reasonable expectation actually to construct the work...*" As members (including previous treasurer), we have direct knowledge of the LLC finances. Comstock Compadres LLC does not have a good faith intention to construct the works mentioned in the Application. Comstock Compadres does not have the financial resources/ability to construct the project, estimated to cost \$25,000. Comstock Compadres neither possesses, nor has access to, sufficient funds to complete the works. Even if the funds were available to encumber the LLC, the Managing Member wanting to spend in excess of \$10,000 would require a 70% approval from the LLC membership, which we have not given. As Managing Member of the Comstock Compadres, and according to the Comstock Compadres LLC Operating Agreement, Jon Walters needs 70% majority approval from its membership (6 couples), prior to expending/encumbering the LLC, in excess of \$10,000 for any LLC projects. Jon Walters does NOT have 70% approval from the members of this LLC.

4. NRS 533.370 2 (c) state "*...State Engineer shall approve or reject each application...where court actions are pending, ...or the court action becomes final.*" And NRS 533.370 3 (b) "*...the State Engineer pursuant to ...where court actions are pending, withhold action until....court action becomes final.*" – Jon Walters as Managing member of the LLC filed for dissolution (October 2009) of the Comstock Compadres LLC. Case No. 09-CV-0336, 9th Judicial Court of Nevada, Douglas County. Therefore, litigation is still ongoing in this matter.

Based on these concerns we, as remaining members of the CC LLC, feel these violations of the NRS statutes in addition to Walters/Gentrys gross misrepresentation of the Comstock Compadres LLC to the State of Nevada, should compel the State Engineer to deny this request.

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