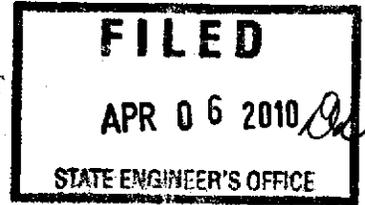


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 79367  
FILED BY Glenn W. Dyer and Leslie Lewellyn Dyer  
ON April 5, 20 10, TO APPROPRIATE THE  
WATERS OF Permit No. 9810 (Certificate No. 2090)



PROTEST



Comes now Glenn W. Dyer

Printed or typed name of protestant

whose post office address is 3212 Spring Brook Court Oceanside CA 92058-7038

Street No. or PO Box, City, State and ZIP Code

whose occupation is Counselor

and protests the granting

of Application Number 79367

, filed on January 29

, 20 10

by Michael D. Buschelman

to appropriate the

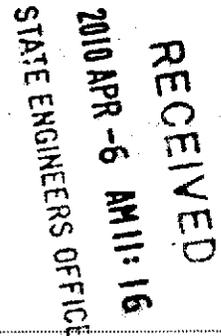
waters of Town Spring aka Unnamed Spring

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:

Please see attached 3 page document.



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 W. Dyer*

Agent or protestant

Printed or typed name, if agent

Address

3212 Spring Brook Court

Street No. or PO Box

Oceanside CA 92058-7038

City, State and ZIP Code

(760) 754-6793

Phone Number

Subscribed and sworn to before me this

day of

, 20

Notary Public

State of

County of

**+ \$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.**

**ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.**

*OK*

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

See Attached Document (Notary to cross out lines 1-6 below)

See Statement Below (Lines 1-5 to be completed only by document signer(s), *not* Notary )

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

Signature of Document Signer No. 1: *Glenn W. Dyer*

Signature of Document Signer 2 (if any): \_\_\_\_\_

State of California )  
County of San Diego )

Subscribed and sworn to (or affirmed) before me on this 5TH day of APRIL 2010, by

(1) GLENN W. DYER  
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me (.)~~(X)~~  
(and)

(2) \_\_\_\_\_  
Name of Signer

~~proved to me on the basis of satisfactory to be the person who appeared before me.~~

*Leanna B. Thompson*  
Signature of Notary Public



**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Further Description of Any Attached Document**

Title or Type of Document: PROTEST APPLICATION NUMBER 79367

Document Date: APRIL 5, 2010 Number of pages: One

Signer(s) other than named above: None

**Protest - Application for Water No. 79367  
Permit 9810, Certificate 2090**

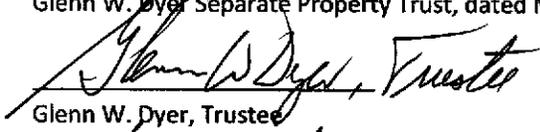
1. The Comstock Compadres, LLC was formed in 2003 and is currently comprised of 12 individual members (Jon/Linda Walters, Charles/Patricia Gentry, Troy/Tracy Walters, Glenn/Leslie Dyer, Charles/Gloria McCoy and Anthony Stobiecki/Diane Hagelthorn. All members have contributed financially to the LLC in its establishment and operation.
2. Jon Walters was appointed the Managing Member of the Comstock Compadres, LLC at the time it was established.
3. Application No. 79367 indicates that the LLC made application to the State Engineer of Nevada for permission to change the point of diversion, place and manner of use of 2.92 acre feet of water annually. We, as members of the LLC, had no involvement or knowledge that this filing was being made by the Managing Member in the name of all LLC members, are not aware of the proposed use for this water and are not in agreement with this application.
4. The Operating Agreement of the Comstock Compadres, LLC requires the Managing Member to obtain super majority approval (70%) from its members prior to planning and expending in excess of \$10,000 for LLC projects.
5. This proposed LLC project, as described in Application No. 79367, is estimated to cost \$25,000 over four years. As members of Comstock Compadres, LLC, we have direct knowledge of its finances. The Comstock Compadres, LLC does not have a good faith intention to construct the works mentioned in the Application and does not have the financial ability to construct the work. The Comstock Compadres, LLC neither possesses, nor has access to, sufficient funds to complete these works. Even if the funds were available, the construction would require our consent, which we have not yet given. See **NRS 533-370 1. ( c ) (2)**.
6. Application 79367 does not provide information necessary to obtain a full understanding of the proposed change. Water Permit 9810, owned by the Comstock Compadres, LLC, has historically been used for irrigation and domestic purposes. While the source of water is known as the "Town Spring," the town of Vya has been a ghost town for decades and is now surrounded by only a handful of residents. The place of use indicates that the water will benefit Lot 4, which is owned by Jon and Linda Walters' household. If the use is to be irrigation – irrigating LLC property – we would like to know, at the very least, where the irrigated land(s) is/are and who owns them. Otherwise, the appropriate type of use should remain Irrigation and Domestic for all LLC members. See **NRS 533.340 (1.) and NRS 533.340 (3.)**.
7. In 2008, Jon Walters (with the assistance of LLC member Charles Gentry), trenched a ditch from the proposed new point and place of diversion of Permit 9810, across the Comstock Compadres, LLC property and through the Ferguson's property to his own personal Vya residence (depicted as Lot 4 on the map filed with this application).
8. Additionally, Jon Walters, acting as the Managing Member, installed 2" piping, filed and approved an easement for himself through LLC property, without the knowledge of LLC members, and since 2008 has been using water from Permit 9810 for his own personal use.

According to the Division of Water Resources letters dated October 5, 2009 and November 24, 2009, any diversion of water from the spring outside the place of use is unlawful. The unlawful water usage to the Walters' residence has continued since 2008.

9. Jon Walters contracted Michael Buschelman, State Water Right Surveyor to obtain water from the LLC for his own personal use, even after a domestic well had been established on his personal property (**Well Log #108932**). This application (Application No. 77703) was denied by Nevada Division of Water Resources. See letter dated November 24, 2009.
10. The Managing Member then contracted Michael Buschelman, who filed Application No. 79367 on January 29, 2010 for the alleged benefit of the LLC and its members. This application fails to include all LLC member properties, as demonstrated in the Reference maps listed in item #1, thus is not beneficial to all Comstock Compadres, LLC members. See **NRS 533.025, NRS 533.030 and NRS 533.350**.
11. Application No. 79367 has been filed under the veil that this water is for a projected Comstock Compadres, LLC project. In actuality, this application is for Jon/Linda Walters and Charles/Patricia Gentry's personal use of LLC water while specifically excluding other LLC members' adjacent properties, as originally depicted in the Reference #1 map listed in this application. There are no accompanying maps or drawings depicting beneficial use for all LLC members. See **NRS 533.025, NRS 533.030 and NRS 533.350**.
12. The map accompanying this application, as well as the map referenced as #1, does not depict a point of diversion from Permit 9810, south to the LLC town site and piping and diversion of water through a buried pipe to the Gentry's personal water tank. Again, according to the Division of Water Resources letters dated October 5, 2009 and November 24, 2009, diversion of any water from the spring outside the place of use is unlawful. Additionally, the Gentry's use or proposed use of the water is not beneficial to all Comstock Compadres, LLC members. See **NRS 533.025, NRS 533.030 and NRS 533.350**.
13. In Application No. 79367, it is estimated that the time to construct works will be four (4) years. Additionally, the application also states the estimated time required to complete the application of water to beneficial use is eight (8) years. However, the Managing Member in October 2009, filed to dissolve the LLC. The case is on file with the 9<sup>th</sup> Judicial Court in the State of Nevada, Douglas County, Case Number 09-CV-0336. See **NRS 533.370 3. ( b )** as court action is pending, the State Engineer may withhold action until the court action becomes final.

Except for Permit 9810 water being used at the LLC Town Site, we, as members of the Comstock Compadres, LLC, are not interested in changing the manner and place of use as applied for in Application No. 79367. If Application No. 79367 is approved, we will lose our respective ownership portion of this Comstock Compadres, LLC water as it will be converted for the sole use and benefit of Jon/Linda Walters and Charles/Patricia Gentry, who do not have sole authority to make decisions for the twelve LLC members. As members of the LLC, we respectfully request that the Nevada Division of Water Resources deny Application No. 79367 for the Comstock Compadres, LLC. We do not understand the proposed use and proposed improvements; it is not for our beneficial use and proves to be detrimental to us. See **NRS 533-370 1. ( c ) (1) and 533-370 2. ( c )** as a basis of denial.

Glenn W. Dyer Separate Property Trust, dated March 12, 2003

  
Glenn W. Dyer, Trustee

  
Leslie Lewellyn Dyer, Trustee

2003-03-12