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

IN THE MATTER OF APPLICATION NUMBER 80038
FILED BY Patua Project, LLC
ON July 27, 20 10, TO APPROPRIATE THE
WATERS OF Underground/Geothermal Reservoir

PROTEST

FILED
SEP 24 2010
STATE ENGINEER'S OFFICE

Comes now David F. Stix, Deena E. Edmonston, and Timothy Edmonston
Printed or typed name of protestant

whose post office address is 4830 Farm District Road, Fernley, NV 89408
Street No. or PO Box, City, State and ZIP Code

whose occupation is Rancher and protests the granting

of Application Number 80038, filed on July 27, 20 10

by Patua Project, LLC to appropriate the

waters of Underground geothermal reservoir situated in Churchill & 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 Exhibit 1.

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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
Agent or protestant

Therese A. Ure, Schroeder Law Offices P.C.
Printed or typed name, if agent

Address 440 Marsh Ave.
Street No. or PO Box

Reno, NV 89509
City, State and ZIP Code

775-786-8800
Phone Number

Subscribed and sworn to before me this 23rd day of September, 20 10

REBECCA L. SQUIRE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 06-103860-2 - Expires March 2, 2014

Rebecca Squire
Notary Public

State of Nevada
County of Washoe

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

**ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.**

**Exhibit 1**

**Protest to Applications: 80028, 80029, 80030, 80031, 80032, 80033, 80034, 80035, 80036, 80037, 80038, 80039, 80040, 80041, 80042**

**Protestant(s): David F. Stix** d/b/a Stix Cattle Company and Dave Stix Livestock
4830 Farm District Road
Fernley, NV 89408

**Deena E. & Timothy Edmonston**
4900 Farm District Road.
Fernley, NV 89408

Protestant David F. Stix holds ground water right Certificate 14828 for commercial and domestic uses. Protestant also uses an exempt domestic ground water well for his primary residence in Fernley, Nevada.

Protestants Deena and Timothy Edmonston use an exempt domestic well for their primary residence in Fernley, Nevada.

In addition to the water rights and uses, Protestants own real property within 2,500 feet of at least one of the proposed points of diversion. Protestants use this property to support cattle and horse operations, as well as to support other domestic animals. Protestants will be injured if this project is permitted. Protestants request that these applications be denied.

**Protest Points:**

1. The application is incomplete or deficient. Until all the following information is provided, Protestants cannot completely evaluate the harm or injury that will affect them by the proposed applications. Protestants reserve the opportunity to expand this protest when and if such information is provided, otherwise, this application should be denied.

a) These applications do not adequately describe the source. The source is listed as a "geothermal reservoir" however such reservoir depth below surface or other pertinent information is not included.

b) These applications do not describe the proposed point of return or reinjection.

c) The works are not adequately described to determine well construction issues. Is the well going to prevent co-mingling of other aquifers or sources?

d) The works are not adequately described to determine the overall impact on the human health, stock and domestic animals, and environment.

e) Additional concerns include, but are not limited to: Over how many acres of land is the well field going to be placed? Are the wells and project facilities on private or public lands? Have all county land use permits been approved? If federal land, have all right-

of-ways and environmental compliance been approved? The application does not provide any of this information.

2. It is unclear if compliance with NRS 533.363 is complete.

> Failure by the State Engineer to give notice and failure by the applicant to submit to a copy of an application and any information relevant to the application to both the boards of county commissioners of the county from which the water for which the permit is requested will be appropriated and the county to which the water will be diverted or used. NRS 533.363.

This project relates to two counties, Lyon and Churchill, and water will likely be withdrawn in one county and re-injected in another county. It is unclear from the application if the exemption in NRS 533.3632(b)(2) applies.

3 The applications if permitted will create an over pumping and mining of the ground water table.

a) This over pumping and mining will cause injury to the basin, as well as neighboring, and more senior water rights, as well as neighboring domestic uses.

b) The applications should be denied as granting this water use would work an unreasonable lowering of the water table.

4. The area upon which, or part of which, the well field apparently is intended to lie includes a designated ground water basin. The State Engineer should order a hydrological study, an environmental study, or other relevant study before approving an application, especially an application for the quantity and rate requested.

a) The ground water areas near the project have further been restricted to municipal, quasi-municipal and domestic uses. *See generally*, State Engineer Order Nos. 699, 1011, 1081 and 1184, relating to the Fernley Area Ground Water Basin. The proposed use applications are in conflict with the management of this designated area. These applications are detrimental to the public interest and public welfare.

b) Given the amount of water proposed to be withdrawn for cooling purposes (8,300 gpm), and not intended to be re-injected, these applications should be denied as the quantity extracted will substantially and negatively impact the state of ground water in the designated basin. The amount of water requested is not available.

c) The proposed use of the water violates the basin designation, as the area has been determined by the State Engineer to need additional regulations to protect the welfare and conservation of the area's water resources.

d) The use listed in the application is not a preferred use in relation to the designated uses in the surrounding areas.

5. The application is speculative. It is unclear that the applicants hold the financial ability to construct the work and apply the water to the intended beneficial use with reasonable diligence.

6. The proposed use conflicts with existing rights and/or protectable interests in domestic wells. These existing rights include, but are not limited to, Protestants' water rights and domestic rights of use. *See generally*, NRS Chapters 533 and 534.

7. The multiple wells requested would create multiple cones of depressions and the likelihood of undue interference with existing wells is great. Should any permit be issued, it should be properly conditioned to protect against lowering of neighboring wells. NRS 534.110.

8. The application will result in waste. The amount of water proposed for use on this project is excessive and will result in waste. *See*, 533.460, 534.020.

9. The applicant has not stated whether the power generated will be used within the state of Nevada or exported. To the extent power will be exported to other states, the applications should be denied. *See*, NRS 533.372.

10. Public interest concerns are not addressed in the applications.

a) What is the water quality of that water used for cooling and not re-injected?

b) Have all Nevada Environmental permits required for the project been obtained?

c) The population in the area dictates the need to protect water for domestic and municipal uses, what is the impact of this project on the water needed for such purposes?

d) Domestic wells are likely already compromised by the recharge, or lack thereof, from the Fernley Truckee-Carson Canal use, making protection of any ground water recharge in the area more critical.