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AFFIDAVIT OF JOHN S. LAMPROSE *[Signature]*

- 1. I am the duly elected Chairman of the White Pine County, Board of County Commissioners.
- 2. This Affidavit is made in support of the attached Protest.
- 3. Assertions made in the attached Protest are based on information and belief, and are believed to be true.

DATED this 26<sup>th</sup> day of July, 2012.

*[Signature]*  
AFFIANT

SUBSCRIBED AND SWORN to before me  
this 26<sup>th</sup> day of July, 2012.

*[Signature]*  
NOTARY PUBLIC

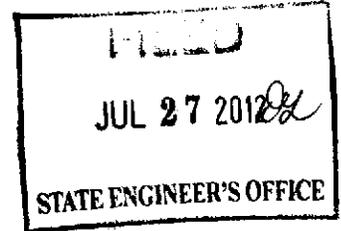


RECEIVED  
2012 JUL 27 PM 3:45  
STATE ENGINEERS OFFICE

WHITE PINE COUNTY DISTRICT ATTORNEY  
801 Clark Street, Suite 3 • Ely, Nevada 89301  
TEL: 775-293-6565 • FAX: 775-289-1559



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



IN THE MATTER OF APPLICATION NUMBER 81908  
FILED BY Southern Nevada Water Authority  
ON May 17th, 2012



PROTEST

Comes now White Pine County

Printed or typed name of protestant

whose post office address is 801 Clark St., Ste#3, Ely, NV. 89301

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

whose occupation is Political Subdivision of the State of Nevada and protests the granting

of Application Number 81908, filed on May 17th, 2012

by Southern Nevada Water Authority for the

waters of a stream (Bastian Creek) source - Spring Valley Basin 184 situated in White Pine  
an underground source 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 Exhibit "A" Application # 81908 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.

Signed \_\_\_\_\_

Agent or protestant

John S. CAMPBELL  
Printed or typed name, if agent

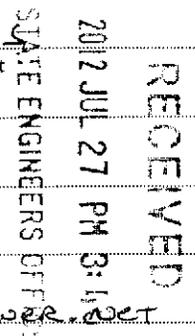
Address 801 Clark St, Suite 3

Street No. or PO Box

Ely NV 89301  
City, State and ZIP Code

775-293-6561  
Phone Number

wpcommision@mwpower.net  
E-mail



Subscribed and sworn to before me this 26th day of July, 2012



\_\_\_\_\_  
Notary Public

State of Nevada

County of White Pine

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

## **EXHIBIT "A" Application # 81908**

Application For Permit #10703 requires a substantial weir be installed and maintained to facilitate the measurement of water as a condition of approval. A field investigation must be conducted to prove such improvements still exist. The flow of the stream has been diverted around a storage reservoir that is not shown on the map and appears to have dried out that reservoir. The map submitted per application #10703 designates the continuous flow of Bastian (Bastian) Creek downstream to meet the requirements of NRS 533.060(1), 533.080(1) and 533.100(3)(a). Per current conditions, creek flow has been diverted entirely into a 12" concrete pipe with no further flow allowed downstream. No new map was provided that clearly distinguishes between past improvements, existing storage reservoirs dried up and requested improvements to be approved, while showing the creek to continue its flow downstream to support wildlife habitation and natural vegetation growth.

Secondly, upon information and belief, the proposed change in place of use and point of diversion is designed to facilitate and support SNWA's planned groundwater development and inter-basin transfer project and there is no genuine need for the water at the move-to location or reason for a change in point of diversion. The proposed groundwater development project would conflict with existing rights, would be detrimental to the public interest, would be environmentally unsound, and would unduly limit economic growth and development in the basin of origin."

**APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED**

|   |                              |
|---|------------------------------|
| THIS SPACE FOR OFFICE USE ONLY            |                              |
| Date of filing in State Engineer's Office | <u>MAY 17 2012</u>           |
| Returned to applicant for correction      | _____                        |
| Corrected application filed               | Map filed <u>MAY 24 2012</u> |

The applicant Southern Nevada Water Authority  
1001 S. Valley View Blvd., MS #485 of Las Vegas  
Street Address or PO Box City or Town  
Nevada 89153 hereby make(s) application for permission to change the  
State and ZIP Code

Point of diversion       Place of use       Manner of use       of a portion  
of water heretofore appropriated under (Identify existing rights by Permit, Certificate, Proof or Claim Nos. If Decreed, give title of Decree and identify right in Decree.)  
Permit No. 10703, Certificate 8088

- The source of water is Bastian Creek.  
Name of stream, lake, underground, spring or other sources.
- The amount of water to be changed 4.0 cfs, not to exceed 256.76 afa.  
Second feet, acre-feet. One second foot equals 448.83 gallons per minute.
- The water to be used for irrigation and domestic.  
Irrigation, power, mining, commercial, etc. If for stock, state number and kind of animals. Must limit to one major use
- The water heretofore used for irrigation and domestic.  
If for stock, state number and kind of animals.
- The water is to be diverted at the following point (Describe as being within a 40-acre subdivision of public survey and by course and distance to a found section corner. If on unsurveyed land, it should be stated.)  
Within the SE 1/4 NE 1/4 of Section 23, T.15N., R.66E., M.D.M., or at a point from which the NE corner of Section 24, T.15N., R.66E., M.D.M., bears N. 69 deg. 27' 46" E., a distance of 6,496.85 feet.
- The existing point of diversion is located within (If point of diversion is not changed, do not answer.)  
Within the SE 1/4 NE 1/4 of Section 23, T.15N., R.66E., M.D.M., or at a point from which the SE corner of said Section 23 bears S. 11 deg. 45' E., a distance of 3,165.0 feet.      *See map under 10703*

REL  
 18A-MIP

7. Proposed place of use (Describe by legal subdivisions. If for irrigation, state number of acres to be irrigated.)

7.436 acres within the NE 1/4 SW 1/4 of Section 24, T.15N., R.66E., M.D.M.; and  
37.334 acres within the NW 1/4 SE 1/4 of Section 24, T.15N., R.66E., M.D.M., for a total of 44.77 acres to be irrigated.

(2.8 acres within the NW1/4 SE1/4 and 16.62 acres within the SW1/4 NE1/4 of Section 24, T.15N., R.66E., M.D.M.,  
remain in the existing place of use [19.42 acres total].)

REL

*Total acres to be irrigated 64.19*

8. Existing place of use (Describe by legal subdivisions. If changing place of use and/or manner of use of irrigation permit, describe acreage to be removed from irrigation.)

16.3 acres within the NW 1/4 NE 1/4, 3.72 acres within the NW 1/4 SW 1/4, 3.9 acres within the SW 1/4 SW 1/4 of Section  
19, T.15N., R.67E., M.D.M.; and

5.68 acres within the SE 1/4 SE 1/4, 15.17 acres within the NE 1/4 SE 1/4 of Section 24, T. 15N., R.66E., M.D.M., for a  
total of 44.77 acres to be removed from irrigation.

REL

*2.8 ac within NW 1/4 SE 1/4 and 16.62 ac within SW 1/4 NE 1/4 Section 24, T.15N R.66E*

*Total acres 64.19*

9. Proposed use will be from January 1 to December 31 of each year.  
Month and Day Month and Day

10. Existing use permitted from January 1 to December 31 of each year.  
Month and Day Month and Day

11. Description of proposed works. (Under the provision of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) (State manner in which water is to be diverted, i.e., diversion structure, ditches, pipes and flumes or drilled well, pump and motor, etc.)

Diversion from creek, through pipeline and ditches.

12. Estimated cost of works Already complete.

13. Estimated time required to construct works Already complete.

If well completed, describe well.

14. Estimated time required to complete the application of water to beneficial use one year.

15. Provide a detailed description of the proposed project and its water usage (use attachments if necessary): (Failure to provide a detailed description may cause a delay in processing.)

Water will be diverted from the creek, pass through a pipeline and ditches for irrigation of 64.19 acres.

16. Miscellaneous remarks:

SNWA requests that the point of diversion be changed for the whole permitted amount, but that the place of use be changed only for 44.77 acres, leaving the remaining 19.42 acres in the existing place of use.

john.entsminger@snwa.com

E-mail Address

(702) 875-7080

Phone No. Ext.

APPLICATION MUST BE SIGNED  
BY THE APPLICANT OR AGENT

John J. Entsminger

*John J. Entsminger*  
Type or print name clearly  
Signature, applicant or agent

Southern Nevada Water Authority

Company Name

1001 S. Valley View Blvd., MS # 485

Street Address or PO Box

Las Vegas, NV 89153

City, State, ZIP Code

RECEIVED  
2012 MAY 17 AM 11:51  
STATE ENGINEERS OFFICE

THE STATE OF NEVADA  
CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, J. P. Johansen has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Bastian Creek through headgate and irrigation system for irrigation and domestic

purposes. The point of diversion of water from the source is as follows: SE 1/4 NE 1/4 Sec. 23, T.15N., R.66E., M.D.B.&M. or at a point from which the SE corner of said Sec. 23 bears S. 11° 45' E., a distance of 3,165.0 feet situated in White Pine County, State of Nevada.

Now KNOW YE, That the State Engineer, under the provisions of Sec. 72, Ch. 46, Statutes of 1937 has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator Lola Heckethorn and J. P. Johansen  
Post-office address Ely, Nevada  
Amount of appropriation 4.0 c.f.s. but not to exceed 256.76 acre feet annually  
Period of use, from January 1st to December 31st of each year  
Date of priority of appropriation July 28, 1941

Description of land to which the water is appurtenant:

|       |   |
|-------|---|
| 16.30 | acres in the NW 1/4 NE 1/4 of Section 19, T.15N., R.67E., M.D.B.&M. |
| 3.72  | " " " NW 1/4 SW 1/4 " " " " " " " "                                 |
| 3.90  | " " " SW 1/4 SW 1/4 " " " " " " " "                                 |
| 5.68  | " " " SE 1/4 SE 1/4 " " 24 " R.66E., " "                            |
| 15.17 | " " " NE 1/4 SE 1/4 " " " " " " " "                                 |
| 2.80  | " " " NW 1/4 SE 1/4 " " " " " " " "                                 |
| 16.62 | " " " SW 1/4 NE 1/4 " " " " " " " "                                 |
| 64.19 | acres total   |

This certificate is issued subject to the terms of the permit and with the understanding that the total duty of water for the land under this certificate shall not exceed 4.0 acre feet per acre annually from any and/or all sources.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, ROLAND D. WESTERGARD, State Engineer

Compared gm: jw of Nevada, have hereunto set my hand and the seal of my office, this 11th day of June A.D. 1973.  
White Pine County Records. State Engineer

## TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

Date of first receipt and filing in State Engineer's office JUL 28 1941  
 Returned to applicant for correction \_\_\_\_\_  
 Corrected application filed \_\_\_\_\_

The undersigned LOLA HECKETHORN AND J. P. JOHANSEN  
Name of applicant  
 of Garrison, County of Millard,  
 State of Utah, hereby make application for  
 permission to appropriate the public waters of the State of Nevada, as  
 hereinafter stated. (If applicant is a corporation, give date and place  
 of incorporation.) \_\_\_\_\_

1. The source of the proposed appropriation is Bastian (or Bastion) Creel  
Name of stream, lake, or other source

2. The amount of water applied for is 5.2 second-feet.  
One second-foot equals 40 miners' inches

3. The water to be used for irrigation and domestic use  
Irrigation, power, mining, manufacturing, domestic, or other use

4. The water is to be diverted from its source at the following point:  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  Sec. 23, T. 15 N., R. 66 E., M.D.B.&M. and conveyed through  
Describe as being within a 40-acre subdivision of public survey, or by course and distance to a section corner. If on unsurveyed land, it should be so stated.  
pipe line to reservoir in DE $\frac{1}{4}$  NW $\frac{1}{4}$  Sec. 24, thence through ditches  
to places of application. *SEE 4th sec. 24 NW 1/4 from 9/11/1942 from J.P.*

## IF THE WATER IS TO BE USED FOR IRRIGATION, SUPPLY THE FOLLOWING INFORMATION:

- (a) Number of acres to be irrigated is 520 acres
- (b) Description of land to be irrigated Portions of N $\frac{1}{2}$  and all of S $\frac{1}{2}$  of  
Describe by legal subdivision, or if on unsurveyed land it should  
NE $\frac{1}{4}$ , and portions of N $\frac{1}{2}$  of SE $\frac{1}{4}$  and SE $\frac{1}{4}$  of SE $\frac{1}{4}$  Sec. 24, T. 15 N., R.  
be so stated and a description provided in accordance with special instruction from the State Engineer when application is returned for correction.  
66 E., and portions of N $\frac{1}{2}$  and of S $\frac{1}{2}$  of NE $\frac{1}{4}$ , all of N $\frac{1}{2}$  and portions of  
S $\frac{1}{2}$  of NW $\frac{1}{4}$  and portions of W $\frac{1}{2}$  of SW $\frac{1}{4}$  of Sec. 19, T. 15 N., R. 67 E.,  
M.D.B.&M.

(c) Use will begin about January and end about Dec. 31, of each year.  
Month Month

## IF WATER IS TO BE USED FOR POWER, MINING, STOCK WATERING, OR OTHER USE, SUPPLY THE FOLLOWING INFORMATION:

- (d) Power to be developed is \_\_\_\_\_ horsepower.
- (e) Works to be located \_\_\_\_\_  
Give 40-acre subdivision on which works will be located, or locate by course and distance to a section-corner.
- (f) Point of return of water to stream \_\_\_\_\_  
Describe in same manner as point of diversion.
- (g) State number and kinds of animals to be watered \_\_\_\_\_
- (h) Use will begin about \_\_\_\_\_ and end about \_\_\_\_\_, of each year.  
Month Month
- (i) Remarks \_\_\_\_\_

DESCRIPTION OF PROPOSED WORKS

Pipe line to be constructed under application for permission to change State manner in which water is to be diverted, whether by dam or other works, whether through pipes, ditches, flumes, or other conduits. If water point of diversion, etc. if found appropriate, under Proof of Appropriation No. 01216, storage reservoir, also ditches diverting from creek in same legal subdivision as reservoir or adjacent thereto, and system of distribution ditches.

- 5. Estimated cost of works \$4,000.00
6. Estimated time required to construct works Three years
7. Remarks This application is made without waiver of or prejudice to claim of use of creek water for irrigation and domestic use under Proof of Appropriation 01216, as amended, or for stockwatering under Proof of Appropriation 02078 filed herein by applicants' predecessors in title.

LOLA HECKETHORN & J. P. JOHANSEN, Applicant.

By J. P. Johansen

Compared R.M.G.-C.T.

This sheet inspected, Engineer.

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

This permit is issued subject to all prior rights on the source. A substantial weir must be installed and maintained to facilitate the measurement of water. The State reserves the right to regulate the use of the water herein granted at any and all times.

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, and not to exceed 5.20 cubic feet per second.

Actual construction work shall begin on or before November 12, 1942

Proof of commencement of work shall be filed before December 12, 1942

Work must be prosecuted with reasonable diligence and be completed on or before November 12, 1946

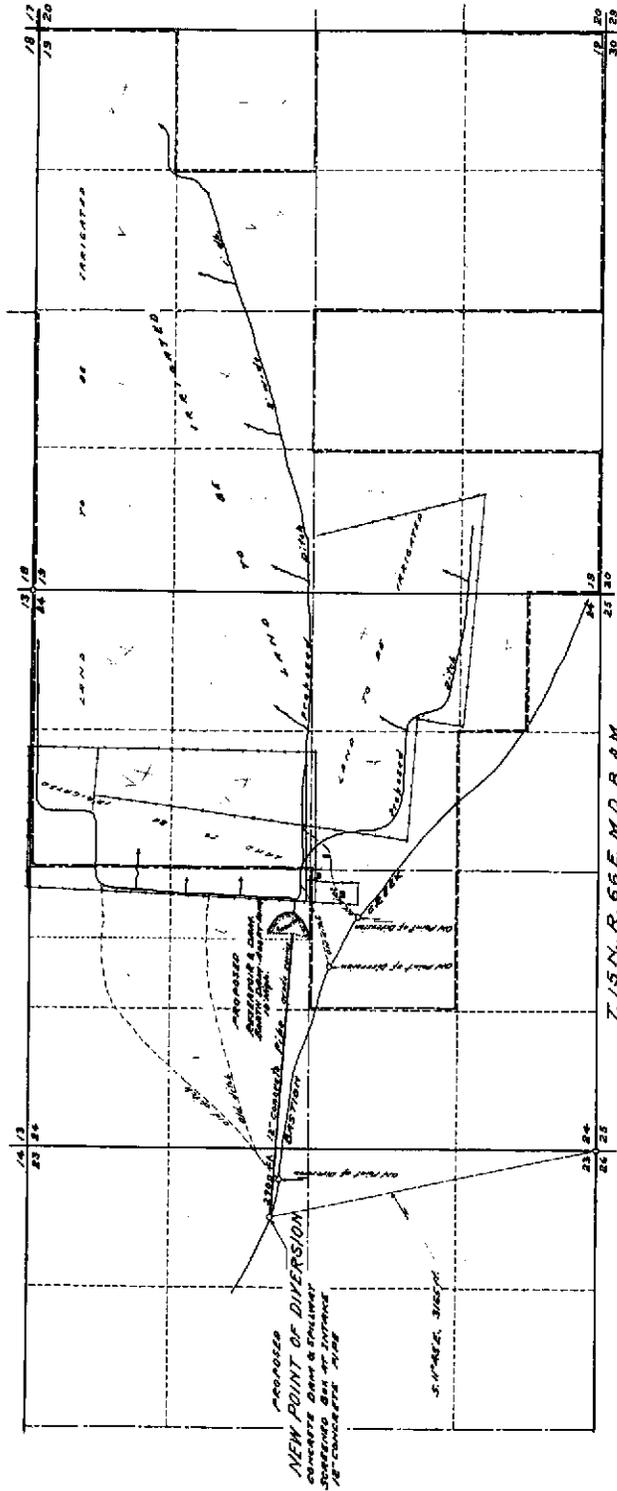
Proof of completion of work shall be filed before December 12, 1946

Application of water to beneficial use shall be made on or before

November 12, 1948 Proof of the application of water to beneficial use must be filed with State Engineer on or before December 12, 1948

Map Filed SEP 2 1941 Proof of commencement of work filed JAN 25 1943 Proof of Completion of work filed NOV 1 1946 Proof of Beneficial use filed OCT 27 1948

WITNESS MY HAND AND SEAL this 12th day of May 1942 State Engineer.



T. 15 N., R. 66 E., M. D. B. & M.

STATE OF NEVADA } ss.  
County of Washoe

I, F. H. Miller, being first duly sworn, depose and say that this map, consisting of one sheet, has been correctly drawn to the designated scale from field notes of a survey, made by me between the 11th and 13th days of June, 1941; that it truly and correctly represents the proposed location and extent of the works used to divert water from BASTION CREEK in Washoe County by J. P. JOHANSEN and LOLA HECKETHORN for irrigation purposes. That the proposed point of diversion, the approximate location and size of the existing conduit, all reservoirs or basins, the location and names of all other works which will cross or connect with the proposed works, and the boundary of all lands, showing by 80-acre subdivisions the areas proposed to be irrigated, are fully and correctly designated thereon.

Subscribed and sworn to before me this 20th day of \_\_\_\_\_, 1941.  
Notary Public in and for Washoe County, Nevada.

September 2, 1941

MAP TO ACCOMPANY  
APPLICATION  
TO APPROPRIATE WATER  
FOR IRRIGATION  
BY J. P. JOHANSEN & LOLA HECKETHORN  
FROM BASTION CREEK  
SURVEYED June 12, 1941. BY: F. H. MILLER & SON  
PLANNING ENGINEERS

10703

**Exhibit "A"**



**All Bastian Creek water is being captured and diverted into an exclusive use concrete box. Notice the sand bags on the right of the photo that block off flow downstream as naturally intended.**



**Notice the reservoir being dried up due to the redirection of water flow prior to entering into the reservoir.**

**APPLICATION FOR WATER NO. 81908**

NOTICE IS HEREBY GIVEN that on the 17th day of May 2012 Southern Nevada Water Authority of Las Vegas, Nevada made application to the State Engineer of Nevada for permission to change the point of diversion and place of use of 4.0 c.f.s. of water heretofore appropriated under Permit 10703, Certificate 8088. Water will be diverted from Bastian Creek at a point located within the SE1/4 NE1/4 of Section 23, T15N, R66E MDM or at a point from which the NE corner of Section 24, T15N, R66E, MDM, bears N 69 degrees 27 minutes 46 seconds E a distance of 6,496.85 feet (approx. 9 miles NE of Majors Place, NV). Water will be used for irrigation and domestic purposes from January 1st to December 31st of each year.

The existing point of diversion was located within the SE1/4 NE1/4 Section 23, T15N, R66E, MDM, or at a point from which the SE corner of said Section 23, bears S 11 degrees 45 minutes E, a distance of 3,165.0 feet. Water was used for irrigation and domestic purposes from January 1st to December 31st of each year.

Jason King, P.E.  
State Engineer

*Publish: The Ely Times, Jun 8, 15, 22, 29, 2012.*