

AFFIDAVIT OF JOHN S. LAMPROSE *JSL*

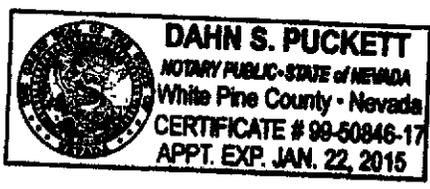
1. I am the duly elected Chairman of the White Pine County, Board of County Commissioners.
2. This Affidavit is made in support of the attached Protest.
3. Assertions made in the attached Protest are based on information and belief, and are believed to be true.

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



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



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STATE ENGINEERS OFFICE

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

IN THE MATTER OF APPLICATION NUMBER 81948  
FILED BY Southern Nevada Water Authority  
ON June 6th, 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 81948

, filed on June 6th

, 2012

by Southern Nevada Water Authority

for the

waters of a stream (Swallow 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 # 81948 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. WAMPAROS

Printed or typed name, if agent

Address

801 Clark Street, Suite 3

Street No. or PO Box

Ely NV 89301

City, State and ZIP Code

775-293-6561

Phone Number

wpcommission@mwpower.net

E-mail

STATE ENGINEER'S OFFICE  
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Subscribed and sworn to before me this

26<sup>th</sup>

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 # 81948**

Application For Permit #3865 requires a standard headgate and weir be installed and maintained to facilitate the measurement of water as a condition of approval. A field investigation must be conducted to prove the earth and rock dam improvements still exist. Has the flow of the stream been altered? Due to the age of the original application with no map or survey on file, a new survey and map must be submitted that designates the continuous flow of Swallow Creek downstream to meet the requirements of NRS 533.060(1), 533.080(1) and 533.100(3)(a). No new map was provided with the application that clearly distinguishes between past improvements 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 JUN 06 2012

Returned to applicant for correction \_\_\_\_\_

Corrected application filed \_\_\_\_\_ Map filed JUN 06 2012

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. 3865, Certificate No. 1068,

1. The source of water is Swallow Creek.  
Name of stream, lake, underground, spring or other sources.
2. The amount of water to be changed 1.6782 cubic feet of water per second, or 503.46 acre feet per season.  
Second feet, acre-feet. One second foot equals 448.83 gallons per minute.
3. The water to be used for irrigation.  
Irrigation, power, mining, commercial, etc. If for stock, state number and kind of animals. Must limit to one major use
4. The water heretofore used for irrigation.  
If for stock, state number and kind of animals.
5. 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.)  
At a point north 89° east 2645 feet distant from the southeast section corner of Section 1, Township 11 North, Range 67 East, MDB&M (as described in Permit 3865)
6. The existing point of diversion is located within (If point of diversion is not changed, do not answer.)

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

See attached Exhibit A.

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.)

See attached Exhibit A.

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 May 1 to September 1 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.)

Water is diverted from creek through diversion structure and delivered through a ditch system. Some water is pumped through pipeline to pivot and wheel line, and some water gravity flows through 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 is used for agricultural production through pivot, wheel line, and other irrigation techniques.

16. Miscellaneous remarks:

The period of use of 167.82 acres is changing from seasonal to annual. The place of use is being changed for 144.05 stand alone and 23.77 overlap acres for a total of 167.82 acres. The duty of 144.05 acres is being changed from 3 to 4, resulting in 108.04 stand alone and 23.77 overlap acres for transfer to the new place of use. 46.16 acres remains unchanged.

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  
Type or print name clearly  
*John J. Entsminger*  
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

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EXHIBIT A  
CHANGE APPLICATION PERMIT 3865 CERTIFICATE 1068

**7. Proposed Place of Use**

18.95 acres in the SW NE SEC 1 T11N R67E MDM

23.72 acres in the SE NE SEC 1 T11N R67E MDM

0.22 acres in the NE SW SEC 1 T11N R67E MDM

36.72 acres in the NW SE SEC 1 T11N R67E MDM

34.95 acres in the NE SE SEC 1 T11N R67E MDM

3.06 acres in the SW SE SEC 1 T11N R67E MDM

14.19 acres in the SE SE SEC 1 T11N R67E MDM

131.81 acres total

See response to question 16 for explanation.

**8. Existing Place of Use**

35.77 acres in the NW SE SEC 1 T11N R67E MDB&M

39.96 acres in the SW SE SEC 1 T11N R67E MDB&M

26.64 acres in the NW NE SEC 12 T11N R67E MDB&M

9.16 acres in the SW NE SEC 12 T11N R67E MDB&M

0.68 acres in the NE NE SEC 12 T11N R67E MDB&M

11.17 acres in the SE NE SEC 12 T11N R67E MDB&M

14.32 acres in the NE SE SEC 12 T11N R67E MDB&M

30.12 acres in the SE SE SEC 12 T11N R67E MDB&M

167.82 acres total

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**ASSIGNED**

Serial No. 3865

**APPLICATION FOR PERMIT**

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

Date of first receipt and filing in State Engineer's office APR -6 1916  
Returned to applicant for correction \_\_\_\_\_  
Corrected application filed \_\_\_\_\_

The undersigned Richard T. Swallow  
Name of applicant.  
of Shoshone, County of White Pine  
State of Nevada, 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 Swallow creek, on  
Name of stream, lake, or other source.  
the westerly slope of Snake Range
2. The amount of water applied for is five second-feet.  
One second-foot equals 40 miners' inches.
3. The water to be used for Irrigation.  
Irrigation, power, mill, manufacturing, domestic, or other use.
4. The water is to be diverted from its source at the following  
point: A point north 89° east 2645 feet distant from the southeast  
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.  
section corner of Section 1, Township 11 North, Range 67 East, MDB&M.

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

- (a) Number of acres to be irrigated is 280
- (b) Description of land to be irrigated west half of the southeast  
Describe by legal subdivision, or if on unsurveyed land it  
quarter of Section 1, west half of the northeast quarter, the southeast  
should be so stated and a description provided in accordance with special instruction from the State Engineer when application is returned for correction.  
quarter of the northeast quarter, and the east half of the southeast  
quarter of Section 12, all in Township 11 North, Range 67 East, MDB&M.
- (c) Irrigation will begin about May 1st, and end about  
Month.  
September 1st, of each year.  
Month.

**IF WATER IS TO BE USED FOR POWER, MINING, TRANSPORTATION, OR OTHER USE, SUPPLY THE FOLLOWING INFORMATION:**

- (d) Power to be developed is \_\_\_\_\_ horse power.
- (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) Remarks \_\_\_\_\_

DESCRIPTION OF PROPOSED WORKS

Water is to be diverted by means of an earth and rock dam, and there-  
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  
from conducted through ditches and flumes to the point of use.  
Is to be stored in reservoirs it should be so stated and the location of the reservoir should be given with reference to the legal subdivisions.

- 5. Estimated cost of works. One thousand dollars.
- 6. Estimated time required to construct works. Two years.
- 7. Remarks. This application is made for the purpose of securing and utilizing the surplus of water over and above what is required under any existing rights.

RICHARD T. SWALLOW, Applicant.

By \_\_\_\_\_

Compared R. M. Kearney  
This sheet inspected \_\_\_\_\_

\_\_\_\_\_, Engineer.

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing appli-  
cation, and do hereby grant the same, subject to the following lim-  
itations and conditions:

This permit is issued subject to all prior rights on the source.  
A standard headgate and weir must be installed at or near the point of  
diversion to facilitate the measurement and control 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  
Two & 8/10 cubic feet per second. (2.8)

Actual construction work shall begin on or before April 16, 1917.

Proof of commencement of work shall be filed before May 16, 1917.

Work must be prosecuted with reasonable diligence and be completed  
on or before April 16, 1919.

Application of water to beneficial use shall be made on or before  
August 16, 1922. Proof of the application of water to beneficial  
use must be filed with State Engineer on or before September 16, 1922.

Proof of labor filed MAY - 5 1917

Also filed MAY 17 1917

WITNESS MY HAND AND SEAL this 16th, day

Proof of completion of work filed. APR 14 1919 of September, 1916.

Cultural Map Filed Sept 26 1924

Proof of beneficial use filed May 25 1924

Certificate No. 1068 Issued April 30 1924

Recorded \_\_\_\_\_

Ex. \_\_\_\_\_

Page \_\_\_\_\_

County Records \_\_\_\_\_

R. M. Kearney  
State Engineer

Cultural Map Filed

THE STATE OF NEVADA  
 CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Richard T. Swallow has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Swallow Creek through The Swallow Creek Ditches for Irrigation

The point of diversion of water from the source is as follows: at a point in the SE part SW 1/4 Sec. 6, T. 11 N., R. 68 E., M.D.B. & M. situated in White Pine County, State of Nevada.

Now Know Ye, That the State Engineer, under the provisions of Section 72, Chapter 140, Statutes of 1913 has determined the date, source, purpose and amount of such appropriation, together with the place to which such water is appurtenant, as follows:

Name of appropriator: Richard T. Swallow  
 Postoffice address: Shoshone, White Pine County, Nevada

Amount of appropriation: 213.98 cubic feet of water per second, or 641.94 acre feet per season.

Period of use, from May 1st to September 1st of each year

Date of priority of appropriation: April 6th, 1916.

Description of irrigated land to which water is appurtenant is as follows:

35.77	acres alfalfa	in the NW 1/4 SE 1/4 Sec. 1, T. 11 N., R. 67 E., M.D.B. & M.
28.39	" "	" " SW 1/4 SE 1/4 " " " " " "
11.57	" grass pasture	" " " " " " " " " "
39.60	" " "	" " NW 1/4 NE 1/4 " 12 " " " "
0.37	" alfalfa	" " " " " " " " " "
8.15	" " "	" " SW 1/4 NE 1/4 " " " " " "
51.55	" grass pasture	" " " " " " " " " "
0.68	" grain	" " NE 1/4 NE 1/4 " " " " " "
11.17	" " "	" " SE 1/4 NE 1/4 " " " " " "
14.32	" " "	" " NE 1/4 SE 1/4 " " " " " "
30.12	" " "	" " SE 1/4 SE 1/4 " " " " " "
1.25	" " "	" " SW 1/4 SE 1/4 " " " " " "
0.13	" " "	" " NW 1/4 NE 1/4 " 13 " " " "
0.91	" " "	" " NE 1/4 NE 1/4 " " " " " "

213.98 acres - Total

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 where acquired and to the purpose for which acquired.

In Testimony Whereof, I, Robert A. Allen, State Engineer

of Nevada, have hereunto set my hand and the seal of my office, this 30th day of September, A. D. 1924.

*Robert A. Allen*  
 State Engineer.

**APPLICATION FOR WATER NO. 81948**

NOTICE IS HEREBY GIVEN, that on the 6th day of June 2012 Southern Nevada Water Authority of Las Vegas, Nevada made application to the State Engineer of Nevada for permission to change the place and manner of use of 1,6782 c.f.s. a portion of water heretofore appropriated under Permit 3865, Certificate 1068. Water will be diverted from Swallow Creek at a point located within Section 6, T11N, R68E, MDB&M or at a point from which the SE corner of Section 1, T11N, R67E, MDM, bears S 89 degrees W, a distance of 2645 feet (approx. 1 mile SSE of Shoshone, 38 miles SE of Ely, NV). Water will be used for irrigation purposes from January 1st to December 31st of each year. Water was used for irrigation purposes from May 1st to September 1st of each year.

Jason King, P.E.  
State Engineer

*Publish: The Ely Times Jun 22 29, Jul 6 13, 2012.*