

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

IN THE MATTER OF APPLICATION NUMBER 81949  
FILED BY Southern Nevada Water Authority  
ON June 6th, 20 12



**FILED**  
JUL 27 2012  
STATE ENGINEER'S OFFICE

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 81949, filed on June 6th, 20 12

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 # 81949 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. Lamprose

Printed or typed name, if agent

Address

801 Clark Street #3

Street No. or PO Box

Ely Nevada 89301

City, State and ZIP Code

775-293-6561

Phone Number

wpcommision@mwpower.net

E-mail

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Subscribed and sworn to before me this 26<sup>th</sup> day of July, 20 12



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 # 81949**

Application For Permit #27743 requires a standard headgate and measuring device must be installed and maintained to facilitate the measurement of water as a condition of approval. A field investigation must be conducted to prove all requires including 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	<u>JUN 06 2012</u>
Returned to applicant for correction	_____
Corrected application filed	Map filed <u>JUN 06 2012 under 81948</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. 27743, Certificate No. 9743.

- The source of water is Swallow Creek aka Water Canyon Creek.  
Name of stream, lake, underground, spring or other sources.
- The amount of water to be changed 1.3417 c.f.s., not to exceed 190.44 acre feet per annum.  
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.)  
SW 1/4 SW 1/4 Section 4, T.11N., R.68E., M.D.B&M., or at a point from which the NW corner of Section 6, T.11N., R.68E., M.D.B&M. bears N. 70° 53' 06" W. a distance of 12,347.30 feet (as described in Certificate No. 9743).
- 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 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.)

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.)

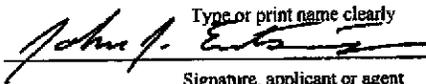
Water is used for agricultural production through pivot, wheel line, and other irrigation techniques.

16. Miscellaneous remarks:

The place of use is being changed for 23.84 stand alone and 23.77 overlap acres for a total of 47.61 acres for transfer to the new place of use. 3,039.47 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  
  
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 27743 CERTIFICATE 9743

**7. Proposed Place of Use**

6.52 acres in the NE SE SEC 1 T11N R67E MDM  
3.06 acres in the SW SE SEC 1 T11N R67E MDM  
33.38 acres in the SE SE SEC 1 T11N R67E MDM  
4.65 acres in the NE NE SEC 12 T11N R67E MDM  
47.61 acres total

**8. Existing Place of Use**

1.67 acres in the NW SE SEC 1 T11N R67E MDB&M  
1.00 acre in the SW SE SEC 1 T11N R67E MDB&M  
4.03 acres in the NW NE SEC 12 T11N R67E MDB&M  
3.76 acres in the SW NE SEC 12 T11N R67E MDB&M  
2.45 acres in the SE NE SEC 12 T11N R67E MDB&M  
14.04 acres in the NE SE SEC 12 T11N R67E MDB&M  
20.66 acres in the SE SE SEC 12 T11N R67E MDB&M  
47.61 acres total

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APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

Date of filing in State Engineer's Office SEP 7 1973
Returned to applicant for correction OCT 10 1973
Corrected application filed NOV 28 1973
Map filed NOV 28 1973

The applicant El Tejon Cattle Company
of Rt. 1, Box 860 Bakersfield, County of
State of California 93308, 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; if a copartnership or association, give names of members.)
John & Leonard Bidart

- 1. The source of the proposed appropriation is Swallow Creek also called Water Canyon Creek
2. The amount of water applied for is 87 cfs second-feet
3. The water to be used for irrigation and domestic
4. If use is for: (a) Irrigation (state number of acres to be irrigated) 4,060 acres
5. The water is to be diverted from its source at the following point in the SW 1/4 SW 1/4 of Section 4, T.11N., R.68E., M.D.B.& M., unsurveyed whence the NW Corner
6. Place of use SE 1/4 E 1/2 SW 1/4; SE 1/4 NW 1/4; SW 1/4 NE 1/4 Section 35 W 1/2 Section 36, T.12N., R.67E., M.D.B.& M.; S 1/2; S 1/2 N 1/2; N 1/2 NE 1/4; NE 1/4 NW 1/4 Section 2; W 1/2; W 1/2 E 1/2; E 1/2 SE 1/4; Section 1; N 1/2; SW 1/4; W 1/2 SE 1/4; SE 1/4 SE 1/4; W 1/2 NE 1/4 SE 1/4 Section 12; N 1/2; SE 1/4; N 1/2 SW 1/4 Section 11; E 1/2 NE 1/4 Section 10; SE 1/4 SE 1/4 Section 3; NE 1/4 Section 14; SE 1/4; S 1/2 NE 1/4; NE 1/4 NE 1/4; N 1/2 SW 1/4; SE 1/4 NW 1/4; Section 13, T.11N., R.67E., M.D.B.& M.; S 1/2 N 1/2 Section 6; S 1/2 NW 1/4; NE 1/4 SW 1/4 Section 5; W 1/2 SW 1/4 SW 1/4 NW 1/4 Section 18 T.11N., R.68E., M.D.B.& M.
7. Use will begin about January 1st and end about December 31st, of each year.
8. Description of proposed works. (Under the provisions of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) through pipelines & ditches

State manner in which water is to be diverted, whether by dam or other works, whether through pipes, ditches, flumes, or other conduits.

9. Estimated cost of works \$15,000.00
10. Estimated time required to construct works 3 years
11. Estimated time required to complete the application to beneficial use 5 years
12. Remarks: For use other than irrigation or stock watering, state number and type of units to be served or annual consumptive use. This application will be used for supplemental waters on all lands in the proposed place of use that is presently covered under Proof of Appropriation, Certificates or Applications in good standing and to cover all lands not covered under Proof of Appropriation Certificates & Permits.

Applicant El Tejon Cattle Company

By s/ Wallace T. Boundy  
Wallace T. Boundy, Agent  
P. O. Box 150  
Ely, Nevada 89301

Compared bs/lk lk/bs

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 existing rights on the source. A substantial headgate and measuring device must be installed and maintained to facilitate the measurement and control of water. The State retains 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 87.0 cubic feet per second, but not to exceed a yearly duty of 4.0 acre-feet per acre of land irrigated from any and/or all sources.

Actual construction work shall begin on or before January 26, 1975

Proof of commencement of work shall be filed before February 26, 1975

Work must be prosecuted with reasonable diligence and be completed on or before January 26, 1976

Proof of completion of work shall be filed before February 26, 1976

Application of water to beneficial use shall be made on or before January 26, 1979

Proof of the application of water to beneficial use shall be filed on or before February 26, 1979

Map in support of proof of beneficial use shall be filed on or before February 26, 1979

Commencement of work filed MAR 6 1975  
Completion of work filed MAR 8 1976  
Proof of beneficial use filed JAN 28 1980  
Cultural map filed JAN 28 1980  
Certificate No. 9743 Issued JAN 27 1980  
Recorded Bk 32 Page  
County Recorder

IN TESTIMONY WHEREOF, I, ROLAND D. WESTERGARD, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 26th day of July

A.D. 1974

*Roland D. Westergard*  
State Engineer

THE STATE OF NEVADA  
CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Richard W. Forman, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Swallow Creek (AKA) Water, Canyon Creek

through ditches and irrigation system irrigation and domestic purposes. The point of diversion of water from the source is as follows: SW 1/4 SW 1/4 Section 4, T.11N., R.68E., M.D.B.6M., or at a point from which the NW Corner of Section 6, T.11N., R.68E., M.D.B.6M. bears N. 70° 53' 06" W. a distance of 12,347.30 feet

situated in White Pine County, State of Nevada: Now Know YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator El Tejon Cattle Company  
Post-office address Bakersfield, California  
Amount of appropriation 87 c.f.s., not to exceed 12,348.32 acre feet per annum.  
Period of use, from January 1 to December 31 of each year  
Date of priority of appropriation September 7, 1973

- Description of land to which the water is appurtenant:  
21.07 acres in the SW 1/4 NW 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the SW 1/4 NE 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
34.71 acres in the NE 1/4 SW 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the NW 1/4 SW 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the SE 1/4 SW 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
33.05 acres in the SW 1/4 SW 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the SW 1/4 SE 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the SE 1/4 SE 1/4 of Sec. 35, T.12N., R.67E., M.D.B.6M.  
18.18 acres in the NW 1/4 NW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
1.65 acres in the NE 1/4 NW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the SW 1/4 NW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
14.50 acres in the NW 1/4 NW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the NW 1/4 SW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
8.25 acres in the NE 1/4 SW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the SW 1/4 SW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
21.07 acres in the SE 1/4 SW 1/4 of Sec. 36, T.12N., R.67E., M.D.B.6M.  
40.00 acres in the NW 1/4 NW 1/4 of Sec. 1, T.11N., R.67E., M.D.B.6M.  
40.00 acres in the NE 1/4 NW 1/4 of Sec. 1, T.11N., R.67E., M.D.B.6M.  
14.88 acres in the NW 1/4 NE 1/4 of Sec. 1, T.11N., R.67E., M.D.B.6M.  
36.00 acres in the SW 1/4 NW 1/4 of Sec. 1, T.11N., R.67E., M.D.B.6M.  
39.00 acres in the SE 1/4 NW 1/4 of Sec. 1, T.11N., R.67E., M.D.B.6M.  
14.90 acres in the SW 1/4 NE 1/4 of Sec. 1, T.11N., R.67E., M.D.B.6M.

(CONTINUED ON PAGE 2)

This certificate is issued subject to the terms of the permit and with the understanding that the total duty of water shall not exceed 4.0 acre-feet per acre per annum 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, PETER C. MORROS, State Engineer

Witness my hand and the seal of my office, this 27th day of JANUARY, A.D. 19 82

Recorded in County Records State Engineer



**APPLICATION FOR WATER NO. 81949**

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 of use of 1,3417 c.f.s., a portion of water heretofore appropriated under Permit 27743, Certificate 9743. Water will be diverted from Swallow Creek aka Water Canyon Creek at a point located within the SW1/4 SW1/4 of Section 4, T11N, R68E, MDB&M or at a point from which the NW corner of Section 6, T11N, R68E, MDM, bears N 70 degrees 59 minutes 06 seconds W, a distance of 12,347.30 feet (approx. 2 miles ESE of Shoshone, 38 miles SE of Ely, NV). Water will be 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 22, 29, Jul 6, 13, 2012*