

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

FILED  
SEP 24 2012  
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 82078  
FILED BY Mike and Barbara Stremler  
ON August 21, 2012



PROTEST

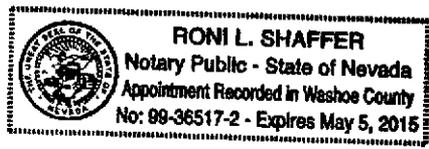
Comes now Robert and Sallie Lincoln  
Printed or typed name of protestant  
whose post office address is 404 Mary Street, Carson City, NV 89703  
Street No. or PO Box, City, State and ZIP Code  
whose occupation is Farmer and protests the granting  
of Application Number 82078, filed on August 21, 2012  
by Mike and Barbara Stremler for the  
waters of Seven Devils (SOU) Hot Springs situated in Pershing  
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 attached.

WHEREFORE 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 John R. Zimmerman  
Agent or protestant  
John R. Zimmerman, Esq.  
Printed or typed name, if agent  
Address 50 W. Liberty St., Suite 750  
Street No. or PO Box  
Reno, NV 89501  
City, State and ZIP Code  
775-323-1601  
Phone Number  
jzimmerman@parsonsbehle.com  
E-mail

STATE ENGINEERS OFFICE  
2012 SEP 24 AM 11:50  
RECEIVED

Subscribed and sworn to before me this 21st day of September, 2012



Roni L. Shaffer  
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.

The Lincolns' predecessors used water from these springs to water livestock since at least as early as 1882, as evidenced by the information on file at the State Engineer's Office under Proof of Appropriation V10018. The springs were used continuously by the Lincolns' predecessors, and the Lincolns have sued the Stremlers to confirm the Lincolns' right to access the Stremlers' private property for the purpose of diverting water from the springs to the ditch. The proof of appropriation that application 82078 seeks to change is based on an 1890 priority claim, and therefore, until water rights to the springs are adjudicated, the Lincolns' vested claim is the earliest priority water right to the springs. The Stremlers' Application 82078 should be denied because it will conflict with the Lincolns' priority water right.

Additionally, even if the Stremlers' proof of appropriation is adjudicated with an earlier priority date than the Lincolns' proof, Application 82078 would conflict with the Lincolns' existing rights because the Application seeks to change more water than is supported by the Stremlers' proof. Proof of appropriation V09887, which was filed by the Stremlers in January 2010, states that 300 head of cattle have continuously used the springs as a water source since water from the springs was allegedly first diverted by the Stremlers' predecessor in title. Accordingly, even if the Stremlers substantiate their claims under Proof V09887 during an adjudication, the maximum amount of water adjudicated under the Proof would be approximately 6.27 acre-feet annually (300 cattle x 20 gallons/day x 365 days). Application 82078 seeks to divert 64 acre-feet annually to irrigate 16 acres. This amount of water greatly exceeds the amount of water claimed under Proof V09887, and therefore, should be denied under NRS 533.370(2). Also, it would threaten to prove detrimental to the public interest to grant an application to change an unadjudicated proof of appropriation that seeks to use more water than is claimed under the proof. Therefore, Application 82078 must be denied pursuant to NRS 533.370(2) because granting it would threaten to prove detrimental to the public interest.

Lastly, there are additional springs in the vicinity that are located on public domain and private lands where the Stremlers' predecessors' livestock would have watered. Accordingly, it is likely that these springs were not the only source of water for livestock in the area, and therefore, it is not reasonable to assume that the Stremlers', or their predecessors', livestock used the springs exclusively year-round.

Based on the following, the Lincolns respectfully request that the State Engineer deny Application 82078.