

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

IN THE MATTER OF APPLICATION 65682 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE DESERT VALLEY )  
HYDROGRAPHIC BASIN (031), HUMBOLDT )  
COUNTY, NEVADA. )

RULING

**5084**

GENERAL

I.

Application 65682 was filed on December 3, 1999, by Delong Ranches, Inc., to appropriate 0.0124 cubic feet per second of underground water for the stockwatering of 400 head of cattle within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 11, T.37N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 11.<sup>1</sup>

II.

Application 65682 was timely protested by the United States Department of the Interior, Bureau of Land Management (BLM), Winnemucca District on the following grounds.<sup>1</sup>

The application is for a stockwater well located on public land, managed by the Winnemucca District of the BLM. The applicants have not received authorization to develop the range improvement project in question. Authorization for this project will not be considered until such time that the pending litigation involving SB96 is resolved.

<sup>1</sup> File No. 65682, official records in the Office of the State Engineer.

**FINDINGS OF FACT**

**I.**

Application 65682 was filed to appropriate underground water from a proposed well site which is located within the SE¼ SW¼ of Section 11, T.37N., R.32E., M.D.B.&M.<sup>1</sup> The State Engineer finds that a determination was made through an examination of the records in the Office of the State Engineer that with the exception of Application 65682, there are no additional permitted, vested or reserved water right filings appurtenant to this point of diversion.

**II.**

Under the provisions of NRS § 533.503, the State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock upon the public land unless the applicant for the permit is legally entitled to place livestock upon the public lands for which the permit is sought.<sup>2</sup> By correspondence dated January 26, 2000, the BLM informed the State Engineer that the applicant was the holder of the grazing privileges in the Jackson Mountain Grazing Allotment, in which the proposed well is located.<sup>1</sup> The State Engineer finds that the applicant is legally entitled to place livestock upon the federal lands comprising the place of use under Application 65682.

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<sup>2</sup> NRS § 533.503(1).

### III.

Every permit that is issued by the State Engineer contains a set of conditions that establishes the guidelines under which the appropriation of water can occur. Those permits that are issued for appropriations of underground water for stockwatering purposes often are conditioned with the provision that the approval of the permit does not waive any requirement that may be imposed by additional state and federal agencies. Application 65682 was protested partly on the grounds that the applicant was not authorized by the BLM to develop the range improvement associated with project proposed under Application 65682. The State Engineer finds that the approval of Application 65682 will not release the applicant from any range improvement obligations that are required from the Federal Government.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.<sup>3</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>4</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;

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<sup>3</sup> NRS chapters 533 and 534.

<sup>4</sup> NRS § 533.370(3).

- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use threatens to prove detrimental to the public interest.

**III.**

Application 65682, if approved, would allow the current range permittee to appropriate underground water for stockwatering purposes upon the federal range. The State Engineer concludes that the applicant has met the criteria established under NRS § 533.503 and that the approval of Application 65682 would not threaten to prove detrimental to the public interest.

**IV.**

The proposed point of diversion requested under Application 65682 is an existing well whose waters are not currently appropriated under any valid permitted water rights. The State Engineer concludes that the approval of Application 65682 would not conflict with existing rights.

RULING

The protest to Application 65682 is hereby overruled and Application 65682 is approved subject to existing rights and the payment of the statutory permit fee.

Respectfully submitted,

A handwritten signature in cursive script that reads "Hugh Ricci, P.E.". The signature is written in dark ink and is positioned above the typed name. To the right of the signature, there is a faint, circular stamp that is partially obscured and difficult to read.

HUGH RICCI, P.E.  
State Engineer

HR/MDB/jm

Dated this 19th day of  
December, 2001.