

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

IN THE MATTER OF APPLICATION)
47794 FILED TO APPROPRIATE)
THE PUBLIC WATERS OF CLIFFORD)
SPRING WITHIN THE STONE CABIN)
VALLEY HYDROGRAPHIC BASIN)
(149), NYE COUNTY, NEVADA.)

RULING

5199

GENERAL

I.

Application 47794 was filed on March 14, 1984, by Colvin and Son to appropriate 0.05 cubic feet per second (cfs) of water from Clifford Spring. The proposed manner of use and place of use is for stock watering and domestic purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T.3N., R.49E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 11. Item #4(b) of the application form, further defines the number and kind of animals as 1,617 head of cattle.¹

II.

Application 47794 was timely protested by BLM on the following grounds:¹

The spring is reserved under Executive order number 107 and is not available for appropriation.

Application 47794 was timely protested by The Stone Cabin Ranch Partnership on the following grounds:¹

This water derives from a spring which rises to the surface in an area which was purchased in the late 1950's by the Protestors for grazing purposes from Etcheverra and Arambel (AUM's purchased on Public Domain) and has been in continual use year-round for stock-watering purposes, of cattle and horses. Also use by wild-life has been continual and will remain so as long as protestors are utilizing this source for watering domestic livestock. Protestors have invested

¹ File No. 47794, official records in the Office of the State Engineer.

time and capital over the years to assure a sustained and/or enhanced yield of water from this area. Protestors declare that approval of this application to Colvin and Son for their purposes could prove detrimental beyond control and even fatal to their livestock operation which has been in existence since 1893. Also wild-life owned by other entities than [sic] the applicant could suffer greatly.

FINDINGS OF FACT

I.

The Office of the State Engineer has developed consumptive use estimates for the various manners of use requested by the public through the water right application process. Water right permits approved for appropriations of water for stock watering purposes are typically assigned a consumption use factor of 0.00003125 cfs per head of cattle, which equates to 20 gallons per day. Since Application 47794 was filed to service 1,617 head of cattle, the applicant was correct in determining that a diversion rate approximating 0.05 cfs would be required from Clifford Spring to meet this demand. The State Engineer finds that there must be sufficient surface water available on a reliable basis from Clifford Spring to support at the minimum, a sporadic use of the spring for livestock watering.

II.

An accounting of the amount of water generated by Clifford Spring was made during an informal field investigation, which was held on November 7, 2002. It was understood, prior to this site inspection, that a reduced flow may be present at the spring due to the below average water year and arrival of the traditional autumn low flow conditions. If indeed, a reduced flow is encountered, it is important to perform an on site evaluation of what potential exists for developing and increasing the spring flow. Observations made during this visit indicate that the only water available for stock or wildlife use was confined to a small diameter shallow pool, whose storage capacity was at best limited

to several gallons of standing water. It was also noted in this report that it was doubtful that a sustainable increase in flow could be developed through spring improvements. The field report concludes with the recommendation that this limited water resource would be best suited for a sporadic use by wildlife. Based upon the findings and conclusions made during the site visit and the established consumptive use factor of 20 gallons per day per head, the State Engineer finds that there is insufficient water available from Clifford Spring to satisfy the stockwatering demand anticipated under Application 47794.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

Application 47794 requests an appropriation of surface water, whose magnitude far exceeds the amount of water the spring is capable of producing. Under this scenario, the State Engineer concludes that the approval of Application 47794 would not be in the public interest.

² NRS chapter 533.

³ NRS § 533.370(3).

RULING

Application 47794 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MDB/jm

Dated this 10th day of

January, 2003.