

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

IN THE MATTER OF APPLICATION )  
56919 FILED TO CHANGE THE POINT )  
OF DIVERSION OF THE PUBLIC )  
WATERS OF A SURFACE SOURCE )  
PREVIOUSLY APPROPRIATED UNDER )  
PERMIT 30821 WITHIN THE QUINN )  
RIVER VALLEY HYDROGRAPHIC BASIN )  
(33A) HUMBOLDT COUNTY, NEVADA. )

RULING

**#5869**

GENERAL

I.

Application 56919 was filed on November 14, 1991, by Raymond D. Legarza Family Trust to change the point of diversion of 1.0 cubic foot per second of water from an unnamed spring previously appropriated under Permit 30821 for irrigation and domestic purposes. The place of use is unchanged and described as being located within portions of the S $\frac{1}{2}$  SW $\frac{1}{4}$  and the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28, portions of the S $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 29, portions of the N $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 32, and portions of the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 33, all in T.44N., R.38E., M.D.B.&M. The existing point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 33, T.44N. R.38E. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 33.<sup>1</sup>

II.

Application 56919 was timely protested by W. H. Zenklusen on the following grounds:<sup>1</sup>

All water rights to Willow Creek are adjudicated [sic] to Willow Creek Ranch. Therefore we feel that this spring is a tributary to and part of

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<sup>1</sup> File No. 56919, official records in the Office of the State Engineer.

Willow Creek and the water rights thereto belong to Willow Creek.

**FINDINGS OF FACT**

I.

An informal field investigation was conducted on April 29, 1997. Based on the field investigation, the State Engineer finds that the subject spring is not tributary to Willow Creek.<sup>2</sup>

II.

On March 6, 2007, the Office of the State Engineer sent a certified letter to the Protestant requesting additional information regarding his interest in pursuing his protest against this application. The Protestant was warned that failure to reply within 30 days would be taken as evidence that the Protestant no longer has an interest in pursuing the protest. The certified letter was returned to this office by the U.S. Postal Service as "not deliverable as addressed, unable to forward."

The State Engineer finds that the Protestant has failed to express a continued interest in maintaining his protest.

The State Engineer further finds it is the responsibility of the Applicant and Protestant to keep this office informed of a valid mailing address.

**CONCLUSIONS**

I.

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

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<sup>2</sup> File No. 30821 official records in the Office of the State Engineer.

<sup>3</sup> NRS 533.

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 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.

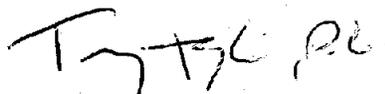
To date, the Protestant has not responded to a certified notice requesting further information and has not provided a valid mailing address. In addition, the result of an informal field investigation found the subject spring is not tributary to the adjudicated waters of Willow Creek.

The State Engineer concludes that the protest is without merit and may be overruled.

RULING

The protest to Application 56919 is hereby overruled and Application 56919 is approved subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/SEM/jm

Dated this 30th day of  
June, 2008.

<sup>4</sup> NRS § 533.370 (5).