

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

IN THE MATTER OF APPLICATION 44869 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE RUBY VALLEY, )  
HYDROGRAPHIC BASIN (176), ELKO )  
COUNTY, NEVADA. )

**RULING**

**#5873**

**GENERAL**

**I.**

Application 44869 was filed on October 29, 1981, by the United States Bureau of Land Management (BLM), to appropriate 0.017 cubic feet per second (cfs) of water from Ruby Wash Well for livestock purposes within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 2, T.27N., R.59E., 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 2.<sup>1</sup>

**II.**

Application 44869 was timely protested by Loyd Sorenson on grounds not considered in this ruling.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

In 2003, the Nevada Legislature amended NRS § 533.503 to provide, in part, that:

1. The State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock unless:
  - (a) The applicant for the permit is legally entitled to place the livestock on the lands for which the permit is sought, and:
    - (1) Owns, leases or otherwise possesses a legal or proprietary interest in the livestock on or to be placed on the lands for which the permit is sought; or
    - (2) Has received from a person described in subparagraph (1), authorization to have physical custody of the livestock on or to be placed on the lands for which the permit is sought, and authorization to care for, control and maintain such livestock;

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<sup>1</sup> File No. 44869, official records in the Office of the State Engineer.

- (b) The forage serving the beneficial use of the water to be appropriated is not encumbered by an adjudicated grazing preference recognized pursuant to law for the benefit of a person other than the applicant for the permit; and
- (c) The lack of encumbrance required by paragraph (b) is demonstrated by reasonable means, including, without limitation, evidence of a valid grazing permit, other than a temporary grazing permit, that is issued by the appropriate governmental entity to the applicant for the permit.

The State Engineer finds the BLM does not own, lease or otherwise possess a legal or proprietary interest in the livestock on or to be placed on the lands for which the permits are sought and is therefore not qualified to obtain a stockwater permit under Nevada Water Law.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>3</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 threatens to prove detrimental to the public interest.

#### III.

Application 44869 was filed for livestock purposes and therefore, the Applicant must meet the additional criteria required under NRS § 533.503, for stockwater use. The State Engineer concludes that the Applicant does not meet the requirements of NRS § 533.503; therefore, Application 44869 is subject to denial.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.370 (5).

**RULING**

Application 44869 is hereby denied under the provisions of NRS § 533.503. No ruling is made on the merits of the protest.

Respectfully submitted,

Handwritten signature of Tracy Taylor, P.E. in black ink.

Tracy Taylor, P.E.  
State Engineer

TT/TW/jm

Dated this 30th day of

June, 2008.