

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

IN THE MATTER OF APPLICATION 65748 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNDERGROUND )  
SOURCE WITHIN THE BLACK ROCK )  
DESERT HYDROGRAPHIC BASIN (28) )  
HUMBOLDT COUNTY, NEVADA. )

**RULING**  
**# 589 1**

**GENERAL**

**I.**

Application 65748 was filed on December 23, 1999, by The Tim Delong Family Trust Agreement, to appropriate 0.0155 cubic foot per second of water from an underground source for stock-watering purposes. The proposed place of use is described as being located within the SE¼ SE¼ of Section 23, T.35N., R.30E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of said Section 23.<sup>1</sup>

**II.**

Application 65748 was timely protested by the USDI, Bureau of Land Management (BLM), Winnemucca field office on the grounds that:

The application is for a stockwater well 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.

**FINDINGS OF FACT**

**I.**

Nevada Revised Statutes § 533.365 (3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State Engineer finds that a hearing is not necessary to consider the merits of the protest filed by the BLM.

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<sup>1</sup> File No. 65748, official records in the Office of the State Engineer.

## II.

Nevada Revised Statute § 533.503 provides that the State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock on the public lands unless the applicant for the permit is legally entitled to place livestock on the public lands for which the permit is sought. By letter dated March 21, 2008, the BLM stated that the Applicant is the current range permittee for the point of diversion and place of use of Application 65748.<sup>1</sup> The State Engineer finds that the Applicant is entitled by the proper federal agency to place livestock upon the public range described under Application 65748.

## III.

Application 65748 was protested by the BLM, in part, on the grounds that the applicants have not received authorization to develop the range improvement project in question. Any water right permit issued under Application 65748 would not extend to the permittee the right of ingress and egress on public, private, or corporate lands, and would not waive any permitting requirements by other State, Federal, and local agencies. The State Engineer finds that Federal permitting and access requirements would not be annulled by the issuance of a water right permit.

## IV.

A determination was made, after an examination of the records of the Office of the State Engineer, that there are no additional water right permits, proofs or claims filed at the proposed point of diversion.<sup>2</sup> The State Engineer finds that the approval of Application 65748 would not conflict with existing water rights.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the 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>

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<sup>2</sup> Water Right Township Plats, Township 35 North, Range 30 East, M.D.B.&M., official records in the Office of the State Engineer.

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

<sup>4</sup> NRS § 533.370 (5).

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

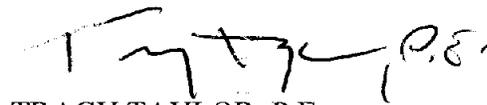
**IV.**

The State Engineer concludes that stockwatering is a beneficial use and the Applicant is the current range user of the federal grazing allotment; therefore the approval of Application 65748 would not threaten to prove detrimental to the public interest. The State Engineer further concludes the proposed use will not conflict with existing rights.

**RULING**

The protest to Application 65748 is hereby overruled and the application 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 19th day of  
September, 2008.