

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

IN THE MATTER OF APPLICATION)
79055 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF WILLOW)
SPRING WITHIN THE STONE CABIN)
VALLEY HYDROGRAPHIC BASIN)
(149), NYE COUNTY, NEVADA.)

RULING
#6079

GENERAL

I.

Application 79055 was filed on November 30, 2009, by Stone Cabin Ranch, LLC, to appropriate 0.10 cubic feet per second (cfs) of surface water from Willow Springs for the stock-watering of 300 head of cattle. The proposed place of use is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, T.6N., R.49E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33.¹

II.

Application 79055 was timely protested by Colvin & Son, LLC, on grounds as summarized below:¹

1. Willow Springs is located within the Rawhide Wilderness Study Area and cannot be permitted by the Bureau of Land Management (BLM).
2. Application 79055 requests more diversion than allowed for 300 cattle.
3. Application 79055 requests more water than is available in Willow Springs.

FINDINGS OF FACT

I.

In June 2010, the Office of the State Engineer contacted the Tonopah BLM office by telephone to inquire if Stone Cabin Ranch, LLC, was the authorized range user for the area of Willow Springs. The BLM replied by letter dated July 21, 2010, that Stone Cabin Ranch, LLC, is the authorized permittee. Furthermore, the BLM indicated, "At present the [Willow] spring flows seasonally and is located on a cherry stem road outside of the

¹ File No. 79055, official records in the Office of the State Engineer.

Rawhide Mountain Wilderness Study Area. The development of Willow Springs would not adversely affect the range resources." The State Engineer finds that Stone Cabin Ranch, LLC, is the authorized grazing permittee and that Willow Springs is not within the Rawhide Wilderness Study Area.

II.

The issue of insufficient water will be addressed by the permit term, typically added for any spring source water right, which states, "It is understood that the amount of water herein granted is limited to the amount of water actually produced by the spring, and no rights in excess of that amount are implied or inferred." The State Engineer finds that permit terms prepared by the basin engineer resolve these protest issues.

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 a permit under an application to appropriate the public water where:⁴

- 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.

Stone Cabin Ranch, LLC, is the authorized grazing permittee, Willow Springs is not within the Rawhide Wilderness Study and permit terms will address any concerns regarding the amount of water produced and used; therefore, the State Engineer concludes that the protest of Application 79055 may be overruled.

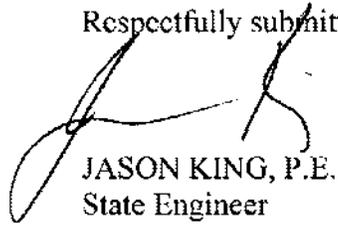
² NRS Chapter 533.

⁴ NRS § 533.370(5).

RULING

The protest is overruled and Application 79055 is hereby approved, subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 6th day of
December, 2010.