

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

IN THE MATTER OF APPLICATION NUMBER 72991
U.S. Department of the Interior
FILED BY Bureau of Land Management
ON July 7, 2005, TO APPROPRIATE THE
WATERS OF Little Cottonwood W. Spg



PROTEST



Comes now Ellison Ranching Company, a Nevada corporation
Printed or typed name of protestant
whose post office address is HC 32 Box 240, Tuscarora, Nevada 89834
Street No. Or P.O. Box, City, State and Zip Code.
whose occupation is livestock ranch and protests the granting
of Application Number 72991, filed on July 7, 2005
by United States Department of the Interior
Bureau of Land Management to appropriate the
waters of Little Cottonwood West Springs situated in Lander
Underground or name of stream, lake, spring or other source
County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Attachment

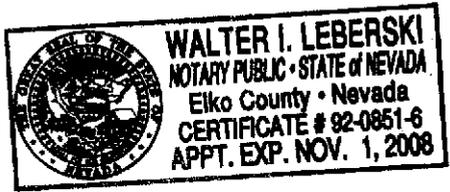
THEREFORE the Protestant requests that the application be Denied
Denied, issued subject to prior rights, etc., as the case may be
and that an order be entered for such relief as the State Engineer deems just and proper.

Signed William L. Hall
Agent or protestant

William L. Hall
Printed or typed name, if agent

Address HC 32 Box 240
Street No. or P.O. Box No.
Tuscarora, Nevada 89834
City, State and Zip Code No.

Subscribed and sworn to before me this 7th day of Sept, 2005
Walter I. Leberski
Notary Public



State of _____
County of _____

225 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

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ATTACHMENT TO PROTEST OF APPLICATION 72991

Ellison Ranching Company is an interested person and has standing to pursue this protest for the reason that it is in the process of acquiring a grazing permit in which the area of use includes this source. This protest is made on the following grounds:

1. The protestant claims a vested stock water right on the source, because their predecessors have used the area for livestock grazing since prior to 1905. This is an undocumented but valid and enforceable vested water right.

2. NRS 533.085(1) provides that “[n]othing containing in [NRS Chapter 533] shall impair the vested water right of any person to the use of water, nor shall the right of any person to take and use water be impaired or affected by any of the provisions of [NRS Chapter 533] where appropriations have been initiated in accordance with law prior to March 22, 1913.” The challenged application, Application Number 72991 was filed pursuant to NRS Chapter 533 and will impair the Protestant’s vested water right. Therefore, granting Application Number 72991 would violate NRS 533.085(1).

3. NRS 533.370(4) similarly provides, in pertinent part, that where a proposed use or change conflicts with existing rights, “the State Engineer shall reject the application and refuse to issue the requested permit.” In the present case, Application Number 72991, if approved, would conflict with the Protestant’s existing vested water right. Therefore, granting Application Number 72991 would violate NRS 533.370(4).