

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

**FILED**  
NOV 25 2009 *EA*  
STATE ENGINEER'S OFFICE

**PROTEST**

IN THE MATTER OF APPLICATION NUMBER 78921  
FILED BY TURNER LINCOLN RANCH LLC  
OF ST. GEORGE UTAH 84790  
ON September 24, 2009 TO APPROPRIATE  
THE WATERS of the STATE from an UNDERGROUND source

Comes now Raymond Thompson, the owner of the 1001 Ranch, whose post office address is HC 34 Box 60, Caliente Nevada 89008, whose occupation is Rancher, and protests the granting of Application Number 78921 filed on September 24, 2009, by TURNER LINCOLN RANCH LLC of ST. GEORGE UTAH 84790, to appropriate the waters of the State from an underground source, situated in Lincoln County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Exhibit C Attached

THEREFORE the Protestant requests that the application be denied

2009 DEC -1 AM 10:12  
STATE ENGINEER'S OFFICE

Signed *[Signature]*  
Agent or Protestant

Raymond Thompson  
Printed or typed, if agent

Address: HC 34 Box 60  
Street No. or P.O. Box No.

Caliente Nevada 89008  
City, State and Zip Code No.

Subscribed and sworn to before me this 25<sup>th</sup> day of November, 2009

*[Signature]*  
Notary Public

State of NEVADA

County of CLARK

My Commission expires 11-28-10

TAMARA POWELL  
NOTARY PUBLIC  
STATE OF NEVADA  
APPT. No. 90-2031-1  
MY APPT EXPIRES NOV 28, 2010

**DCNR/DWR  
RECEIVED**  
NOV 25 2009  
**LAS VEGAS OFFICE**

*dx*

IN THE MATTER OF APPLICATION 78921  
EXHIBIT C

Protest by Raymond Thompson  
Owner of the 1001 Ranch Caliente Nevada 89008

DCNR/DWR  
RECEIVED

NOV 25 2009

LAS VEGAS OFFICE

**INTRODUCTION**

1001 Ranch operates a grazing and farming operation in Lincoln County NV. In addition to owning land in fee the ranch has a grazing lease on BLM property adjacent to its owned land.

TURNER LINCOLN RANCH LLC of ST.GEORGE UTAH 84790 has applications filed with the State Engineer to change the point of diversion for water as follows:

App #	Filing Date	Point of Diversion					Div Rate (cfs)	Type of Use	Annual Duty
		QQ	Qtr	Sec	Twp	Range			
78919	9/24/2009	SE1/4	NE1/4	24	2S	67E	0.407	IRRIGATION	
78920	9/24/2009	SE1/4	NE1/4	24	2S	67E	1.598	IRRIGATION	
78921	9/24/2009	SE1/4	NE1/4	24	2S	67E	1.50	IRRIGATION	

The total annual duty sought under Application 78921 assuming continuous pumping would be 1085.95 acre-feet per year. The type of use is listed as irrigation.

Application 78921 is for groundwater from Basin 203 There are other applications pending in this groundwater basin. Basin 203 is closed and/or over appropriated.

Accompanying the application is a map showing the place of use and point of diversion. The legal notice filed for this application however does not mention that it is also a request for a change in place of use. Because the new map fails to identify that it is a request to change the existing place of use the new map on file with the application is disingenuous. The legal description for the place of use does not correspond with the pivots shown on the map.

Also the map does not correspond to the existing pivots that are in place. This is of concern because the current center pivots are irrigating land that is within the grazing lease on BLM property with the 1001 Ranch. Since the application does not request a Change in Point of Use this application should rely on the existing Place of Use (POU) map filed with application 65702. Said map indicates that the Place of use is not a circle but rather an ellipse with several straight segments to make it appear that the irrigation is confined to only one  $\frac{1}{4}$   $\frac{1}{4}$ .

Though the 78921 application does not state that the Place of Use (POU) as including the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 23, T02S, R67E, the 65702 map SHOULD BE INTERPRETED that pivots irrigate land in the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 23, T02S, R67E. The described

POU from the application and delineated in heavy dashed line on the 65702 map is contradictory to the actual location of the ground irrigated shown on the same map because center pivots irrigate in a circle not an ellipse with straight segments. It can be shown from aerial mapping or in the field that the actual location of irrigation shown on the map that the actual POU is outside the described and mapped POU (and clearly is in the NE ¼ NE ¼ of Section 23).

The application states that the proposed place of use and the existing place of use are one and the same. This is not correct. Also the legal description for the proposed place of use describes lands that have not been irrigated in the past by any of the three mentioned applications. The State Engineer should not accept the description given but rather he should look back to the map filed with application 65702 to confirm that the proposed place of use is being overstated.

### **PERTINENT FINDINGS OF FACTS FROM APPLICATION 49080**

The State Engineer denied application 49080 and recites the following reason: " The application is herewith denied on the grounds that to grant the application for irrigation purposes on land that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare." This application is for the same water and the same situation applies.

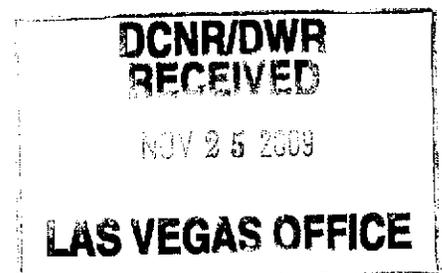
### **POTENTIAL ADVERSE EFFECTS**

1001 Ranch is concerned that the applicant has an unlawful trespass and we have been told that the BLM is in the process of notifying the applicant of said trespass. Also the applicant is proposing to concentrate the pumpage from three applications to one point of diversion. This should not be allowed unless the applicant can show that the pumping of a single well will not adversely affect adjacent senior water rights users.

### **CONCLUSIONS**

Based on previous denials by the State Engineer and the information provided in this protest a reasonable person would conclude the following:

1. The application should be denied on the grounds that to grant the application for irrigation purposes on land that the applicant does not own or control would not be in the public interest and welfare.
2. The application should be denied because he cannot demonstrate the ability to place the water to beneficial use.



3. The application should be denied because the map on file with the application attempts to change the place of use even though the application only requests a Change in Point of Diversion.

### **RECOMMENDATIONS**

The public interest would not be served by granting a permit to application 78921 and it should be denied. Should the State Engineer approve the change then the existing point of diversion should be required to be abandoned accordingly.

