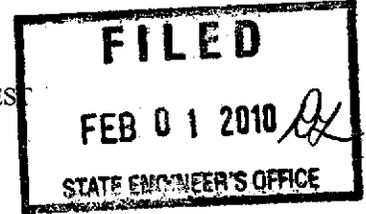


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 79055  
FILED BY Stone Cabin Ranch, L.L.C.  
ON November 30, 20 09, TO APPROPRIATE THE  
WATERS OF Nevada



PROTEST

Comes now Colvin & Son, LLC

Printed or typed name of protestant

whose post office address is 37650 Ritter Road, Ritter, Oregon 97856

Street No. or PO Box, City, State and ZIP Code

whose occupation is Livestock Production

and protests the granting

of Application Number 79055

, filed on November 30

, 20 09

by Stone Cabin Ranch, L.L.C.

to appropriate the

waters of SW1/4 SW1/4 of Sec. 33, T6N, R49E, MDB&M (Willow Springs) situated in Nye

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 attached sheet.

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 A. Nisbet*  
*William A. Nisbet*

Agent or protestant

William A. Nisbet, Chilton Engineering and Surveying Ltd.

Printed or typed name, if agent

Address

421 Court Street

Street No. or PO Box

Elko, NV 89801

City, State and ZIP Code

775-738-2121

Phone Number

Subscribed and sworn to before me this

27th

day of

January

, 20 10

*Coralee Griswold*  
*Coralee Griswold*

Notary Public

State of Nevada

County of Elko



† \$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Federal Regulation will Preclude Development

The proposed water right and associated proposed works would be located within the Rawhide Mountain Wilderness Study Area. The proposed spring development and associated works (600 foot pipeline and trough) would not comply with the non-impairment standard established under the Bureau of Land Management's interim management policy and guidelines for lands under wilderness review. Thus, the proposed development cannot be approved by the BLM so long as the area is a Wilderness Study Area.

Application 79055 Requests an Excessive Flow Rate for the Stated Purpose

State Engineer Ruling # 5199 states under Findings of Fact I that "appropriations of water for stock watering purposes are typically assigned a consumptive use factor of 0.00003125 cfs per head of cattle...". Thus, 300 cattle would require about 0.01 cfs. The protested application seeks 0.10 cfs, ten times the rate typically appropriated for 300 cattle.

Evidence Fails to Show an Adequate Source of Water for the Stated Purpose

State Engineer Ruling # 5199 concluded that the application then under review requested far more surface water than the spring source was capable of producing, and thus would not be in the public interest. In the present case, the area identified as "Willow Springs" under Application 79055 was inspected by Larry L. Schutte on December 10, 2009. Mr. Schutte observed no surface water at the site during his December 10, 2009 field inspection, as indicated in his affidavit dated January 5, 2010 attached as Exhibit A. Said affidavit addresses the lack of surface water when it states there was "No sign of moisture...". The lack of surface water at or near the site for any sustained period during the year was further evidenced by Mr. Schutte's observation that there was "No evidence of forage use by any species except rabbits."

Request that Application 79055 be Denied

Given that the area identified as "Willow Springs" under Application 79055 is located within the Rawhide Mountain Wilderness Study Area which would preclude approval of the proposed works, given that the application seeks far more water than would customarily be appropriated for 300 cattle, and given a complete lack of evidence for anything but ephemeral surface water at the site, said application should be denied because it would not be in the public interest.

Exhibit A: Affidavit of Larry L. Schutte dated January 5, 20010 (sic)

2010 FEB -1 AM 11:36

Exhibit A to protest to application #79055

Larry Schutte  
Colvin & Son LLC  
5 Mile Ranch  
HC 67 Box 32004  
Tonopah, NV 89049

WRS - NRS  
**RECEIVED**  
JAN 11 2010

775-427-8889

January 5, 2010

Western Range Service  
Al Steniger  
P.O. Box 1330  
Elko, Nevada 89803

RE: Affidavit - Dec. 10, 2009  
Stock-water application - Willow Springs, Stone Cabin Valley  
Appl.# 79055, Sec.33, T6N, R49E

I Larry L. Schutte, ranch manager for Tom Colvin Jr., 5 Mile Ranch, Nye county Nevada, provide this written statement concerning this water application above.

On December 10, 2009 I examined the willow area approximately ½ mile east, traveling up the mouth of canyon, on existing two tract road extends to group of willows.

The canyon proceeds east ward towards base of Hot Creek mountain for approximately ¾ mile, and easy drainage how ever consumed with timber.

The water course drains through center of willow stand: which is 100' X 50'

The west end of willow stand is evidence of large machinery, had dig and remove sandy material from creek bottom, time unknown.

No sign of moisture or even the remains of a cleared area, and no piping.

North west corner of willow stand is 10' X 7' wood cabin, partially embedded in ground with roofing fallen inside.

No evidence of forage use by any species except rabbits. Horse use was acknowledged at mouth of canyon ½ mile west.

Larry L. Schutte



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WRS - NRS