

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

IN THE MATTER OF APPLICATIONS )  
69013, 69015, 69017 AND 69019 FILED TO )  
APPROPRIATE THE PUBLIC WATERS )  
OF A VARIOUS SPRINGS WITHIN )  
DAYTON VALLEY HYDROGRAPHIC )  
BASIN (103), LYON COUNTY, NEVADA. )

**RULING**  
**#5516**

**GENERAL**

**I.**

Application 69013 was filed on August 1, 2002, by the United States Department of Interior, Bureau of Land Management (BLM) to appropriate 0.02 cubic feet per second (cfs) of water from Gregg's Cabin Spring for livestock watering purposes within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 7, T.15N., R.23E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 7.<sup>1</sup>

**II.**

Application 69015 was filed on August 1, 2002, by BLM to appropriate 0.003 cfs of water from Fiddler's Green #1 Spring for livestock watering purposes within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 29, T.16N., R.22E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 29.<sup>2</sup>

**III.**

Application 69017 was filed on August 1, 2002, by the BLM to appropriate 0.003 cfs of water from Fiddler's Green #2 Spring for livestock watering purposes within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 28, T.16N., R.22E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 28.<sup>3</sup>

**IV.**

Application 69019 was filed on August 1, 2002, by the BLM to appropriate 0.003 cfs of water from Nettles Spring for livestock watering purposes within the NW $\frac{1}{4}$  SW $\frac{1}{4}$

---

<sup>1</sup> File No. 69013, official records in the Office of the State Engineer.

<sup>2</sup> File No. 69015, official records in the Office of the State Engineer.

<sup>3</sup> File No. 69017, official records in the Office of the State Engineer.

of Section 28, T.16N., R.22E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of said Section 28.<sup>4</sup>

### **FINDINGS OF FACT**

#### **I.**

In 2003, the Nevada Legislature amended NRS § 533.503 to provide, in part, that:

The State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock unless:

- (a) The applicant for the permit is legally entitled to place livestock on the lands for which the permit is sought and:
  - (1) Owns, leases or otherwise possesses a legal or proprietary interest in the livestock on or to be placed on the lands for which the permit is sought; or
  - (2) Has received from a person described in subparagraph (1), authorization to have physical custody of the livestock on or to be placed on the lands for which the permit is sought, and authorization to care for, control and maintain such livestock;
- (b) The forage serving the beneficial use of the water to be appropriated is not encumbered by an adjudicated grazing preference recognized pursuant to law for the benefit of a person other than the applicant for the permit; and
- (c) The lack of encumbrance required by paragraph (b) is demonstrated by reasonable means, including, without limitation, evidence of a valid grazing permit, other than a temporary grazing permit, that is issued by the appropriate governmental entity to the applicant for the permit.

The State Engineer finds the BLM does not own, lease or otherwise possess a legal or proprietary interest in the livestock on or to be placed on the lands for which the permit is sought and is therefore not qualified to obtain a stockwater permit under Nevada Water Law.

### **CONCLUSIONS**

#### **I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>5</sup>

#### **II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>6</sup>

---

<sup>4</sup> File No. 69019, official records in the Office of the State Engineer.

<sup>5</sup> NRS chapter 533.

<sup>6</sup> NRS § 533.370 (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 threatens to prove detrimental to the public interest.

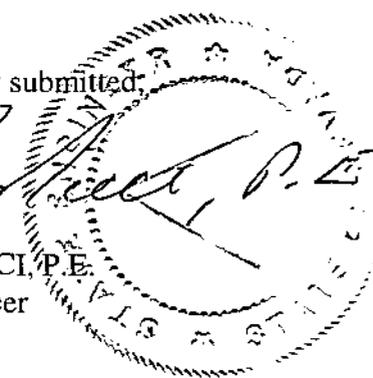
**III.**

The State Engineer concludes that Nevada law prohibits the State Engineer from issuing a permit to appropriate water for livestock, unless the applicant owns, leases or otherwise possesses a legal or proprietary interest in the livestock on or to be placed on the lands for which the permit is sought, and since the BLM does not meet this requirement, the subject applications must be denied in accordance with NRS §533.503.

**RULING**

Applications 69013, 69015, 69017 and 69019 are hereby denied under the provisions of NRS § 533.503.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 13th day of  
September, 2005.