

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

IN THE MATTER OF APPLICATIONS 12761 )  
AND 12762 FILED TO APPROPRIATE PUBLIC )  
WATERS FROM AN UNDERGROUND )  
SOURCE WITHIN THE RALSTON VALLEY )  
HYDROGRAPHIC BASIN (141), NYE )  
COUNTY, NEVADA. )

**RULING**

**#5637**

**GENERAL**

**I.**

Application 12761 was filed on December 8, 1948, by Warren C. Hunt, M.D. Hunt and Donald B. Hunt, and later assigned to E. Wayne and Jean N. Hage, to appropriate 0.031 cubic feet per second of water from an underground source for stockwatering purposes within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 34, T.3N., R.44E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 34, T.3N., R.44E., M.D.B.&M.<sup>1</sup>

**II.**

Application 12762 was filed on December 8, 1948, by Warren C. Hunt, M.D. Hunt and Donald B. Hunt to appropriate 0.031 cubic feet per second of water from underground source for stockwatering purposes within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 36, T.3N., R.44E., 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 Section 36, T.3N., R.44E., M.D.B.&M.<sup>2</sup> Warren C. and Donald B. Hunt are currently the owners of record of a 50% interest. E. Wayne and Jean N. Hage are currently the owners of record of the remaining 50% interest.

**III.**

Applications 12761 and 12762 were timely protested by Jess Chance and Jess A. Chance, Jr., and Monitor Livestock Company, on grounds not considered by this ruling.

**FINDINGS OF FACT**

**I.**

Applications 12761 and 12762 were filed to appropriate underground water on lands administered by the Bureau of Land Management (BLM).

<sup>1</sup> File No. 12761, official records in the Office of the State Engineer.

<sup>2</sup> File No. 12762, official records in the Office of the State Engineer.

Nevada Revised Statute § 533.503 provides, in part, that:

1. 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 the 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.<sup>3</sup>

By letters dated February 17, 2005, and March 29, 2005, the BLM informed the State Engineer that the applicants do not have a permit or lease to run livestock on public land under the Tonopah Resource Management Plan in the Tonopah Planning Area or in the Ralston Valley Hydrographic Basin. The State Engineer finds that the applicants are not legally entitled to place livestock upon the federal lands comprising the points of diversion and place of use under Applications 12761 and 12762. The State Engineer finds to approve a permit for stockwatering when the applicants are not authorized to use the lands for grazing would threaten to prove detrimental to the public interest.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</sup>

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<sup>3</sup> NRS § 533.503.

<sup>4</sup> NRS chapters 533 and 534.

**II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>5</sup>

- 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.**

The State Engineer concludes that the applicants are not current range users in the Tonopah Resource Management Plan in the Tonopah Planning Area or specifically the Ralston Valley Hydrographic Basin; therefore, the approval of Applications 12761 and 12762 would threaten to prove detrimental to the public interest.

**RULING**

Applications 12761 and 12762 are hereby denied on the grounds that to approve an application for stockwatering purposes where the applicants are not the authorized range users would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 8th day of  
August, 2006.

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<sup>5</sup> NRS § 533.370(5).