

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

IN THE MATTER OF APPLICATION )  
44969 FILED TO APPROPRIATE )  
THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN )  
THE GOSHUTE VALLEY )  
HYDROGRAPHIC BASIN (187), )  
ELKO COUNTY, NEVADA. )

**RULING**  
**# 5745**

**GENERAL**

**I.**

Application 44969 was filed on October 29, 1981, by the United States Bureau of Land Management (BLM) to appropriate 0.019 cubic feet per second of water from Shafter No. 3 Well for stockwatering purposes within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 36, T.32N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 36.<sup>1</sup>

**II.**

Application 44969 was protested by Loyd Sorensen on grounds not relevant to the decision in this ruling.

**FINDINGS OF FACT**

**I.**

In 2003, the Nevada Legislature amended NRS § 533.503 to provide, 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;

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<sup>1</sup> File No. 44969, official records in the Office of the State Engineer.

- (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 therefore, is 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>2</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>3</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 threatens to prove detrimental to the public interest.

#### III.

The State Engineer concludes that Nevada water 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 application must be denied in accordance with NRS § 533.503.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.370 (5).

**RULING**

Application 44969 is hereby denied under the provisions of NRS § 533.503. No ruling is made on the merits of the protest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Taylor', with a long horizontal flourish extending to the right.

TRACY TAYLOR, P.E.  
State Engineer

TT/KMH/lt

Dated this 1st day of

June, 2007.