

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

IN THE MATTER OF APPLICATION 44762 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE GRASS VALLEY )  
HYDROGRAPHIC BASIN (138), LANDER )  
COUNTY, NEVADA. )

**RULING**  
**# 5836**

**GENERAL**

**I.**

Application 44762 was filed on October 29, 1981, by the United States Government, Department of Interior, Bureau of Land Management, to appropriate 0.01 cubic feet per second of water from the Walti Well for livestock/wild horses purposes within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 3, T.22N., R.47E., 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 3. Item #4(b) of the application further lists the proposed use as 250 cows and 6 horses.<sup>1</sup>

**II.**

Application 44762 was timely protested by Garley Amos on grounds not to be considered in this ruling.

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State Engineer finds that sufficient information is available in the Office of the State Engineer and an administrative hearing to obtain additional evidence is not necessary.

**II.**

Application 44762 was filed for livestock/wild horses. When an Applicant files an application and the stated use is for stockwater, it must meet additional criteria under

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<sup>1</sup> File No. 44762, official records in the Office of the State Engineer.

Nevada water law that do not apply to other manners of use.<sup>2</sup> In general, the Applicant does not meet these criteria and as a result, the Applicant was given the opportunity to amend its application. By letter dated April 4, 2005, Application 44762 was amended by the Applicant to delete all reference to livestock use, thereby allowing the application to be considered for wild horses only.

During the review of the application for wild horses, it was determined that additional information was required from the Applicant. On April 10, 2006, a certified letter was sent to the Applicant requesting this additional information. The Applicant was warned that failure to respond may result in denial of the application. The U.S. Postal Service returned a properly endorsed certified mail receipt to the Office of the State Engineer on April 17, 2006. To date, the Applicant has not supplied the requested information.<sup>1</sup>

The State Engineer finds that the Applicant was properly notified of the request for additional information regarding Application 44762 and the Applicant has not provided the requested information.

### **CONCLUSIONS**

#### **I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

#### **II.**

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>4</sup>

#### **III.**

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;

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<sup>2</sup> NRS § 533.503.

<sup>3</sup> NRS chapters 533 and 534.

<sup>4</sup> NRS § 533.375.

<sup>5</sup> NRS § 533.370(5).

- 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.

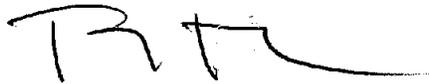
**IV.**

The Applicant was properly notified of the requirement for additional information and has failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to submit requested information demonstrates the Applicant's lack of interest in pursuing Application 44762. The State Engineer further concludes that without the requested information, it would threaten to prove detrimental to the public interest to issue a permit.

**RULING**

Application 44762 is hereby denied on the grounds that its issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 11th day of

April, 2008.