

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

IN THE MATTER OF APPLICATION )  
52774 FILED TO APPROPRIATE )  
PUBLIC WATERS FROM BLACK )  
HORSE WELL WITHIN THE PAHROC )  
VALLEY HYDROGRAPHIC BASIN )  
(208), LINCOLN COUNTY, NEVADA. )

**RULING**

**#5932**

**GENERAL**

**I.**

Application 52774 was filed on December 13, 1988, by Stuart L. Twitchell, later assigned to Varlin Higbee to appropriate 0.1 cubic foot per second of water from Black Horse Well for stock-watering purposes. The proposed place of use is described as being located within the NW¼ SE¼ of Section 30, T.2S., R.61E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of said Section 30.<sup>1</sup> Additional information contained in the file describes the water source as a hand dug well (pit), 10' x 15' x 4' deep.<sup>1</sup>

**II.**

Application 52774 was timely protested by USDI, Bureau of Land Management (BLM), Ely field office on the grounds that:<sup>1</sup>

1. It is in the interest of the U. S. Government and people to have water available for the principle users. Beneficial use is made by:
  - wild horses; 30 (yearlong)
  - deer; 15 AUMs (yearlong)
  - livestock; cattle 543 AUMs (Dec. 1 through Feb. 28)
2. There is more than one user/permittee in the allotment:
  - a) Thomas Steele
  - b) Charles Wadsworth
  - c) Joe Higbee
3. Current project is developed but not authorized by the Bureau.

**FINDINGS OF FACT**

**I.**

By letter dated March 19, 2008, the BLM confirmed the Applicant is an authorized grazing permittee within the Black Horse Allotment, where the proposed point

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<sup>1</sup> Application 52774, official records in the Office of the State Engineer.

of diversion of Application 52774 is located.<sup>1</sup> The State Engineer finds that the Applicant is entitled by the proper federal agency to place livestock upon the public range described under Application 52774.

**II.**

The BLM indicates the Black Horse Well was dug without permission from the BLM. The State Engineer finds that this is an issue between the BLM and the person who installed the well and is not relevant to the State Engineer's review of the water right application.

**III.**

A determination was made, after an examination of the records of the Office of the State Engineer, that there are no additional water right permits, proofs or claims filed at the proposed point of diversion.<sup>2</sup>

**CONCLUSIONS**

**I.**

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

**II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>4</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 Applicant is the authorized range user and stock watering is a beneficial use of water. The State Engineer concludes that the issuance of Application 52774 would not threaten to prove detrimental to the public interest. The State Engineer further concludes the proposed use will not conflict with existing rights.

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<sup>2</sup> Water Right Township Plats, Township 2 South, Range 61 East, M.D.B.&M., official records in the Office of the State Engineer.

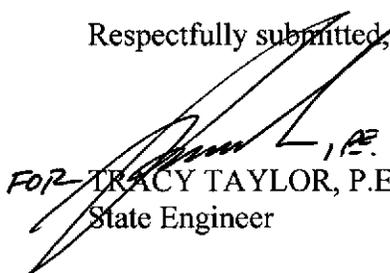
<sup>3</sup> NRS chapter 533.

<sup>4</sup> NRS § 533.370(5).

**RULING**

The protest is overruled and Application 52774 is approved subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,

  
FOR ~~TRACY~~ TRACY TAYLOR, P.E.  
State Engineer

TT/SEM/jm

Dated this 9th day of  
February, 2009.