

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

IN THE MATTER OF APPLICATION)
80563 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF BASTIAN CREEK)
SPRING ET NO. 22 WITHIN THE)
SPRING VALLEY HYDROGRAPHIC)
BASIN (184), WHITE PINE COUNTY,)
NEVADA.)

RULING
#6243

GENERAL

I.

Application 80563 was filed on February 11, 2011, by the Southern Nevada Water Authority (SNWA) to appropriate 0.0155 cubic feet per second (cfs) of water from Bastian Creek Spring ET No. 22, sufficient to water 500 head of cattle from January 1st to December 31st of each year, which when expanded over a year equates to 11.20 acre-feet annually. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, T.15N., R.67E., M.D.B.&M. The proposed place of use is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, T.15N., R.67E., M.D.B.&M.¹

II.

Application 80563 was timely protested by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints on the following grounds:

The Corporation of the Presiding Bishop owns and operates the Cleveland and Rogers Ranches and associated grazing permits as part of a large livestock operation in north Spring Valley. Both the fee ground and allotments are critical to the overall operation of this livestock program. The Corporation ownership includes the exclusive grazing rights to the BLM Bastian Creek Allotment. The Corporation protests the application because, 1) the place of use is only 40 acres and is surrounded by the Corporation's Bastian Creek Allotment and SNWA has no right to place cattle in those areas, 2) the 40 acres owned by SNWA will not support the grazing of 500 cattle, and 3) the Corporation has vested rights in the springs as a result of the use and historical use with the grazing allotment.

¹ File No. 80563, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Nevada Revised Statutes § 533.365(4) 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 records of the Office of the State Engineer to evaluate the merits of Application 80563 and the associated protest and a hearing is not necessary.

II.

On May 6, 2013, staff from the Office of the State Engineer conducted a field investigation at Bastian Springs, the proposed source for Application 80563, and found no evidence of water that could support the appropriation requested since the Bastian Springs appear to be intermittent or may no longer exist.

The State Engineer finds that from the field investigation of May 6, 2013, there is no water available at the proposed source.²

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate public waters where: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 protectable 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.

² Report of Field Investigation No. 1174, official records in the Office of the State Engineer.

³ NRS Chapter 533.

⁴ NRS § 533.370(2).

III.

The State Engineer concludes that based upon Report of Field Investigation No. 1174, there is no water at the proposed source; therefore, Application 80563 cannot be supported and is subject to denial.

RULING

Application 80563 is hereby denied on the grounds that there is no water at the proposed source. No ruling is made on the merits of the protest.

Respectfully submitted,

 P.E.
JASON KING, P.E.
State Engineer

Dated this 29th day of
October, 2013.