

## DISCLAIMER

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May 10, 2003

Nevada State Legislature

Re: S.B. 76

Dear Nevada Legislator:

I am a lifelong Nevadan who has had the pleasure and challenge of ranching in the sometimes unforgiving climate which we find in the Silver State. I find it difficult to swallow that we must constantly be living with the presence of the Bureau of Land Management looking over our shoulders, with their hand in our wallet, trying to teach us how to manage our own business. How did cattle ranchers ever get by before there was a BLM?

Enclosed is a copy of a recent letter sent to me by the BLM regarding pending legislation in Carson City, SB 76. As you can tell, the BLM is afraid that the Nevada legislature will give Nevada's cattle ranchers the opportunity to run their business in a manner which promotes successful business and economic well being. SB 76, as amended, will allow ranchers the flexibility they need to survive and succeed in this very delicate environment.

The BLM wants to require joint applications for water rights so that they can maintain their hand and control over something about which they really have no intimate knowledge. The last paragraph of their letter should give one a good sense of what this is about, namely that the wild horse is more important to the BLM than are the cattle ranchers. Consider, if you will, the following facts about recent BLM activities in Nevada:

- \* When a wildfire or natural disaster occurs, the BLM expects ranchers to defray the cost of reseeded the grazing areas.
- \* The BLM expects, and demands, that ranchers maintain fences in grazing areas.
- \* The BLM requires ranchers to install and provide water sources for wildlife and cattle in grazing area.

While normally these activities would seem somewhat justified and related to the "partnership" which the BLM is trying to maintain (as they claim) with Nevada's ranchers, the BLM then proceeds to tell ranchers that due to overgrazing (usually done by wild horses and other wildlife) the areas in question are restricted from cattle grazing and the benefits placed upon the land by the rancher are used exclusively to support and sustain the wild horse herds which forage freely and roam expansively, effecting not only choice range lands, but ranches and other agricultural lands in the region, and the rancher must move the cattle to other lands, pay for forage for them, or restrict his/her ability to maintain a viable stock of cattle. The BLM makes these decisions unilaterally and does not ask the ranchers opinion or input before setting policy. (They send out an "agreement" which the rancher is supposed to sign to signify that there has been some understanding as to the needs of the "range, but practically speaking, the BLM speaks and the rancher has no choice but to adhere. If a rancher fails to comply there can be a host of actions taken by the BLM to punish non-compliance, including, but not limited to threats of fines of \$10,000 if one of my cows sets foot on my grazing allotment before the BLM gives their "consent".)

The BLM believes in "joint applications" so they can dictate the when's, where's and how's of Nevada's cattle ranchers. The greatest hardship which cattle ranchers have to deal with is the BLM. Leave them out of the equation when it comes to allocation of Nevada's waters! If the BLM wants to create water developments, let them apply to the state water engineer, like anyone else, and justify their actions, use of water, and the inherent benefits of their actions to Nevada. I think that Nevada's farmers and ranchers have become masters of utilizing the resources to their fullest potential, while allowing wildlife and other users to co-exist.

Let me put in this in perspective. I own a number of properties in Lincoln County. Over ten years ago I applied for water rights on Oak Spring. The waters of Oak Spring have traditionally run into the channel which I have used to irrigate my land and, hopefully, I could use to water my stock during various seasons. The Bureau of Land Management protested my application on the grounds that the water was "a ...source necessary for the proper multiple use management of the Public Lands....In addition, the applicant has no BLM authorization to irrigate upon or traverse Public Lands to irrigate adjacent public lands." As a result of the BLM protest, my application was denied, even though cultural maps show that Oak Spring has traditionally been a water source for the lands I own. (If you reviewed state records you would find that I am the holder of water rights via Proofs 0737 and 01588 and Permits 29247 and 29248. These records would reveal that the waters of Oak Spring run into the ditch in question. I only wanted to perfect and formalize the ownership and use of waters that I, and my predecessors in interest, owned or have laid claim to. See Attached letter from State Division of Water Resources dated October 14, 1992.) The BLM showed no pending use or planned use for the water I applied for, but they vetoed my application because they had the power to do so!

The rights of wandering feral animals (what Congress now calls "wild horses") should not supercede those of taxpaying, law abiding citizens of this state who are denied access to the most valuable commodity around-namely water. The uncontrolled wanderings and destructive grazing habits of these once domestic animals should not be the source of the federal government's efforts to trample on state's rights. The BLM has often told me that the grazing rights were 50/50, that is half of the right is with me and the rest goes to feral horses and other wild life. But more and more the BLM, which does not control the range and grazing of the wild horses, claims that because of overgrazing (by the horses and other wildlife) I need to forfeit my use of lands which I have improved, fenced and paid to seed.

This is only one incident which is fairly indicative of the attitude of many governmental employees about the water and other rights which belong to the state of Nevada and its citizens. One BLM employee told me that it did not matter if I took on the federal government because I would always lose. (For individual property owners, such as myself, it becomes frustrating and galling to find that single employees of the federal bureaucracy can, and do, make individual decisions about a host of landowners, their grazing rights and the future use of Nevada lands, and if the federal employee is wrong, oppressive or just plain "uppity" towards any individual Nevadan, then we are just "out of luck". There is no remedy short of suing the entire BLM and Washington bureaucracy for the shortsighted and narrowminded decisions of one, or a few, federal employees.)

If the BLM retains rights for joint filings the only filings they will sign on to are those that they want and with conditions that every land owner must surrender to in order to attain any opportunity to continue grazing or growing. What ever happened to state sovereignty? Why must we genuflect to Washington when we just want to conduct business in a manner that is fair and equitable under the constitution and laws of the state?

I understand the state's need to draft and pass laws regarding state water law. I feel that SB 76 is a good attempt at that, as long as joint filings are left out! If the BLM, and other federal agencies, do not like our state laws, let them go to court and fight them, as they have in the past, but until they win, let us run our ranches and farms according to our laws, not their whims.

I am not a good public speaker and I hope that this written testimony will be sufficient for you to read into the record as a clear statement of my concerns on these matters. If you have any further questions, please do not hesitate contacting me. Thank you for all your hard work.

Respectfully,

  
Roger Dieleman

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Las Vegas, NV 89118  
(702) 364-5000

MILLER  
Governor

STATE OF NEVADA

PETER G. MORROS  
DirectorR. MICHAEL TURNIPSEED, P.E.  
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29248(702) 687-4380  
October 14, 1992Roger J. Dieleman  
5454 Arville  
Las Vegas, NV 89118

Dear Mr. Dieleman:

Please be advised that the Permit and Proof Numbers listed above have been assigned to show Roger J. Dieleman as current owner of record of all of Proofs 0737 and 01588 and Permits 29247 and 29248.

This assignment reflects only the information that has been filed with this office and may be subject to amendment upon receipt of additional documentation.

If you have any questions please contact this office.

Sincerely,

  
Michael J. Anderson  
Hydraulic Engineer

MJA/pm

cc: Phillip Hulse  
Larry C. Reynolds, Esq.  
Southern Nevada Branch Office