

IN THE MATTER OF APPLICATION)
35781 FOR THE WATERS OF AN)
UNDERGROUND SOURCE IN RAWHIDE)
FLAT, CHURCHILL COUNTY, NEVADA)

RULING

Finding of Fact

I

Application 35781 was filed August 21, 1978 in the name of Occidental Geothermal, Inc. The application proposes to divert 100 c.f.s. from an underground source at a point located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T.16N., R.29E., M.D.B.&M. The proposed manner of use is industrial (geothermal) with comments under Remarks stating "Intended use if calorie content of water is sufficient generation of electricity if not sufficient for electrical generation then use for hydroponics and space heating possible use for drying agricultural products." 1/

II

A timely protest to the granting of this application was filed November 2, 1978, by Ted Ax. This protest prays that the application be denied on the following grounds:

"They are drilling within the same section as my place of use. Drill site approximately 500 feet from 5 of my existing wells. My concern is that this new well would ruin my existing wells. One of the five wells has been certified." 2/

III

A field investigation into the matter of this protested application was held October 19, 1979. It revealed that the proposed point of diversion is within close proximity to the existing water rights of the protestant. It was also found that the protestant has very questionable control of the place of use described on his existing water rights. 3/

IV

The existing rights of the protestant are as follows:

Certificate 5353, subject of Permit 17118 was issued for 0.026 c.f.s. of water from an unnamed spring located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T.16N., R.29E., M.D.B.&M. for mining and domestic purposes. The present owner of record is Ted G. Ax.

Permit 28138 was issued August 12, 1974, for 6.0 c.f.s. of water from an underground source at a point located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T.16N., R.29E., M.D.B.&M. (exact, same location as for Certificate 5353) for power and domestic purposes. Proof of Beneficial Use was due March 12, 1981 with the provision of no further extension. 4/

V

Evidence gained at the above referred to field investigation revealed that the existing rights of the protestant were unaffected by test pumping at the proposed point of diversion under Application 35781. 4/

VI

By letter of October 23, 1979, the applicant reduced their requested diversion rate from 100 c.f.s. to 10 c.f.s. 5/

Conclusions

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 7/

II

The State Engineer is prohibited by law from granting a permit where:

1. There is no unappropriated water at the proposed source, or
2. The proposed use conflicts with existing rights, or
3. The proposed use threatens to prove detrimental to the public interest. 6/

III

The protestant was unable to produce documentation showing either ownership, or lease or claim to the area described as the place of use under his existing water rights.

III

All rights granted by the State Engineer are issued subject to existing rights. 7/

Ruling

The protest of Application 35781 is hereby overruled and a permit will be issued with the understanding that no perforations shall be put in the production casing from the ground level to 100 feet and upon submission of the statutory permit fee.

Respectfully submitted,

William J. Newman

William J. Newman
State Engineer

WJN:TFH:jw

Dated this 13th day

of May, 1981.

Footnotes

- 1/ Records on file with the State Engineer.
- 2/ On file in Application 35781 in the Office of the State Engineer.
- 3/ On file in the Office of the State Engineer.
- 4/ On file in the Office of the State Engineer.
- 5/ On file in file 35781 in the Office of the State Engineer.
- 6/ NRS 533.370 Subsection 4.
- 7/ NRS 533.430 Subsection 1.