

)
IN THE MATTER OF APPLICATION 41476)
FILED BY LIDA LIVESTOCK ON A GROUND)
WATER SOURCE IN LIDA VALLEY, ESMERALDA)
COUNTY, NEVADA

RULING

144
INTRODUCTION

Application 41476 was filed by Lida Livestock to appropriate water from an underground water source for stock watering purposes within Lida Valley (10-144) in Esmeralda County, Nevada.

FINDINGS OF FACT

I

Application 41476 was filed June 6, 1980 in the name of Lida Livestock to appropriate 0.25 c.f.s. of water from an underground source located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26, T.5S., R.41E., M.D.B. & M. for stock watering for 500 head of cattle, to be used at various locations within T.5S., R.41E., R.41 $\frac{1}{2}$ E., and 42E., and T.6S., R.41E., R.41 $\frac{1}{2}$ E., and R.42E., M.D.B. & M. which are within the grazing allotment of the applicant.

II

Notice of application was published in compliance with NRS 533.360.

III

A protest to the granting of Application 41476 was timely filed with the State Engineer on March 18, 1981, by the U.S. Government, Bureau of Land Management, on the following grounds: "The subject lands are vacant public lands, and that the applicant has no authorization or right to use or convey the applied for waters on or across such lands." 1/

IV

Information on file in the State Engineer's office from the Bureau of Land Management states "the point of use is located in the Magruder Mountain grazing allotment. Mr. Jack Vogt is the permittee and is allowed 900 head of cattle to graze the allotment year-round. There is no current use on this water." 2/

V

There are currently no claims of vested rights or valid appropriative rights of record in the State Engineer's office on the source described under Application 41476. 3/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 4/

II

The State Engineer is required by statute to approve all applications made in proper form where:

- a) All fees have been paid which contemplate the application of water to beneficial use.
- b) The proposed use does not tend to impair the value of existing rights or to be otherwise detrimental to the public welfare. 5/

III

The watering of livestock is declared by statute to be a beneficial use and the right to use water for that purpose may be required in the same manner as the right to use water for any other beneficial use. 6/

IV

There is no evidence that subsisting or existing rights will be impaired or that the issuance of a permit under Application 41476 will be detrimental to the public interest or orderly management of the public range. 7/

V

The State Engineer's office considers an appropriation in the amount of 20 gallons per day per head to be sufficient for the watering of cattle, and therefore considers an appropriation of 0.0156 c.f.s. of water to be sufficient for the watering of 500 head of cattle.

VI

The State Engineer has no authority or jurisdiction for the granting of rights of access onto public range for stock watering purposes.

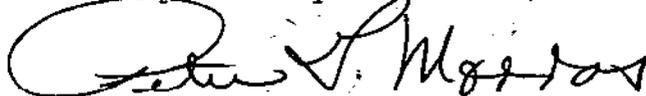
VII

Information on record in the office of the State Engineer indicates that the Magruder Mountain grazing allotment allows 900 head of cattle to graze year-round. Application 41476 lists 500 head and asks for 0.25 c.f.s. of water. Any certificate ultimately issued will be for the number of cattle actually watered at the source, up to 500 head, and not to exceed 0.0156 c.f.s. of water.

RULING

The protest to the granting of Application 41476 is herewith overruled on the grounds that the granting of a permit will not tend to impair the value of existing rights or be otherwise detrimental to the public welfare. Upon payment of the statutory permit fees, a permit will be issued which will be limited to 0.0156 c.f.s. or sufficient to water 500 head of cattle. The permit will be issued with the specific provision that said issuance does not extend to the permittee the right of ingress and egress onto the public range.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM:SK:sb

Dated this 10th day of
JULY, 1981.

FOOTNOTES

1. Public records in the Office of the State Engineer.
2. Public records in the Office of the State Engineer.
3. Public records in the Office of the State Engineer.
4. NRS 533.025 and 533.030, subsection 1.
5. NRS 533.370, subsection 1.
6. NRS 533.485, subsection 1.
7. NRS 533.495.