

IN THE MATTER OF APPLICATIONS 43906)
AND 43908 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE ANTELOPE VALLEY)
GROUND WATER BASIN IN LANDER)
COUNTY, NEVADA.)

RULING

GENERAL

Application 43906¹ was filed on June 16, 1981, by Paul Inchauspe to appropriate 0.05 c.f.s. of underground water for use within Lot 2 Section 31, T.23N., R.41E., M.D.B.&M., for stockwatering purposes. The point of diversion is described as being within Lot 2 Section 31, T.23N., R.41E., M.D.B.&M.

Application 43908¹ was filed on June 16, 1981, by Paul Inchauspe to appropriate 0.05 c.f.s. of underground water for use within the SE1/4 SE1/4 Section 14, T21N., R.41E., M.D.B.&M., for stockwatering purposes. The point of diversion is described as being within the SE1/4 SE1/4 Section 14, T.21N., R.41E., M.D.B.&M.

FINDINGS OF FACT

I.

A timely protest¹ was filed to the granting of Applications 43906 and 43908 by James A. Williams on November 11, 1981. The grounds of the protest are as follows:

"This well wasn't drilled during the priority years (early 1940's 1950's) according to the BLM permit. BLM priority is, therefore, false. There is natural water in the mountains for the horses and wildlife. Paul Inchauspe wrote a letter to the State last January stating that the animals and wildlife needed the water he was pumping. This is not true, as the animals and wildlife are thriving by far better than they were when Inchauspe was pumping the water. Pumping of the water will increase the grazing of livestock and decrease the foreage around the area where the water is being pumped for the horses, game and wildlife."

II.

By letter to the Bureau of Land Management dated August 24, 1981, the Division of Water Resources inquired as to who was the current range permittee within the described place of use. ¹

¹ Public record in the office of the State Engineer under Applications 43906 and 43908.

On September 10, 1981, the Bureau of Land Management, by letter, informed the State Engineer that Paul Inchauspe was the permittee within the described place of use.¹

III.

Grazing privileges available to farmers and ranchers are primarily determined by discretionary decisions of the land managers, hopefully based on the forage available on the land and on the general condition of the range. Forage and range conditions are determined by precipitation, soil, climate and other factors largely independent of the existence or non-existence of watering sources. The quantity of forage is not likely to be determined by the owner of record on a stockwater permit. The development of new watering sources represented by the applications is perceived as enhancing areas for grazing which in turn should reduce grazing pressure in the vicinity of existing watering sources, thus increasing the quantity and quality of grazing privileges as a whole.

IV.

The priority of an appropriative water right is established by the date of filing of the application in the State Engineer's office.²

CONCLUSIONS

I.

The State Engineer has jurisdiction over this matter under the provisions of NRS Chapters 533 and 534.

II.

The applicant under Applications 43906 and 43908 is the range permittee within the described place of use.

III.

The State Engineer shall approve an application when:³

- A. There is unappropriated water at the proposed source,
- B. The proposed use does not conflict with existing rights,
- C. The proposed use does not threaten to prove detrimental to the public interest.

² NRS 533.355.

³ NRS 533.370.

RULING

The protests to the granting of Applications 43906 and 43908 are hereby overruled on the grounds that the applicant is the range permittee and can demonstrate the ability to place the water to beneficial use and further that the granting of Applications 43906 and 43908 will not interfere with existing rights or be detrimental to the public interest.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/BD/bl

Dated this 19th day of

APRIL, 1984.