

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 43749)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF STONEWALL SPRING IN)
STONEWALL FLAT, NYE COUNTY, NEVADA.)

RULING

GENERAL

Application 43749 was filed on May 18, 1981, by Frank W. Lewis to appropriate 0.2 c.f.s. of water from Stonewall Spring for mining, milling and domestic purposes within Lot 2 Section 5, T.5S., R.44E., M.D.B.&M. The point of diversion is described as being within Lot 2 Section 5, T.5S., R.44E., M.D.B.&M.¹

Application 43749 was protested in a timely manner by Colvin Cattle Co., Inc. The protested stated that "we have a certificate on this spring".¹

FINDINGS OF FACT

I.

There are two existing rights on Stonewall Spring in Nye County, Nevada, - Permit 5930, Certificate 849, which is for .025 c.f.s. and Permit 12362, Certificate 3773, which is for 0.010 c.f.s. Both certificates are for stockwatering purposes and both are in the name of L. C. Colvin.¹

II.

Application 22897 was filed on December 20, 1965, by Frank W. Lewis to appropriate 0.5 c.f.s. from Stonewall Spring. A field investigation was held on August 24, 1967, and at that time Stonewall Spring flowed at the rate of 0.0055 c.f.s.²

Application 22897 was denied on October 19, 1967, by Ruling No. 1016, on the grounds that there is no water available for appropriation.³

III.

A field investigation was held at Stonewall Spring on December 4, 1984. This investigation was conducted as a result of protested Application 43749. At the time of the investigation, it was estimated that Stonewall Spring was flowing at 0.033 c.f.s.⁴

¹ Public record in the office of the State Engineer.

² Report of Field Investigation No. 302, public record in the office of the State Engineer.

³ Ruling No. 1016, public record in the office of the State Engineer.

⁴ Report of Field Investigation No. 744, public record in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁵

II.

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

- A. there is no unappropriated water in the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public welfare.⁶

RULING

The grounds of the protest to Application 43749 are herewith upheld and Application 43749 is denied on the grounds that there is no unappropriated water available at the source and to grant the application would impair and conflict with existing rights.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/GT/bl

Dated this 23rd day of

January, 1985.

⁵ NRS 533.025 and 533.030(1).

⁶ NRS 533.370(3).