

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 41153)  
FILED TO APPROPRIATE THE PUBLIC)  
WATERS OF HOT SPRINGS IN THE MARY'S)  
RIVER AREA, ELKO COUNTY, NEVADA. )

RULING

GENERAL

Application 41153 was filed on April 23, 1980, by Fay C. and Anne E. Barger to appropriate 0.5 c.f.s. of water from Hot Springs for stockwatering of 1000 head of cattle within the NE1/4 SE1/4 Section 20, T.38N., R.62E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 20, T.38N., R.62E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

The Elko Branch Office of the Division of Water Resources conducted a field investigation on the source and determined that the spring is tributary to the Humboldt River.<sup>2</sup>

II.

In the Bartlett Decree for the Humboldt River Adjudication, the Court found that the Humboldt River and its tributaries are fully appropriated.<sup>3</sup>

CONCLUSIONS

I.

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

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<sup>1</sup> Public record in the office of the State Engineer.

<sup>2</sup> Public record in the office of the State Engineer filed under Application 41153.

<sup>3</sup> Humboldt River Adjudication, 1923-1938, Bartlett Decree, Findings of Fact No. 44, p. 28, Humboldt County, Nevada.

<sup>4</sup> NRS 533.325.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>5</sup>

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

RULING

Application 41153 is hereby denied on the grounds that there is no unappropriated water in the source and further that the granting thereof would tend to impair the value of existing rights.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/MT/bl

Dated this 8th day of  
May, 1985.

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<sup>5</sup> NRS 533.370(3).