

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 48285)
FILED TO CHANGE THE PLACE OF USE OF A)
PORTION OF THE WATERS OF AN)
UNDERGROUND SOURCE HERETOFORE)
APPROPRIATED UNDER PERMIT 19598,) **RULING**
CERTIFICATE 7303, IN PENOYER (SAND)
SPRINGS) VALLEY, LINCOLN COUNTY,))
NEVADA.)

GENERAL

Application 48285 was filed on August 9, 1984, by D. C. Day to change the place of use of 2.68 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation purposes on 160 acres of land within the SE1/4 Section 33, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SE1/4 SW1/4 Section 36, T.3S., R.55E., M.D.B.&M.¹

Water Resources-Reconnaissance Series Report No. 60, "Water-Resources Appraisal of Railroad and Penoyer Valleys, East-Central Nevada", by A.S. Van Denburgh and F. Eugene Rush, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources, and the Geological Survey, U.S. Department of the Interior, 1974. This report is available for review in the office of the State Engineer.

FINDINGS OF FACT

I.

A timely protest to the granting of Application 48285 was filed on April 6, 1985, by Umetco Minerals Corporation on the following grounds.¹

"The proposed change would adversely affect the existing and prior rights of Protestant.

To grant Application 48285 would be detrimental to the public interest, as an adverse effect upon Protestant's prior rights would require the State Engineer to order D.C. Day to curtail or cease pumping. Such action would be detrimental to D.C. Day and to the State of Nevada in general...."

II.

An additional protest was submitted by Wesley Koyen, however, it was not timely filed.¹

¹ Public record in the office of the State Engineer under Application 48285.

III.

The priority date of Application 48285 is February 24, 1961, since it seeks to change Permit 19598, Certificate 7303.²

IV.

Protestant is the owner of record of three ground water permits in the basin. Only one of these has a priority date earlier than February 4, 1961.³

V.

Protestant's wells are almost four miles from the proposed point of diversion under Application 48285.⁴

CONCLUSIONS

I.

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

II.

The point of diversion under Application 48285 will be in the same proximity to protestant's wells since Application 48285 does not seek to change the existing point of diversion under Permit 19598, Certificate 7303.

III.

There will be no additional water withdrawn from the source if Application 48285 is approved.

IV.

There is no evidence that the approval of Application 48285 will adversely effect the protestant's existing rights.

² Public record in the office of the State Engineer under Permit 19598, Certificate 7303.

³ Public record in the office of the State Engineer under Permits 14257, 29339 and 29340.

⁴ Public record in the office of the State Engineer under Permits 19598, 14257, 29339, 29340 and Application 48285.

⁵ NRS 533.025 and NRS 533.345.

RULING

The protest to the granting of Application 48285 is hereby overruled on the grounds that there will be no adverse effects on existing rights.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/KN/bl

Dated this 30th day of
May, 1985.