

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 48098,  
48099, 48100 and 48102 FILED TO  
APPROPRIATE THE PUBLIC WATERS FROM)  
VARIOUS SPRINGS IN DAYTON VALLEY,  
STOREY COUNTY, NEVADA. )

RULING

GENERAL

Application 48098 was filed on June 11, 1984, by Julius Bunkowski to appropriate 0.1 c.f.s. of water from a spring for quasi-municipal and domestic purposes within the NE1/4, S1/2 Section 24; NE1/4, E1/2 SE1/4 Section 25; NE1/4 NE1/4, S1/2 NE1/4, N1/2 SE1/4 Section 36, T.16.N., R.20E., M.D.B.&M.; Section 19; SW1/4 Section 20; W1/2, SE1/4, S1/2 NE1/4, NW1/4 NE1/4 Section 29; Sections 30 and 31, T.16N., R.21E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 1, T.16N., R.20E., M.D.B.&M.<sup>1</sup>

Application 48099 was filed on June 11, 1984, by Julius Bunkowski to appropriate 0.1 c.f.s. of water from a spring for quasi-municipal and domestic purposes within the NE1/4, S1/2 Section 24; NE1/4, E1/2 SE1/4 Section 25; NE1/4 NE1/4, S1/2 NE1/4, N1/2 SE1/4 Section 36, T.16.N., R.20E., M.D.B.&M.; Section 19; SW1/4 Section 20; W1/2, SE1/4, S1/2 NE1/4, NW1/4 NE1/4 Section 29; Sections 30 and 31, T.16N., R.21E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 12, T.16N., R.20E., M.D.B.&M.<sup>1</sup>

Application 48100 was filed on June 11, 1984, by Julius Bunkowski to appropriate 0.1 c.f.s. of water from a spring for quasi-municipal and domestic purposes within the NE1/4, S1/2 Section 24; NE1/4, E1/2 SE1/4 Section 25; NE1/4 NE1/4, S1/2 NE1/4, N1/2 SE1/4 Section 36, T.16.N., R.20E., M.D.B.&M.; Section 19; SW1/4 Section 20; W1/2, SE1/4, S1/2 NE1/4, NW1/4 NE1/4 Section 29; Sections 30 and 31, T.16N., R.21E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 12, T.16N., R.20E., M.D.B.&M.<sup>1</sup>

Application 48102 was filed on June 11, 1984, by Julius Bunkowski to appropriate 0.1 c.f.s. of water from a spring for quasi-municipal and domestic purposes within the NE1/4, S1/2 Section 24; NE1/4, E1/2 SE1/4 Section 25; NE1/4 NE1/4, S1/2 NE1/4, N1/2 SE1/4 Section 36, T.16.N., R.20E., M.D.B.&M.; Section 19; SW1/4 Section 20; W1/2, SE1/4, S1/2 NE1/4, NW1/4 NE1/4 Section 29; Sections 30 and 31, T.16N., R.21E., M.D.B.&M. The point of diversion is described as being within Lot 6 (NW1/4 SW1/4) Section 6, T.16N., R.21E., M.D.B.&M.<sup>1</sup>

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

II.

Applications 48098, 48099, 48100 and 48102 were timely protested on October 30, 1984, by William Michael Donovan, Jr., on the following grounds:<sup>1</sup>

"That it will depleat or interfere with my Water Right for Mining, Milling, Stockwatering, and Domestic under Permit Nos. 02279, 2203 Applic. #9775, 2724 Applic. #10379."

Applications 48098 and 48102 were timely protested on December 7, 1984, by United Mining Corp., on the following grounds:<sup>1</sup>

"Protestant currently operates a mill in the American Flats region which relies on the underground water source of American Flats. The surrounding mountains to the west and north recharge the ground waters of this basin and American Flats creek which runs year round. The applicant has filed several water rights applications in the American Flats region of which the above number is one. If this application along with several others is allowed, it would severely deplete the existing ground water reservoir in this area along with adversely affecting the water flow in American Flats Creek. The additional demands for this water in this area would adversely affect the existing water rights thus have grave affects on United Minings milling operation."

FINDINGS OF FACT

I.

A field investigation was performed on July 26, 1986, by Division of Water Resources personnel in which the applicant, agent and Division personnel visited each source and attempted to measure the flow rate.<sup>2</sup> Neither of the protestants appeared to represent their interests even though they were notified by certified mail for which return receipts were received,<sup>3</sup> therefore no evidence or information was received in support of the protests.

II.

The field investigation revealed that the source of water under Application 48098 is a seep that wets an area approximately 20 feet by 100 feet. There was no noticeable water flow above the ground but it appeared that a few gallons per minute could be developed.<sup>2</sup>

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<sup>2</sup> See report of field investigation under Applications 48098, 48099, 48100 and 48102, public record in the office of the State Engineer.

<sup>3</sup> See returned receipts under Application 42538 signed by William Michael Donovan, Jr., June 27, 1986, and Virginia J. Demmler for United Mining Corp. on June 10, 1986.

III.

The field investigation revealed that the source of water under Applications 48099 and 48100 had already been developed with 4 gallons per minute issuing under Application 48099 and 3 gallons per minute issuing under Application 48100. It was determined that these springs were not tributary to any live stream.<sup>2</sup>

IV.

The field investigation revealed the source of water under Application 48102 as a seep that wets an area approximately 50 feet by 30 feet. There was no noticeable water flow on the surface but it appeared that a few gallons per minute could be developed.<sup>2</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>3</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>4</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.

III.

None of the above springs are tributary to American Flat Creek nor can they be considered part of the underground system since they are high in the mountainous region around American Flat and they are forced to the surface by a bedrock foundation or a fissure or fault. The water reaching the surface is entirely consumed by native grasses and meadow.

IV.

Based on site inspection, it is concluded that the capture of the sources of water represented in the above application will have no effect on existing rights and will not prove detrimental to the public interest.

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<sup>4</sup> NRS 533.370(3)

V

Site inspection also reveals that there is unappropriated water in the source.

RULING

The protests to Applications 48098, 48099, 48100 and 48102 are hereby overruled and Applications 48098, 48099, 48100 and 48102 are hereby approved subject to prior rights, upon payment of the statutory permit fees.

Respectfully Submitted,



PETER G. MORROS  
State Engineer

PGM/RMT/jjk

Dated this 25th day of  
September, 1986.