

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 44076)
AND 44077 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE, WITHIN THE ALKALI SPRING)
VALLEY GROUND WATER BASIN,)
ESMERALDA COUNTY, NEVADA.)

RULING

3930

GENERAL

I.

Application 44076 was filed on June 29, 1981, by Noranda Exploration, Inc. to appropriate 2.5 c.f.s. of water from an underground source for mining, milling and domestic purposes within the SW1/4 Section 36, T.2S., R.42E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 9, T.1S., R.42E., M.D.B.&M.¹

Application 44077 was filed on June 29, 1981, by Noranda Exploration, Inc. to appropriate 2.5 c.f.s. of water from an underground source for mining, milling and domestic purposes within the SW1/4 Section 36, T.2S., R.42E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 10, T.1S., R.42E., M.D.B.&M.¹

Applications 44076 and 44077 were timely protested by Ben Colvin, Esmeralda County Commissioner, on December 28, 1981, on the following grounds:

This well will lower the water table and adversely affect the capacity of the Esmeralda County well constructed under Permit No. 41861. And on the further ground that any proposed mineral milling would contaminate protestants water source for the Town of Goldfield, Nevada. Therefore the protestant requests that the application be denied...¹

FINDINGS OF FACT

I.

Nevada Exploration, Ben Colvin and Ross E. de Lipkau were notified by certified mail on November 19, 1984 that a formal

¹ Public record in the office of the State Engineer.



field investigation would be held on December 5, 1984 to investigate protested Applications 44076 and 44077.¹ Properly endorsed receipts were received from the addressees.²

II.

Correspondence received from Noranda Exploration, Inc. on November 29, 1984, notified the State Engineer that Applications 44076 and 44077 had been transferred to AMAX Exploration.¹

III.

A formal field investigation was held at the point of diversion of the County of Esmeralda well (Permit 41861) for the purpose of gathering more information about the points of diversion and use proposed under Applications 44076 and 44077.³ The Division of Water Resources was represented by Gene Clock and Jerry Thom. Ben Colvin, protestant and Myron Johnson, representing protestant were present at the field investigation. No representative for Noranda Exploration, Inc. or AMAX Exploration attended the formal field investigation.³

IV.

The formal filed investigation specified a letter be sent to AMAX Exploration to notify them that they had 30 days to submit any information that they wished entered into the record.³ No determination regarding protestant's concerns was made at the formal field investigation.³

V.

AMAX Exploration was notified by certified mail on December 13, 1984, to submit any statement or additional information that applicant had, - to represent applicant's position on application

² See Certified Mail, return receipt no's. P 665 704 644, P 665 704 645 and P 665 704 646.

³ See Report of Field Investigation #742 dated December 10, 1984, on file in the office of the State Engineer.

and the grounds of the protest to the State Engineer's office. The return receipt was received from the addressee on December 17, 1984.⁴ To date the information requested has not been received from the applicant.¹

CONCLUSIONS

I.

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

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.⁶

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- 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.

IV.

The applicant has failed to submit the information requested by the State Engineer's office. Therefore, sufficient information is not available to the State Engineer to guard the public interest properly.

⁴ See Certified Mail, return receipt no. P 537 465 743.

⁵ NRS Chapters 533 and 534.

⁶ NRS 533.375.

⁷ NRS 533.370(3).

RULING

Applications 44076 and 44077 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's office and, therefore, the granting of said applications without the additional information requested would not be in the public interest. No finding is made on the validity of protest submitted by Ben Colvin.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 27th day of
January, 1993.