

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

IN THE MATTER OF APPLICATIONS 15331 AND 15332)
FILED TO APPROPRIATE THE PUBLIC WATER OF)
SPRING SOURCES WITHIN THE COLUMBUS SALT MARSH)
GROUNDWATER BASIN (118), ESMEERALDA COUNTY,)
NEVADA.)

RULING

4204

GENERAL

I.

Application 15331 was filed on October 8, 1953, by Research Group to appropriate 0.5 cfs of water from Jackass Spring for mining and milling purposes within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8, T.2N., R.36E., M.D.B.&M. The point of diversion is described as being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28, T.2N., R.36E., M.D.B.&M.¹

II.

Application 15332 was filed on October 8, 1953, by Research Group to appropriate 0.5 cfs of water from Gap Spring for mining and milling purposes within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8, T.2N., R.36E., M.D.B.&M. The point of diversion is described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, T.2N., R.36E., M.D.B.&M.¹

III.

Applications 15331 and 15332 were protested by Rex B. Clark on October 13, 1954, on the following grounds:

That the granting of said application would invade and impair existing and first rights of protestant in the same area and from the same source under the Nevada Water Law, the Nevada Water for Livestock Act of 1925, the grazing laws of the State of Nevada, and of the United States, to-wit: According to protestant's valid and existing rights under Application No. 12913 (Certificate No. 3710) and other rights. That the waters proposed to

¹ Public record in the office of the State Engineer.

be appropriated by said application are not subject to appropriation under existing State laws and to grant the application would be contrary to policy fixed by the legislature. That granting of the application would impair existing stock watering rights of protestant and destroy the value of protestant's surrounding livestock range, not only for that reason but by reason of loss of use of area for access to source and access facilities, as well as lot of access facilities and opportunity for development and improvement thereof.

Wherefore protestant prays that the application be denied and that the use of water herein claimed by protestant be confirmed and that an order be entered establishing said right and for such other relief as the State Engineer deems just and proper.

FINDINGS OF FACT

I.

The applicant and agent, were notified by certified mail on February 8, 1995, to submit additional information to the State Engineer's office regarding consumptive use, specifically, requesting data concerning water conservation measures and amount of water to be recycled. The return receipt was received from the addressee Research Group on February 13, 1995. The certified notices to addressees Harry H. Hughes and Peter Breen were returned by the United States Postal Service labelled "Return to Sender, Not At This Address", and "Return to Sender, Not At This Address". The envelope from certified notice to addressee John Henry Mutt was returned by the United States Postal Service labelled "Return to Sender, Undeliverable As Addressed - Forwarding Order Expired and Refused - No Such Person in the Co.", however, a signed return receipt was also received. It is the responsibility of the applicant or his successor in interest to keep this office informed

of their current mailing address. To date the information requested has not been received from the applicant or agent.²

CONCLUSIONS

I.

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

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.⁴

III.

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

- 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 to the State Engineer's Office. Therefore, sufficient information is not available for the State Engineer to guard the public interest properly.

² A check of the records of the State Engineer indicates that no information has been received.

³ NRS Chapters 533 and 534.

⁴ NRS 533.375.

⁵ NRS Chapter 533.370(3).

RULING

Applications 15331 and 15332 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 protests.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 5th day of
July, 1995.