

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

IN THE MATTER OF APPLICATIONS 58503)
AND 58504 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNNAMED SPRING,)
WITHIN THE CARSON VALLEY BASIN,)
(105) DOUGLAS COUNTY, NEVADA.)

RULING

4245

GENERAL

I.

Application 58503 was filed on January 26, 1993, by Bruce Thomas, Clonard Thomas, William Breyer and Sam Breyer to appropriate 0.05 cubic feet per second (cfs) of water from an unnamed spring for stockwatering of 50 head of cattle and 25 head of horses for use within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, T.11N., R.20E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5.¹

II.

Application 58504 was filed on January 26, 1993, by Bruce Thomas, Clonard Thomas, William Breyer and Sam Breyer to appropriate 0.06 cfs of water from an unnamed spring for stockwatering of 50 head of cattle and 25 head of horses for use within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, T.11N., R.20E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5.²

FINDINGS OF FACT

I.

On April 15, 1994, an informal field investigation was held to observe the sources of water under Applications 58503 and 58504.^{1,2}

¹ File No. 58053, official records in the Office of the State Engineer.

² File No. 58504. official records in the Office of the State Engineer.

The flow rates of the two springs were measured to be 0.7 gpm (gallons per minute) and 2.8 gpm, respectively.

II.

At the field investigation, it was observed that the waters of the two springs merge at a point downstream from the springs. The combined flow is then conveyed into the Falke and Tillman Ditch which is part of the Carson River distribution system.^{1,2} The State Engineer finds that the sources of water under Applications 58503 and 58504 are tributary to the Carson River System.

III.

The State Engineer finds that the Carson River and its tributaries have been declared fully appropriated, leaving no water available for new appropriations.³

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

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

- 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.⁵

III.

There is no unappropriated water available to support Applications 58503 and 58504.

³ Final Decree United States v. Alpine Land & Reservoir Co., Civil No. D-183 BRT (D. Nevada, 1980) Findings of Fact II.

⁴ NRS Chapter 533.

⁵ NRS 533.370(3).

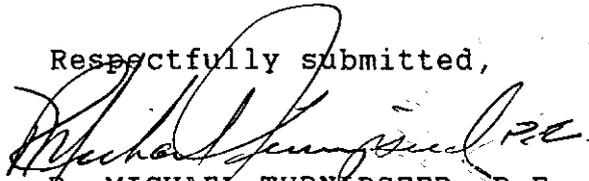
IV.

As the waters of the unnamed springs identified in Applications 58503 and 58504 are tributary to and part of the waters of the Carson River, a permit cannot be granted on Applications 58503 and 58504 as the right to use the waters belongs to others, and granting the applications would thereby interfere with those other existing rights.

RULING

Applications 58503 and 58504 are hereby denied on the grounds that no unappropriated water exists in the Carson River system and approving said applications would conflict with and impair the value of existing rights on the Carson River and its tributaries.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P. E.
State Engineer

RMT/SR/ab

Dated this 21st day of
November, 1995.