

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

IN THE MATTER OF APPLICATION 50139)
FILED TO APPROPRIATE THE PUBLIC WATERS)
OF RANCH SPRINGS WITHIN THE LIDA VALLEY)
GROUNDWATER BASIN (144), ESMERALDA)
COUNTY, NEVADA.)

RULING

4448

GENERAL

I.

Application 50139 was filed on September 4, 1986, by Wolff Milling and Mining to appropriate 0.04 cubic feet per second (cfs) of water from Ranch Springs for mining, milling and domestic purposes within the S $\frac{1}{2}$ Section 4, T.7S., R.41 $\frac{1}{2}$ E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T.6S., R.40E., M.D.B.&M.¹

II.

Application 50139 was protested by Andrew L. Dumas and also by Carolyn MacMullen on the following grounds:¹

Ranch Springs does not provide sufficient water for the additional request without impairing the rights of the first user, Esmeralda County (the residents of Goldpoint) see application #30917 and #45240, and for the following reasons:

1. Application #45240, a revision of #30917, was for 1.67 million gallons annually.
2. Ranch Springs, through hearsay evidence only, flows at approximately 20 gallons/minute.

¹File No. 50139, official records in the Office of the State Engineer.

3. At a field investigation, held at Goldpoint, on 29 May 1984, the county (Esmeralda) had agreed (Mr. Ben Colvin, county commissioner and Mr. Kenneth L. Haskew) to install a meter at the source of Ranch Springs, to determine the exact amount of water flowing. The county has not fulfilled its commitment, thus no accurate record of flow exists. This agreement confirmed by letter from Esmeralda county of 5 June 1984, and signed by Mr. Kenneth L. Haskew.
4. On 19 March 1986, the state engineer, Mr. Peter G. Morros, supported the protests against application #47327, and denied the application for waters from Ranch Springs to Wolff Milling and Mining.
5. Because of the above item #4, and because Ranch Springs has not increased its flow, application #50139 should be denied.
6. It was mentioned, at the field meeting of 29 May 1984, that there appeared to be a conflict of interest in the submission of all of these applications, in that Mr. Kenneth L. Haskew, the county engineer for Esmeralda county, was not only acting for Esmeralda county, but was also acting as an agent for Lida Livestock Company and also for Wolff Milling and Mining. It appeared as though the interest of the county (The residents of Goldpoint) were being suppressed to enhance the interest of the other parties involved.

In closing, it is suggested that a new field investigation be conducted into all of the transactions concerning the applications for water from Ranch Springs, in an attempt to straighten out once and for all any disputes. It is further requested that application #50139 be denied.

III.

Application 50139 was timely protested by Coleen Garland on the same grounds with the following addendum.¹

Due to the fact that I am a small business owner in Goldpoint and will retire from teaching in 4 years to become a full-time resident there, I am extremely concerned about a sufficient water supply. I intend to enlarge my business to a bed and breakfast concern and will surely need ample water for overnite guests.

IV.

Application 50139 was timely protested by Jack Vogt (Lida Livestock) on the following grounds:¹

Lida Livestock has prior rights for livestock use from Ranch Springs and there is no excess water left for other purposes.

V.

Application 50139 was timely protested by Leo L. Vaughan, Esmeralda County Commissioner on the grounds that there is an insufficient water quantity for the Town of Goldpoint.¹

FINDINGS OF FACT

I.

Ranch Springs currently provides water for municipal use within the town of Goldpoint and for stockwatering purposes at several points along the Goldpoint pipeline. The right to appropriate the waters of Ranch Spring for these beneficial uses was granted under Permit 45240, Certificate 13632, and Permit 45465, Certificate 12984, respectively. These two certificated water rights represent a combined diversion rate of 0.022 cfs from Ranch Springs.^{2,3} Additionally, Lida Livestock claims a vested right to the diversion of 0.06 cfs from Ranch Spring for stockwatering purposes under Proofs 04818 and 04131.^{4,5} Discharge estimates measured from Ranch Springs by representatives of the State Engineer's Office as part of a May 5, 1988, field investigation assigned a spring flow of 20 gallons per minute which

²File No. 45240, official records in the Office of the State Engineer.

³File No. 45465, official records in the Office of the State Engineer.

⁴File No. 04818, official records in the Office of the State Engineer.

⁵File No. 04131, official records in the Office of the State Engineer.

equates to a flow of approximately 0.044 cfs. The State Engineer finds that the committed water resource in the form of certificates and proofs filed within the State Engineer's Office exceeds the water resource available at the spring source; thus, there is no unappropriated water available to support Application 50139.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination⁶ at site

II.

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.

III.

Application 50139 requests a new appropriation of water from a spring source where the committed water resource already exceeds the measured discharge from the spring. The State Engineer concludes that to grant a permit under Application 50139 would conflict with existing rights.

⁶NRS Chapter 533.

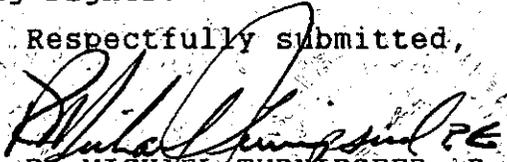
⁷NRS Chapter 533.370(3).

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RULING

Application 50139 is hereby denied on the grounds that there is no unappropriated water at the source and that approval of the permit would conflict with existing rights.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 11th day of
October, 1996.