

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

IN THE MATTER OF APPLICATION 8231 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF PINE)
SPRING NUMBER FIVE, LOCATED WITHIN THE)
SPRING VALLEY GROUNDWATER BASIN (184))
WHITE PINE COUNTY, NEVADA.)

RULING

4606

GENERAL

I.

Application 8231 was filed on July 16, 1927, by B.H. Robison to appropriate 0.025 cubic feet per second of water from Pine Spring Number Five for the stockwatering of 2,000 head of sheep. The proposed point of diversion and place of use are described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T.21N., R.65E., M.D.B.&M.¹

II.

Application 8231 was timely protested by James Doutré on the following grounds:¹

[t]hat the above spring covered by Application No. 8231 is within one and one-half miles of my home ranch; that I have used the waters of a spring known as the McNetty Garden Spring for the watering of sheep during the time shearing was in operation, and at times during lambing for lamb bunches and the main lamb band for the past thirteen years; that I have maintained the three small reservoirs constructed by one McNetty who utilized the waters of the McNetty Garden Spring for the irrigation of a small garden tract of approximately one acre of land; that it is not known by me whether Pine Spring Number Five (5) is the same spring as the McNetty Garden Spring, but that in the close vicinity of the McNetty Garden Spring, two other springs exists [sic] which have also been used in connection with the livestock business for the past thirteen years in the same manner as above stated with the exception that it was not necessary to construct small reservoirs for the watering of livestock for reason that topography, scarcity of forage plants and that the area is bounded on the west by the Nevada National Forest upon which grazing is regulated.

¹ File No. 8231, official records in the office of the State Engineer.

Therefore, the protestant requested that the application be denied.

FINDINGS OF FACT

I.

By letter dated April 30, 1997, the State Engineer requested that the U.S. Department of Interior, Bureau of Land Management inform this office as to the current permittee and/or range user of the parcel of land described under Application 8231. The State Engineer finds no information was received in response to that request.

II.

The applicant was requested by certified letter dated January 16, 1998, to provide the office of the State Engineer with evidence of any continued interest which he may have in pursuing Application 8231. The applicant was also cautioned that if a response was not received within 30 days from the date of the letter the application would be considered for denial. A receipt for the certified mailing was received by the office of the State Engineer stamped by the State Mail Room Complex in Carson City, Nevada. It is generally accepted that the town of Aurum, Nevada no longer exists, and this contention is supported by the U.S.G.S. Silver Canyon 7.5' Quadrangle topographic map which describes the Aurum townsite as "ruins". There is also no mention of an Aurum, Nevada, Post Office found within the 1990 National Five Digit Zip Code and Post Office Directory.² It has been a long established policy of the office of the State Engineer that it is the applicant's responsibility to notify said office of any ownership and address changes which may occur specific to any information of record under an application file. The State Engineer finds that the owner and address of record associated with the public records under Application 8231

² U.S. Postal Service, Address Information Systems Division Operations Systems and Performance Department, Washington, D.C.

is B.H. Robison, Aurum, Nevada. To this date, no response has been received from the applicant concerning this matter. The State Engineer further finds that the applicant has been provided an opportunity to express his continued interest in pursuing Application 8231, but has failed to do so; therefore, said application may be considered for denial.

CONCLUSIONS OF LAW

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate public waters where:⁴

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

On January 16, 1998, the applicant was requested by the office of the State Engineer to provide information concerning any continued interest which he may have in pursuing the subject application. The applicant was cautioned that a failure to respond to this request would represent a lack of interest in this matter and would result in Application 8231 being considered for denial. The State Engineer is unable to locate the applicant and the town which was his address no longer exists; therefore, the applicant failed to provide any indication that he intends to move forward with this application. The State Engineer concludes that it would not be in the public interest to approve an application which the applicant no longer intends to pursue.

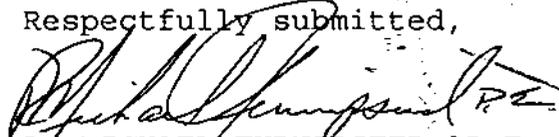
³ NRS Chapter 533.

⁴ NRS § 533.370.

RULING

Application 8231 is hereby denied on the grounds that granting said application would not be in the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 12th day
of March, 1998.