

OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 17320 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF AN)
UNNAMED SPRING WITHIN THE GRIDLEY LAKE)
VALLEY GROUNDWATER BASIN (03), HUMBOLDT)
COUNTY, NEVADA.)

RULING

#4612

GENERAL

I.

Application 17320 was filed on July 3, 1957, by Vern Parman, Ralph Parman and George Schadler to appropriate 0.50 cubic feet per second of water for stockwatering purposes from an unnamed spring described as being located within the NW¼ NE¼ of Section 1, T.42N., R.26E., M.D.B.&M. The proposed place of use is within Lot 2 of the NE¼ of Section 1, T.42N., R.26E., M.D.B.&M.¹

II.

Application 17320 was timely protested by the Alder Creek Cattle Company on the following grounds:¹

[t]hat the waters, the subject of this application, have heretofore been appropriated and placed to beneficial use and are the subject of existing vested rights acquired by protestant in its chain of title from its predecessors in interest and that all of the waters, the subject of this application, are currently being beneficially used pursuant to this vested right by protestant.

III.

On October 30, 1959, ownership of Application 17320 was assigned to Stanley L. Van Vleck and Gordan K. Van Vleck in the records of the office of the State Engineer.¹

FINDINGS OF FACT

I.

The State Engineer finds that in the late 1950's the Bureau of Land Management requested the State Engineer hold Application 17320 in abeyance as there was a range division dispute in the vicinity of the requested appropriation.¹ The State Engineer further finds

¹ File No. 17320, official records in the office of the State Engineer.

that in 1961 the Bureau of Land Management further recommended that Application 17320 be denied as the holder of the application no longer controlled grazing privileges in the vicinity.¹

II.

The State Engineer finds that by telephone call of March 27, 1962, Mr. Van Vleck advised this office that he had filed on the wrong spring and what he had in mind was a spring on his grazing land. Mr. Van Vleck further requested that Application 17320 be held in abeyance for one year.¹

III.

The State Engineer finds that by letter dated March 13, 1984, the applicant was asked to advise the State Engineer if he wished this office to take action on Application 17320.¹ The State Engineer further finds that by letter dated September 26, 1984, the State Engineer informed the applicant that he failed to respond to the March 13, 1984, letter, and advised the applicant that the State Engineer was going to proceed to rule on the application.¹

IV.

The State Engineer finds that by letter received on October 8, 1984, he was advised by Mr. Van Vleck that ownership of the ranch at Soldier Meadows had been transferred to Ken Earp.¹ The State Engineer finds that Mr. Earp never requested assignment of Application 17320 into his name.

V.

The current owners of record in the office of the State Engineer and Mr. Earp were requested by certified letter dated December 23, 1997, to provide said office with evidence of any continued interest they may have in pursuing Application 17320. The parties were also informed that if a response was not received within 30 days from the date of the letter the application would be denied.¹ A properly endorsed receipt for the certified mailing to the applicant was received by the office of the State Engineer on January 5, 1998.¹ The certified letter to Mr. Earp was returned by the United States Postal Service marked "Forwarding Order

Expired".¹ To this date, no information indicating any interest of the owners in Application 17320 has been received in the office of the State Engineer.¹ The State Engineer finds that owners of record have been provided an opportunity to express their continued interest in pursuing Application 17320, but have failed to do so; therefore, said application can 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.²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

- 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 December 23, 1997, the owners of record of Application 17320 were requested by the office of the State Engineer to provide information concerning any continued interest which they may have in pursuing Application 17320. The parties were informed that a failure to respond to the request would represent a lack of interest in this matter and would result in said application being considered for denial. The owners failed to provide any indication that they intend to move forward with Application 17320. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application which the owners no longer intend to pursue.

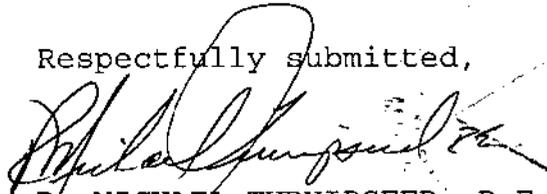
² NRS Chapter 533.

³ NRS § 533.370(3).

RULING

Application 17320 is hereby denied on the grounds that the granting of 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 18th day of
March, 1998.