

IN THE MATTER OF APPLICATION 31765 )  
FILED FOR THE WATERS OF CARL MUIR )  
SPRING IN NEWARK VALLEY, WHITE PINE )  
COUNTY, NEVADA. )

RULING

INTRODUCTION

Application 31765 was filed on May 20, 1977, by Frank W. Lewis to appropriate 0.03 c.f.s. of the waters of Carl Muir Spring to be diverted in the SE1/4 SE1/4 Section 7, T.16N., R.58E., M.D.B.&M., and to be used for mining, milling and domestic purposes in the SW1/4 NE1/4 and NW1/4 SE1/4 Section 18, T.16N., R.58E., M.D.B.&M.<sup>1</sup>

Application 31765 was timely protested on July 19, 1977, by Nevada Department of Fish and Game on the following grounds:

"Water from this source supports blue grouse, sage grouse, mule deer, cottontail rabbits, and a variety of nongame mammals and birds; mesic vegetation that provides critical food and cover values for grouse broods would also be endangered. Plastic lined ponds may cause direct mortality to wildlife through entrapment or contamination of stored water. This protest will be withdrawn if, in the opinion of the protestant, adequate safeguards are provided for wildlife and its habitat."<sup>2</sup>

GENERAL

A formal field investigation was held on July 12, 1977, at the site of Carl Muir Spring.

The field investigation party visited Carl Muir Spring where a measurement of the flow indicated 1 gallon per minute or 0.0022 c.f.s. plus other seepage.<sup>3</sup>

There are two prior existing water rights on Carl Muir Spring.

1. Permit 4412, Certificate 1030, owner of record Frank W. Lewis, 0.02 c.f.s., for milling purposes.

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<sup>1</sup> Public records in the office of the State Engineer - Application No. 31765.

<sup>2</sup> Public records in the office of the State Engineer - Application No. 31765.

<sup>3</sup> Public records in the office of the State Engineer - Application No. 31765, Report of Field Investigation #637 dated August 16, 1977.

2. Permit 27868, Certificate 9073, owner of record Halstead-Forsgren Ranches, Inc., 0.0062 c.f.s., for stockwatering purposes.

FINDINGS OF FACT

I.

There is a total of 0.0262 c.f.s. of water appropriated under existing perfected water rights on Carl Muir Springs.<sup>4</sup>

II.

The total water flowing at the spring is slightly in excess of 0.0022 c.f.s.<sup>3</sup>

III.

The protest of Nevada Department of Fish and Game (now Nevada Department of Wildlife) has not been withdrawn.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and subject matter of this action.<sup>5</sup>

II.

The State Engineer is prohibited by law from granting a permit where:

- 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 welfare.<sup>6</sup>

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<sup>4</sup> Public records in the office of the State Engineer under Permits 4412 and 27868.

<sup>5</sup> NRS 533.025 and 533.030, subsection 1; NRS 533.355; NRS 533.515.

<sup>6</sup> NRS 533.370, subsection 3.

III.

Water appropriated under existing perfected rights exceeds the flow of the spring; therefore, there is no unappropriated water in the source and the instant application must be denied.

RULING

Application 31765 is herewith denied on the grounds that there is no unappropriated water in the source.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/bl

Dated this 8th day of  
MARCH, 1984.