

IN THE MATTER OF APPLICATION 47395)
FILED IN HUNTINGTON VALLEY, WHITE)
PINE COUNTY, NEVADA.)

RULING

GENERAL

Application 47395¹ was filed on November 7, 1983, by Dan Russell to appropriate .031 c.f.s. of the waters of an unnamed spring for stockwatering purposes. The point of diversion is described as being within the SW1/4 SE1/4 Section 10, T.24N., R.55E., M.D.B.&M. The place of use is described as Sections 11, 12, 13 and 14, T.24N., R.55E., and Sections 7 and 18, T.24N., R.56E., M.D.B.&M.

Application 47395 was timely protested² on February 21, 1984, by Douglas L. Capps on the following grounds:

- 1) The water source is on private ground.
- 2) The spring is used for stockwatering under an existing certificated right number 2958 in the name of Arthur H. Brown to water 800 head of cattle.

The protestant requests denial of Application 47395.

Attached to the protest is a copy of a recorded deed that shows Douglas L. Capps to be the owner of the ground where the point of diversion of Application 47395 is situated.

FINDINGS OF FACT

I.

The topographic map for Section 10, T.24N., R.55E.,³ indicates that there is one spring source in that section.

¹ Public records in the office of the State Engineer under Application 47395.

² See footnote 1.

³ USGS 15 Minute Quadrangle Map "Diamond Springs, Nev.", 1957.

II.

A letter dated January 26, 1984,⁴ from the BLM verifies that Dan Russell is authorized to graze cattle on public ground in Sections 11, 12, 13 and 14, T.24N., R.55E., and Sections 7 and 18, T.24N., R.56E., M.D.B.&M.

III.

Permit 8859, Certificate 2958⁵ was filed on April 16, 1929, by Arthur H. Brown to appropriate 0.025 c.f.s. from Meadow Springs and Tributaries for stockwatering purposes. The point of diversion is listed as the NW1/4 SE1/4 and the SW1/4 SE1/4 Section 10, T.24N., R.55E., M.D.B.&M. The place of use is the NW1/4 SE1/4 of Section 10, T.24N., R.55E., M.D.B.&M.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the waters and subject matter of this application.⁶

II.

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

- A. there is no unappropriated water in the source, or
- B. its proposed use or change conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public interest.⁷

III.

There is no evidence that the applicant, Dan Russell, has grazing rights on private land in Section 10, T.24N., R.55E., M.D.B.&M.

⁴ See footnote 1.

⁵ Public record in the office of the State Engineer under Permit 8859, Certificate 2958.

⁶ NRS 533.325.

⁷ NRS 533.370, subsection 3.

RULING

Application 47395 is hereby denied on the grounds that its granting would interfere with and adversely affect existing rights.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 10th day of

JULY, 1984