

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 47707)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE EAST WALKER AREA, MINERAL)
COUNTY, NEVADA.)

RULING

GENERAL

Application 47707 was filed on February 23, 1984, by Eugene M. Adrian to appropriate 0.03342 c.f.s. of water from an underground source for mining purposes within portions of Section 30, T.6N., R.29E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 30, T.6N., R.28E., M.D.B.&M.¹

Application 47707 was timely protested by Flying "M" Ranch. The protest stated that:

"The proposed use of the ground water by the applicant would seriously jeopardize, or perhaps even curtail, the flow of the prior rights of Protestants."¹

FINDINGS OF FACT

I.

There are three (3) existing rights on Fletcher Springs. Proof of Appropriation 03619 was filed in the office of the State Engineer on December 17, 1980, by Barron Hilton and Marilyn June Hilton. Proof of Appropriation 03619 states that the water of Fletcher Springs has been used to water 50 head of cattle since 1900. The point of diversion is described as being within the SE1/4 SW1/4 of Section 19, T.6N., R.28E., M.D.B.&M.¹

II.

Proof of Appropriation 03655 was filed on March 12, 1981, by Barron and Marilyn June Hilton for waters from Fletcher Springs and tributaries. Proof of Appropriation 03655 states that the water of Fletcher Springs has been used to irrigate 30 acres in the N1/2 N1/2 of Section 30, T.6N., R.28E., M.D.B.&M., since prior to 1900. The point of diversion is described as being within the SE1/4 SW1/4 of Section 19, T.6N., R.28E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

III.

Permit 16927 was filed on April 30, 1956, to appropriate 0.6 c.f.s. for irrigation and domestic use from Fletcher Springs. Permit 16927 was certificated on September 27, 1961, for 0.5 c.f.s. to irrigate 19 acres in the SE1/4 SW1/4 Section 19, T.6N., R.28E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 of Section 19, T.6N., R.28E., M.D.B.&M.¹

IV.

A field investigation was held at Fletcher Spring on November 30, 1984. This investigation was conducted as a result of protested Application 47707. At the time of the investigation, Fletcher Spring had a measured flow of 0.15 c.f.s.²

V.

The point of diversion for Application 47707 is approximately 500 feet south of Fletcher Spring and about 50 feet higher in elevation.

VI.

It was determined during the field investigation that the source of water for Application 47707 is the same source of water for Fletcher Spring.²

CONCLUSIONS

I.

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

II.

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

- 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.

² Report of Field Investigation No. 743 is a public record in the office of the State Engineer.

³ NRS 533.025 and NRS 533.030(1).

⁴ NRS 533.370(3).

RULING

The protest to the granting of Application 47707 is hereby upheld and Application 47707 is hereby denied on the grounds that the proposed use would conflict with existing rights.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/GT/bl

Dated this 4th day of
April, 1985.