

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF CHANGE APPLICATION)
52116 AND APPLICATIONS 52117 AND 52118)
FILED TO APPROPRIATE WATER FROM)
VARIOUS SPRINGS IN DELAMAR VALLEY,)
LINCOLN COUNTY, NEVADA.)

RULING

GENERAL

Application 52116 was filed on May 18, 1988, to change the place of use of .05 c.f.s. of water as evidenced by Permit 11378, Certificate 4047 which evidences the right to use .05 c.f.s. from Horn Spring for the stockwatering of 75 cattle. The application seeks the right to use the water for the same purposes within portions of T.2S., R.63E., T.2S., R.64E., T.2S., R.65 E., T.3S., R.63E., T.3S., R.64E., T.3S., R.65 E., T.4S., R.63E., T.4S., R.64E., T.4S., R.65 E., T.5S., R.63E., T.5S., R.64E., T.5S., R.65 E., T.6S., R.63E., T.6S., R.64E. and T.6S., R.65 E. The point of diversion is described as being within the NW1/4 SE1/4 Sec. 17, T.6S., R.65 E., M.D.B.&M.¹

Application 52117 was filed on May 18, 1988, by H. & H. Land & Cattle Company to appropriate .0278 c.f.s. of water from Joshua Spring for stockwater for 900 cattle within portions of T.2S., R.63E., T.2S., R.64E., T.2S., R.65 E., T.3S., R.63E., T.3S., R.64E., T.3S., R.65 E., T.4S., R.63E., T.4S., R.64E., T.4S., R.65 E., T.5S., R.63E., T.5S., R.64E., T.5S., R.65 E., T.6S., R.63.E., T.6S., R.64E. and T.6S., R.65 E. The point of diversion is described as being within the NW1/4 SE1/4 Section 17, T.6S., R.65 E., M.D.B.&M.¹

Application 52118 was filed on May 18, 1988, by H. & H. Land & Cattle company to appropriate .0281 c.f.s. of water from Jensen Spring for stockwater for 900 cattle within portions of T.2S., R.63E., T.2S., R.64E., T.2S., R.65 E., T.3S., R.63E., T.3S., R.64E., T.3S., R.65 E., T.4S., R.63E., T.4S., R.64E., T.4S., R.65 E., T.5S., R.63E., T.5S., R.64E., T.5S., R.65 E., T.6S., R.63E., T.6S., R.64E. and T.6S., R.65 E. The point of diversion is described as being within the NE1/4 NW1/4 Section 17, T.6S., R.6E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

The applications were advertised for the statutory period and timely protested by Courtney Dahl on the following grounds:¹

- "1. That this application may infringe upon already held rights and
2. Uncertainty of location of the source"

FINDINGS OF FACT

I.

A search of the records in the State Engineer's office reveals no rights of record in the name of the protestant on the source at the points of diversion described by the subject applications.

II.

A letter from the United States Bureau of Land Management indicates that the applicant is the range user², therefore they have the ability to put the water to beneficial use.

III.

The State Engineer finds that the actual surveyed location of the springs set forth in the applications is controlling as to the point of diversion.³

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁴

² See undated letter from Bureau of Land Management received by the State Engineer November 28, 1988, in file 5 2118 public record in the office of the State Engineer.

³ See Applications 5 2116, 5 2117 and 5 2118 and supporting map on file as public record in the State Engineer's office.

⁴ NRS 5 33.325.

II.

The State Engineer is prohibited by law from granting a permit where:⁵

- A) There is no unappropriated water in 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.

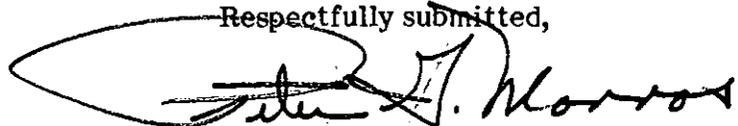
III.

The State Engineer concludes that the protestant has no standing as having existing water rights on the sources described under the subject applications and is not the range user on the public land.

RULING

The protests to Applications 52116, 52117 and 52118 are hereby overruled on the grounds that the granting of the applications will not impair or interfere with existing rights, and will not be detrimental to the public interest, and there is unappropriated water at the source.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/RMT/bk

DATED this 10th day of
February, 1989.

⁵ NRS 533.370(3).