

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
NUMBERS 44490 (NO NAME NO. 1 AKA)
PINCINT SPRING), 44492 (MUD)
SPRING), 44494 (DAVEYTOWN)
SPRING), 44495 (JUMBO SPRING),)
AND 45203 (GAFFNEY SPRING) FILED)
TO APPROPRIATE WATER FROM SPRING)
SOURCES IN SILVER STATE VALLEY,)
HUMBOLDT COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 44490 was filed on September 24, 1981 by N.J. Ranches to appropriate 0.0156 c.f.s. of water from No Name No. 1 AKA Pincint Spring for stockwatering of 500 head of cattle within the SW1/4 SE1/4 of Section 10 and NW1/4 NW1/4 of Section 9, T.38N., R.37E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 10, T.38N., R.37E., M.D.B.&M.¹

Application 44492 was filed on September 24, 1981 by N.J. Ranches to appropriate 0.0156 c.f.s. of water from Mud Spring for stockwatering of 500 head of cattle within the NW1/4 SE1/4 of Section 10, T.39N., R.37E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 10, T.39N., R.37E., M.D.B.&M.¹

Application 44494 was filed on September 24, 1981 by N.J. Ranches to appropriate 0.0156 c.f.s. of water from Daveytown Spring for stockwatering of 500 head of cattle within the NW1/4 NW1/4 of Section 30, T.39N., R.36E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 30, T.39N., R.36E., M.D.B.&M.¹

¹ Public Record in the office of the State Engineer.

Application 44495 was filed on September 24, 1981 by N.J. Ranches to appropriate 0.0156 c.f.s. of water from Jumbo Spring for stockwatering of 500 head of cattle within the NW1/4 NW1/4 of Section 31, T.40N., R.36E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 31, T.40N., R.36E., M.D.B.&M.¹

Application 45203 was filed on January 13, 1982 by N.J. Ranches to appropriate 0.0156 c.f.s. of water from Gaffney Spring for stockwatering of 500 head of cattle within the SE1/4 SE1/4 of Section 7, T.39N., R.36E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 7, T.39N., R.36E., M.D.B.&M.¹

The subject applications were timely protested on April 23, 1982 and June 18, 1982 by the United States Bureau of Land Management generally on the grounds that the water is required for multiple use management of the public land and the source is a public water reserve which was reserved for public use under the authority of Executive Order 107 on April 17, 1926 and as identified in 43 CFR 2311. The water is therefore, not available for appropriation under Nevada State Law.

FINDINGS OF FACT

I.

The grounds for the United States Bureau of Land Management protest has been extensively and fully considered and ruled upon in prior proceedings.²

² See State Engineers Ruling No. 3219 on Application 37061 et. al; issued on July 26, 1985. Public record in the office of the State Engineer.

II.

The United States has not filed any claims with the State of Nevada to establish a claim of a reserved right by executive order on the sources described under the subject applications.

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 or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that if in fact these sources of water meet the criteria of a Public Water Reserve, they shall be recognized as such and any permits granted would be subject to the prior reserved right. Conversely if the sources do not qualify for reserved status, any permits granted on the sources would only be later in priority to any other vested rights that may exist. Only after a general adjudication of all rights would there be a determination made of the extent of any other vested claims and the validity of any claimed or unclaimed reserved rights.

³ NRS Chapter 533.

⁴ NRS Chapter 533.370

RULING

The protests to application(s) 44490, 44492, 44494, 44495 and 45203 are hereby overruled and said applications are hereby approved subject to the following conditions:

1. Payment of the statutory permit fees.
2. To the prior reserved rights of the United States if in fact these rights exist and the sources meet the proper criteria.
3. To all other existing rights.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/SW/pm

Date this 28th day of

December, 1989