

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
NUMBER 52775 FILED TO APPROPRIATE)
WATER FROM WILLOW SPRING LOCATED)
IN COAL VALLEY, LINCOLN COUNTY,)
STATE OF NEVADA.)

RULING

GENERAL

I.

Application 52775 was filed on December 13, 1988 by Stuart L. Twitchell to appropriate 0.1 c.f.s. of water from Willow Spring for stockwatering of 200 head of cattle within the NW1/4 NW1/4 of Section 36, T.1N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 36, T.1N., R.60E., M.D.B.&M.¹

The subject application was timely protested on August 11, 1989 by the United States Bureau of Land Management generally on the following grounds:

1. It is in the interest of the U.S. Government and people to have water available for the principle users. Beneficial use is made by:

Wild Horses: 10 horses, year long.

Deer: 20 deer, year long.

Livestock: Sheep 395 Aums; Cattle 3038 Aums (9 month period).

2. There is more than one user/permittee in the allotment:
 - A. Thomas Steele
 - B. Charles Wadsworth, Joe Higby & Sons.
 - C. S&H Ranches c/o Gary Sprouse
 - D. Stuart L. Twitchell²
3. Current project is developed but not authorized by the Bureau.

¹ Public Record in the office of the State Engineer.

² Added per telephone call to Paul Podborny (sp.) of the U.S. Bureau of Land Management on December 27, 1989.

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,³ and wildlife as well as Stockwater have been confirmed as being a beneficial use.⁴

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 application.

III.

The approval of this application will not prohibit wildlife which customarily use this source from continuing to use it.⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁶

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where ⁷:

³ 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.

⁴ Also see NRS 533.490.

⁵ NRS 533.367.

⁶ NRS Chapter 533.

⁷ NRS Chapter 533.370.

II.

- 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 finds that the grounds of the protest are without merit to the extent that the protest would warrant denial of the application. Wildlife may continue to use the water, the applicant is one of the range users and the proposed use is beneficial and in the public interest.

RULING

The protest to application 52775 is hereby overruled and said application is hereby approved subject to the following:

- 1. Payment of the statutory permit fees.
- 2. The applicant must ensure that wildlife which have customarily used this source continue to have access there to pursuant to NRS 533.367.
- 3. To all other existing rights.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/pm

Date this 26th day of

February, 1990