

IN THE OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBERS)
38108 and 38109 FILED TO APPROPRIATE)
THE WATER OF HOUSE SPRINGS NO. 1 AND)
HOUSE SPRINGS NO. 2, BOTH LOCATED IN)
THE NORTH FORK AREA, ELKO COUNTY,)
NEVADA.)

RULING

3794

GENERAL

I.

Application 38108 was filed on May 4, 1979 by Glaser Land and Livestock Co. to appropriate 0.05 c.f.s. of water from House Springs No. 1 for stockwatering of 1,000 head of cattle within the SW1/4 NE1/4 and E1/2 SE1/4 of Section 36, T.40N., R.55E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 36, T.40N., R.55E., M.D.B.&M.¹

Application 38109 was filed on May 4, 1979 by Glaser Land and Livestock Co. to appropriate 0.05 c.f.s. of water from House Springs No. 2 for stockwatering of 1,000 head of cattle within the SE1/4 SW1/4 of Section 25; NE1/4 NW1/4 and E1/2 of Section 36, T.40N., R.55E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 25, T.40N., R.55E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The Humboldt River Commissioner confirmed that the proposed water sources under Applications 38108 and 38109 are tributary to the North Fork Humboldt River² which is a tributary to the Humboldt River.³

1 Public Record in the office of the State Engineer.

2 Personal telephone communication between State Engineer's staff in Carson City and Supervising Water Commissioner in Elko, Nevada.

3 In the Matter of the Determination of the Relative Rights of Claimants and Appropriators of the Waters of the Humboldt River Stream System and its Tributaries, No. 2804, Sixth Judicial District Court of the State of Nevada, in and for the County of Humboldt (Oct. 20, 1931), See Finding of Fact #38, P. 26, the Bartlett Decree, (hereinafter "Humboldt River Decree").

II.

The Sixth Judicial District Court found that the Humboldt River system and all of its tributaries are fully appropriated during the irrigation season.³ The subject applications seeks to appropriate the water from January 1 to December 31 of each year.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where⁵:

- 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.

III.

The State Engineer concludes that the sources sought in Applications 38108 and 38109 are tributary to the Humboldt River during the irrigation season and that the Humboldt River and its tributaries are fully appropriated.

3 Humboldt River Decree, supra footnote 2, Finding of Fact #44.

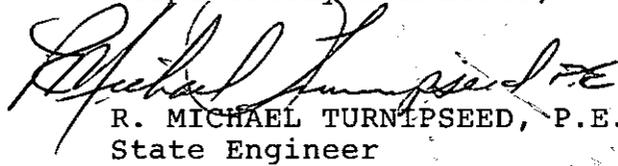
4 NRS Chapter 533.325.

5 NRS Chapter 533.370 (3).

RULING

Applications 38108 and 38109 are hereby denied on the grounds that the Humboldt River and its tributaries are fully appropriated during the irrigation season and to approve said applications would impair the value of existing decreed rights.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SW/pm

Date this 15th day of

April, 1991