

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

IN THE MATTER OF APPLICATION 55072)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF THE STATE OF NEVADA FROM)
AN UNDERGROUND SOURCE WITHIN THE) RULING
KELLEY CREEK AREA GROUNDWATER) # 3834
BASIN, HUMBOLDT COUNTY, NEVADA)
_____)

GENERAL

Application 55072 was filed by Hammond Ranch, Inc. on July 16, 1990, to appropriate underground water for irrigation purposes. The proposed point of diversion is within the SW1/4 NE1/4, Section 17, T.36N., R.42E., M.D.B.&M. The proposed place of use is described as being 110.8 ± acres within the N1/2 NW1/4, the SE1/4 NW1/4 and the NE1/4 of Section 17, T.36N., R.42E., M.D.B.&M. Application 55072 proposes to use the underground water to supplement Humboldt River waters.¹

FINDINGS OF FACT

I.

Claim Number 00157, described in that certain decree entitled "In the Matter of the Determination of the Relative Rights of the Claimants and Appropriators of the Waters of the Humboldt River Stream System and its Tributaries" (hereinafter referred to as the Bartlett Decree) specified a total of 277.68 acres irrigated in the N1/2 of Section 17, T.36N., R.42E., M.D.B.&M. Claim 00157 was not amended under the subsequent Edwards Decree.²

II.

Application 9734 was filed on March 23, 1934, by the Pershing County Water Conservation District. Application 9734 proposed to change the point of diversion and place of use of Claim 00157 of

¹Public record in the office of the State Engineer under Application 55072.

²Public record in the office of the State Engineer under publication entitled "Humboldt River Adjudication 1923-1938."

the Bartlett Decree. The place of use that the Humboldt water was to be severed from was described, in part, as all of Section 17, T.35N., R.26E., M.D.B.&M. The new place of use was to be large acreages in the Lovelock Valley.

Included with Application 9734 as Exhibit A was a Land and Water Right Purchase Contract between the Pershing County Water Conservation District and Louis G. and Katherine V. Hammond. The contract conveyed from the Hammonds to the Water District the following described real estate, to wit:

The south half of the southwest quarter of Section 8, T.36N., R.42E., M.D.B.&M., all of Sections 7 and 17, T.36N., R.42E., M.D.B.&M., except the Western Pacific R/W containing 18.32 acres, more or less. Together with all water, water rights, dams, ditches and ditch rights appurtenant to and used in conjunction with the irrigation of said lands, and particularly all of the water rights appurtenant to said lands as specified and described in the.... [Bartlett Decree].

Permit 9734 was issued on October 8, 1934.³

III.

The State Engineer finds that the issuance of Permit 9734 abrogated Claim 00157 as described in the Bartlett Decree. Permit 9734 effectively removed all adjudicated water rights from Section 17, T.36N., R.42E., M.D.B.&M. and transferred such water to the Lovelock Valley.

V.

Evidence and data available establish that no water rights under the Humboldt River Adjudication currently exist within Section 17, T.36N., R.42E., M.D.B.&M.

³Public record in the office of the State Engineer under Permit 9734.

CONCLUSIONS

I.

The State Engineer has jurisdiction in 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 where:⁵

- 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 threatens to prove detrimental to the public interest.

III.

The Bartlett Decree specified and described irrigation rights to the waters of the Humboldt River appurtenant to portions of the N1/2 of Section 17, T.36N., R.42E., M.D.B.&M. These rights were a portion of those under Claim 00157.

IV.

Application 9734 filed by the Pershing County Water Conservation District on March 23, 1934, contained as Exhibit A a land and water right purchase contract. This contract transferred all land and water (within Section 17, T.36N., R.42E., M.D.B.&M.) from Louis G. and Katherine V. Hammond to the Pershing County Water Conservation District. A permit was therefore issued, removing all of the Humboldt River water for which this application seeks to supplement.

⁴NRS Chapter 533.

⁵NRS Chapter 533.370.

VI.

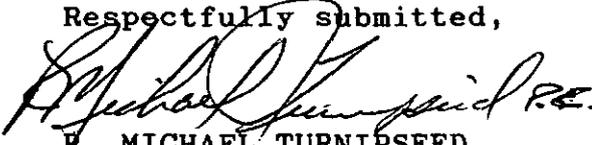
To grant a permit for underground water as being supplemental to a non-existent surface water right is impossible and, therefore, such a permit would not be in the public interest.

RULING

Application 55072 was filed by Hammond Ranch, Inc. to appropriate underground waters for irrigation purposes within Section 17, T.36N., R.42E., M.D.B.&M. The application stated that the underground water was to be used to supplement Humboldt River water.

Application 55072 is hereby denied on the grounds that issuance of such a permit would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED
State Engineer

RMT/JSF/bk

Dated this 23rd day of
September, 1991.