

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

IN THE MATTER OF APPLICATIONS 13245)
AND 13246 FILED TO APPROPRIATE THE)
WATERS OF BLUE LEAD SPRING AND MUD)
SPRING, BUFFALO VALLEY GROUNDWATER)
BASIN, PERSHING COUNTY, NEVADA.)

RULING

4279

GENERAL

I.

Application 13245 was filed on January 24, 1950 by the Joe Saval Estate to appropriate 0.10 cubic feet per second (cfs) of water from Blue Lead Spring located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, T.29N., R.40E., M.D.B.&M. The proposed manner of use is for the stockwatering of 1,000 head of cattle.¹

II.

Application 13246 was filed on January 24, 1950 by the Joe Saval Estate to appropriate 0.50 cfs of water from Mud Spring located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, T.28N., R.40E., M.D.B.&M. The proposed manner of use is for the stockwatering of 1,000 head of cattle.²

III.

Both of the subject applications were filed for the purpose of acquiring rights formerly held and used continuously by the applicant.^{1,2}

IV.

Applications 13245 and 13246 were timely protested by Manuel Chabagno on May 19, 1950 for the following reasons and on the following grounds to wit:^{1,2}

That said protestant, Manuel Chabagno, and his predecessors in interest, for more than fifty (50) years last past, have continuously used the water from said Blue Lead Spring and Mud Spring for the purpose of watering their livestock in

¹ File No. 13245, official records in the Office of the State Engineer.

² File No. 13246, official records in the Office of the State Engineer.

connection with the operation of their ranch containing 480 acres situated in Sections 9, 10, and 11, in Township 28 North, Range 39 East, M.D.B.&M.; that by reason thereof said protestant has a valid and legal existing vested right of, in and to the waters of said Blue Lead Spring and Mud Spring for the purpose of watering livestock.

FINDINGS OF FACT

I.

Applications 13245 and 13246 were held in abeyance at the request of the Bureau of Land Management during the 1950's, until such a time when the range rights held by Chabagno and Saval could be adjudicated. No further action was taken by the State Engineer's Office until October 18, 1994 when the Bureau of Land Management was requested to advise the State Engineer's Office as to the permittee and current range user of the area in question. The Bureau of Land Management advised that the Joe Saval Estate was the owner of the Buffalo Valley grazing allotment, which contains both Blue Lead and Mud Springs.² The State Engineer finds that the Joe Saval Estate is the permitted range user of the grazing allotment served in part by Blue Lead Spring and Mud Spring, and possesses the ability to place said waters to use for stockwatering purposes.

II.

The protestant, Manuel Chabagno, is now deceased but at the time of his protest, operated what is commonly known as the Ecthegoyhen Ranch, located within Golconda Canyon on the west slope of the Tobin Range. The crestline of these mountains represents the boundary between the historic Chabagno and Saval grazing areas.³ Mr. Chabagno's protest was based on the possibility that he possessed a vested right to the waters of Blue Lead and Mud Springs by pre-statutory use of the water for stockwatering purposes. The State Engineer finds that the Chabagno Ranch is not

³ File No. 8495, official records in the Office of the State Engineer.

permitted to use the Buffalo Valley grazing allotment and, therefore, has no need for stockwater from Blue Lead and Mud Springs. The State Engineer further finds that the approval of Applications 13245 and 13246 would not conflict with any existing rights nor prove detrimental to the public interest.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters of Nevada where:

- A. There is no unappropriated water at the source;
- B. The proposed use conflicts with existing rights; or
- C. The proposed use threatens to prove detrimental to the public interest.⁵

III.

Applications 13245 and 13246 were filed to replace Joe Saval Estate permits to appropriate water from Blue Lead Spring and Mud Spring, which were cancelled in 1942. Since then, the Joe Saval Estate has continued to utilize the springs for stockwatering. The State Engineer concludes that the approval of Applications 13245 and 13246 corrects the non-permitted use of the springs by the Joe Saval Estate.

IV.

The grounds of the Manuel Chabagno protest rested largely on the question of a vested right to use of the springs for stockwatering purposes. While the vested right remains unadjudicated, the successors to Mr. Chabagno are not the current range permittees and, therefore, are unable to use the waters of

⁴ NRS Chapters 533 and 534.

⁵ NRS 533.370(3).

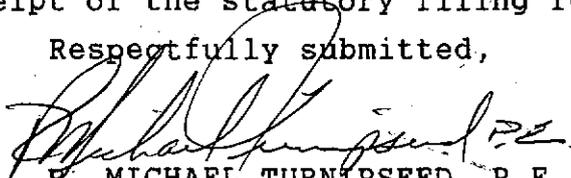
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Blue Lead Spring and Mud Spring. The State Engineer concludes that the approval of Applications 13245 and 13246 would not conflict with any existing rights.

RULING

The protests to Applications 13245 and 13246 are hereby overruled and Applications 13245 and 13246 are approved subject to existing rights and the receipt of the statutory filing fees.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 3rd day of
January, 1996.