

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

IN THE MATTER OF APPLICATION 62511)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF GRANITE SPRINGS WITHIN)
THE GABBS VALLEY GROUNDWATER BASIN)
(122), MINERAL COUNTY, NEVADA.)

RULING

4691

GENERAL

I.

Application 62511 was filed on October 10, 1996, by the Yomba Shoshone Tribe to appropriate 0.10 cubic feet per second of water from Granite Springs for stockwatering purposes within the SE $\frac{1}{4}$ of Section 10, T.8N., R.37E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, T.8N., R.37E., M.D.B.&M.¹

FINDINGS OF FACT

I.

By letter dated August 11, 1997, the State Engineer's office requested information from the U.S. Department of Interior, Bureau of Land Management (BLM) regarding the permittee or current range user within the place of use described under Application 62511. On August 15, 1997, the State Engineer's office received a letter from the BLM stating that the grazing lease for the Pilot-Table Mountain allotment, which contains the place of use described within the subject application, was held by Jack Estill, John Jewell and Roger Vehrs. Additionally, the BLM informed the office of the State Engineer that the Yomba

¹ File No. 62511, official record in the office of the State Engineer.

Shoshone Tribe does not have a grazing permit for nor has it been authorized to graze in the Pilot-Table Mountain allotment. The State Engineer finds that the applicant under Application 62511 is not the authorized range permittee for the place of use described under said application.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

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

III.

Under the provisions of NRS 533.503, the State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock on public land unless the applicant for the permit is legally entitled to place the livestock on the public lands for which the permit is sought. Information supplied by the proper federal regulatory agency indicates that the Yomba Shoshone Tribe is not legally entitled to graze livestock upon the lands described within the place of use of the subject application. The State Engineer concludes that it would not be

² NRS Chapter 533.

³ NRS § 533.370.

Ruling

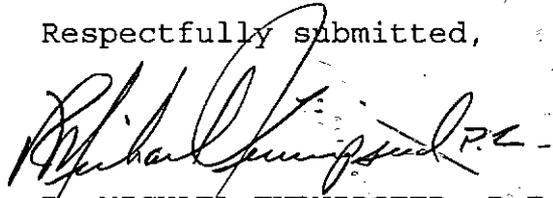
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in the public interest to approve an application to appropriate water for stockwatering purposes upon federal lands to an applicant who is not the current federal range permittee.

RULING

Application 62511 is hereby denied on the grounds that to approve an application for stockwatering use on a source where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 15th day of
December, 1998.