

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

IN THE MATTER OF APPLICATION 52772)
FILED TO APPROPRIATE THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE WITHIN THE)
ALKALI SPRING VALLEY GROUNDWATER BASIN)
(142), ESMERALDA COUNTY, NEVADA.)

RULING

4723

GENERAL

I.

Application 52772 was filed on December 12, 1988, by Colvin Cattle Company, Inc., to appropriate 1.0 cubic feet per second of water from an underground source for stockwatering purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, T.1S., R.43E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 18.¹

FINDINGS OF FACT

I.

By telephone conversations of January 8 and 16, 1996, the State Engineer's office requested information from the U.S. Department of the Interior, Bureau of Land Management (BLM) regarding the permittee or current range user within the place of use described under Application 52772. On February 6, 1996, the State Engineer's office received a letter from the BLM stating that the applicant's grazing lease for the Montezuma Allotment which contains the subject place of use and point of diversion, had expired on February 28, 1995, and any livestock grazing within said allotment was unauthorized. The State Engineer finds that

¹ File No. 52772, official records in the office of the State Engineer.

the applicant under Application 52772 is not an authorized range permittee for the place of use described under said application.

II.

The State Engineer shall not issue a permit to appropriate water for the purposes of watering livestock on public lands unless the applicant for the permit is legally entitled to place the livestock on the public lands for which the permit is sought.² The State Engineer finds that since the applicant is not legally entitled to place livestock on the Montezuma Allotment, Application 52772 must be denied.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

- 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.

² NRS § 533.503(a).

³ NRS Chapters 533 and 534.

⁴ NRS § 533.370 (3).

III.

It has been a long established policy within the office of the State Engineer to limit the approval of applications filed to appropriate water for stockwatering purposes upon federal land to those applicants which are the current federal range permittees. Information supplied by the proper federal regulatory agency indicates that Colvin Cattle Company, Inc., is not permitted 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 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 52772 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 threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 1st day of
April, 1999.