

IN THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 47941)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF THURSTON SPRING WITHIN)
THE THOUSAND SPRINGS VALLEY-TOANO)
ROCK SPRING AREA HYDROGRAPHIC BASIN)
(189-B), ELKO COUNTY, NEVADA.)

RULING

4742

GENERAL

I.

Application 47941 was filed on March 28, 1984, by Ray J. and Janet L. Reese to appropriate 1.0 cubic feet per second (cfs) of water from Thurston Spring for the irrigation of 40 acres of land within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, T.39N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 1.¹

II.

Application 47941 was timely protested by Sierra Pacific Power Company on the following grounds:

This Company (Sierra Pacific Power Company) has recently purchased the Gamble and Winecup Ranches located in eastern Elko County, Nevada. The purpose for this purchase is for the proposed construction of an electric generating plant upon the property. This property was conveyed by deed dated January 26, 1981 from Robert I. Cowles Real Estate, Inc., to Lands of Sierra, Inc., a subsidiary of Sierra Pacific Power Company. All waters, water rights, reservoir rights and ditch rights appurtenant to the property were made a part of the purchase. Our protest is based on the grounds that Thurston Springs is a tributary to the Thousand Springs system. Further determination and interpretation of the relative rights in and to the water of Thousand Springs and its tributaries relative

¹ File No. 47941, official records in the office of the State Engineer.

to the above stated properties were set forth by decree, filed for record December 6, 1929, signed by E.P. Canville, District Judge in Elko, Elko County, Nevada.

FINDINGS OF FACT

I.

Thurston Spring is located within the NE¼ SE¼ of Section 1, T.39N., R.64E., M.D.B.&M. and is tributary to Medicine Creek which is tributary to Toano Draw which in turn is tributary to Thousand Springs Creek.^{2,3} The relative right to the use of the waters from Thousand Springs Creek and its tributary sources was determined by the Thousand Springs Creek Decree which was filed on December 6, 1929.⁴ The State Engineer finds that allocation and regulation of the waters of Thurston Spring fall within the jurisdiction of the Thousand Springs Creek Decree.

II.

Application 44364 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 cfs of water from Thurston Spring for the stockwatering of 2,000 head of cattle.⁵ On February 28, 1985, the State Engineer denied Application 44364 on the grounds that its approval would conflict with existing water rights established under the Thousand Springs Creek Decree.² The State Engineer finds that no new appropriation of water can occur from Thurston Spring, therefore, Application 47941 must be denied.

² State Engineer's Ruling No. 3139, dated February 28, 1985, official records in the office of the State Engineer..

³ U.S. Bureau of Land Management, 1:250,000 scale, Surface Management Status Map-Wells, Nevada-Utah, 1979.

⁴ In the Matter of the Determination of Relative Rights in and to the Water of Thousand Springs Creek and its Tributaries, Elko County, State of Nevada, Fourth Judicial Court, December 6, 1929.

⁵ File No. 44364, official records in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁷

- 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.

The Thousand Springs Creek Decree fully adjudicates, allocates, and describes the use of the water of Thousand Springs Creek and its tributary sources, one of which is Thurston Spring. The State Engineer concludes that the approval of Application 47941 would conflict with and be detrimental to existing water rights established under the Thousand Springs Creek Decree.

⁶ NRS Chapter 533.

⁷ NRS § 533.370(3).

RULING

Application 47941 is hereby denied on the grounds that its approval would conflict with existing water rights.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 9th day of
June, 1999.