

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

IN THE MATTER OF APPLICATION 38302)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF DEER SPRING WITHIN THE)
PINE VALLEY HYDROGRAPHIC BASIN)
(053), EUREKA COUNTY, NEVADA.)

RULING

4882

GENERAL

I.

Application 38302 was filed on June 8, 1979, by Frank Paxton and family to appropriate 0.1 cubic feet per second of water from Deer Spring. The proposed manner and place of use is for stockwatering purposes within the NW1/4 NE1/4 of Section 18, T.27N., R.51E., M.D.B.&M. The proposed point of diversion is described as being located within the NW1/4 NE1/4 of said Section 18.¹

II.

The ownership of Application 38302 has gone through a series of assignments with Angelo K. Tsakopoulos recognized as the current owner of record in the office of the State Engineer.¹

FINDINGS OF FACT

I.

By letter dated April 27, 1999, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide information to the office of the State Engineer relating to the current range permittee for the federal grazing allotment that contained the proposed place of use under Application 38302. A response was timely received from the BLM that indicated that Slagowski Ranches, Inc. holds the federal grazing permit in a group allotment with Dominick Peretti, Hale Bailey, George Penola, and Cortez.¹ The State Engineer finds that the owner of record of Application 38302 is not entitled to place livestock

¹ File Number 38302, official records in the office of the State Engineer.

upon the federal range, which contains the proposed place of use and point of diversion described under Application 38302.

II.

On August 19, 1999, Slagowski Ranches, Inc. was requested by the office of the State Engineer to provide evidence of a continued interest in Application 38302. Slagowski Ranches, Inc. was also instructed that if it intended to move forward with the application, title would have to be advanced from Angelo K. Tsakopoulos to Slagowski Ranches, Inc. This request for additional information also contained a caution that if no information was received within thirty days from the date of the letter, Application 38302 would be considered for denial. Identical letters were also sent by certified mail to the agent representing Slagowski Ranches, Inc. and to Angelo K. Tsakopoulos. Endorsed receipts for these certified mailings were received in the office of the State Engineer.¹ To this date, no information regarding this matter has been submitted to the office of the State Engineer. The State Engineer finds that the applicant and the recognized federal range permittee have failed to provide the requested information, therefore, Application 38302 can be considered for denial.

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 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

² NRS chapter 533.

³ NRS § 533.370(3).

C. the proposed use threatens to prove detrimental to the public interest.

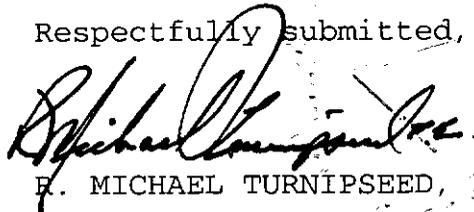
III.

The applicant, as well as the federal grazing permittee and his agent were requested by the State Engineer's office to provide additional information relating to any continued interest that they may have in pursuing Application 38302. This request for additional information was made with the understanding that a failure to respond in a timely manner would result in Application 38302 being considered for denial. No response from any of the parties regarding this matter was received by the office of the State Engineer. The State Engineer concludes that this failure to respond represents a lack of interest on the subject parties behalf in completing Application 38302. The State Engineer also concludes that the approval of an application in which the applicant has no interest in pursuing would threaten to prove detrimental to the public interest.

RULING

Application 38302 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 17th day of
March, 2000.