

IN THE MATTER OF APPLICATION 31100)
FILED BY COLVIN CATTLE CO., ON)
FEBRUARY 14, 1977, TO APPROPRIATE)
WATER FROM LITTLE MUD SPRINGS IN NYE)
COUNTY, NEVADA)

R U L I N G

146
GENERAL

Application 31100 was filed on February 14, 1977, by Colvin Cattle Co., for permission to appropriate 0.10 c.f.s. of water from Little Mud Springs for stockwatering purposes. The point of diversion is located within the NE 1/4 SE 1/4 Section 33, T.10S., R.46E., M.D.M. (Unsurveyed). The place of use is within the same subdivision as the point of diversion. The period of use is from January 1 to December 31 of each year.

A timely protest was filed on April 28, 1977, against the granting of Application 31100 by Jim Spicer on the following grounds:

"The area under question is now and has been a part of this ranch. Tax rolls substantiate this fact.

"The applicant has no basic interest in the land, to the best of our knowledge, with the exception of a qualified Section 15 grazing lease. The applicant's property (base) is not in Nye County, but in the Goldfield area, approximately 75 miles away."

The protestant asks that the application be denied.

There are no existing rights of record for the appropriation of water from Little Mud Springs.

In a letter to the Division of Water Resources dated December 27, 1978, the Nye County Assessor stated that their records show no indication that the NE 1/4 SE 1/4 of Section 33, T.10S., R.46E., M.D.M., the land within which Little Mud Springs is located, was ever patented.

In a letter dated December 13, 1978, the Las Vegas District Office of the Bureau of Land Management stated that Colvin Cattle Co., Inc., is the range user in the area of Little Mud Springs.

On October 20, 1976, Mr. Spicer, protestant herein, made an application for a grazing lease, encompassing the following lands: T.10S., Ranges 44, 45, and 46E.; T.11S., Ranges 44, 45, and 46E; and the E 1/2 of T.11S., Range 47E.; all M.D.M. The Las Vegas District Office of the Bureau of Land Management in its decision on Mr. Spicer's application, stated that Mr. Spicer's grazing lease application dated October 20,

1976, was unacceptable for the following reasons:

- "1. Township 11 South, Ranges 44 and 45 East are within Death Valley National Monument and are not public lands subject to lease. (43 CFR 4125.1-1(c)(2)(i))."
- "2. The rest of the area requested is under grazing Lease No. 2705691, to L. C. Colvin. Federal regulation states that the Authorized Officer shall reject the application if the land applied for is under an existing lease. (43 CFR 4125.11 (c)(2)(iv))."

RULING

The protest to Application 31100 is over-ruled, on the grounds that there is unappropriated water in the source; that the proposed appropriation will not be detrimental to existing rights; and that the proposed appropriation will not be detrimental to the public interest. A permit will be issued, subject to existing rights, upon payment of the statutorily required permit fees, with the understanding that granting of a permit does not thereby grant rights of ingress or egress to the public lands.

Respectfully submitted,

William J. Newman

William J. Newman
State Engineer

WJN/JCP/jm

Dated this 2nd day
of FEBRUARY, 1979.