

IN THE MATTER OF APPLICATION 39287)  
FILED TO APPROPRIATE WATER FROM A )  
SPRING (SOMETIMES KNOWN AS HOT )  
SPRINGS IN ELKO COUNTY, NEVADA )

R U L I N G

FINDINGS OF FACT

Application 39287 was filed on October 8, 1978 by William S. Archibald to appropriate water from a spring (sometimes known as Hot Springs) for irrigation and domestic purposes. The point of diversion is described as being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 8, T.33N., R.53E., M.D.B.&M.

Application 39287 was protested by Maggie Creek Ranch, Inc., who prayed that the application be denied on the following grounds:

1. Protestant believes he and his predecessors have an established vested right to the source for stockwater purposes.
2. Protestant is sole owner of fee land in the vicinity and is sole holder of U. S. Bureau of Land Management grazing lease to that land covered by this application.

A field investigation was held in this matter on July 28, 1982. A detailed review shows the Hot Springs, at certain times of the year, are a tributary to Susie Creek, which is a tributary to the Humboldt River.

In the Humboldt River Decree, the Sixth Judicial Court has determined there is no surplus of unappropriated water for irrigation in the Humboldt River and tributaries (Bartlett Decree, Finding of Fact No. 44).

NRS 533.370(4) requires the State Engineer to reject an application and refuse to issue a permit where: There is no unappropriated water in the proposed source or where the proposed use conflicts with existing rights or threatens to prove detrimental to the public interest.

CONCLUSIONS

By the Humboldt River Decree, the Sixth Judicial Court has determined there is no surplus unappropriated water for irrigation in the Humboldt River and tributaries, the State Engineer is without jurisdiction to grant new applications to appropriate water for irrigation purposes. NRS 533.370(4) requires the State Engineer to reject an application and refuse to issue a permit where there is no unappropriated water in the proposed source or where the proposed use conflicts with existing rights or threatens to prove detrimental to the public interest.

RULING

Application 39287 is hereby denied on the grounds that the granting would conflict with existing rights, that there is no unappropriated water in the source during the irrigation season set out under the Humboldt River Decree and further that the granting would be detrimental to the public interest and welfare.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/BD/bc

Dated this 27th day  
of October, 1982.