

IN THE MATTER OF APPLICATION 43905)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM BIG ANTELOPE SPRINGS)
AND APPLICATION 43907 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
LITTLE ANTELOPE SPRINGS WITHIN)
ANTELOPE VALLEY BASIN IN LANDER)
COUNTY, NEVADA.)

RULING

GENERAL

Application 43905¹ was filed on June 16, 1981, by Paul Inchauspe to appropriate 0.05 c.f.s. of water from Big Antelope Springs for use within the NW1/4 SW1/4 Section 29, T.22N., R.41E., M.D.B.&M., for stockwatering purposes. The point of diversion is described as being within the NW1/4 SW1/4 Section 29, T.22N., R.41E., M.D.B.&M.

Application 43907¹ was filed on June 16, 1981, by Paul Inchauspe to appropriate 0.05 c.f.s. of water from Little Antelope Springs for use within the NW1/4 SE1/4 Section 25, T.22N., R.40E., M.D.B.&M., for stockwatering purposes. The point of diversion is described as being within the NW1/4 SE1/4 Section 25, T.22N., R.40E., M.D.B.&M.

FINDINGS OF FACT

I.

A timely protest¹ was filed to the granting of Applications 43905 and 43907 by James A. Williams on November 12, 1981. The grounds of the protest are as follows:

"Protestant does not want Paul Inchauspe to lock up the use of this water to the wild animals, wildlife, or wild horses, by putting up fences or water troughs at any time."

Therefore, the Protestant requests that the applications be granted but limited to the above provisions.

¹ Public record in the office of the State Engineer under Applications 43905 and 43907.

II.

By letter to the Bureau of Land Management dated August 24, 1981, the Division of Water Resources inquired as to who was the current range permittee within the described place of use.¹

On September 10, 1981, the Bureau of Land Management, by letter, informed the State Engineer that Paul Inchauspe was the permittee within the described place of use.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over this matter under the provisions of NRS Chapter 533.

II.

The applicant under Applications 43905 and 43907 is the range permittee within the described place of use.

III.

The State Engineer shall approve an application when:²

- A. There is unappropriated water at the proposed source,
- B. The proposed use does not conflict with existing rights,
- C. The proposed use does not threaten to prove detrimental to the public interest.

IV.

The statute provides the requirement to ensure access of wildlife to water it customarily uses; before a person may obtain a right to the use of water from a spring or water which has seeped to the surface of the ground, he must ensure that wildlife which customarily uses the water will have access to it.³

² NRS 533.370.

³ NRS 533.367.

RULING

The protests to the granting of Applications 43905 and 43907 are hereby upheld on the grounds that NRS 533.367 provides that wildlife must be allowed access to the sources of water described under the applications. Permits will be granted upon receipt of the statutory permit fees, subject to existing rights and the provisions of NRS 533.367.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/BD/bl

Dated this 19th day of
APRIL, 1984.