

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 46738,)
46739, 46886 AND 46887 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE)
CHURCHILL VALLEY GROUND WATER)
BASIN IN LYON COUNTY, NEVADA.)

RULING

GENERAL

Application 46738 was filed on March 16, 1983, by Western Lode Mining to appropriate 1.0 c.f.s. of water from an underground source for mining and milling purposes within portions of Sections 21, 28, 29, 31 and 32, T.15N., R.24E., M.D.B.&M., NW1/4 NW1/4 Section 6, T.14N., R.24E., M.D.B.&M., and a portion of Section 1, T.14N., R.23E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 21, T.15N., R.24E., M.D.B.&M.¹

Application 46739 was filed on March 16, 1983, by Western Lode Mining to appropriate 0.5 c.f.s. of water from an underground source for mining and milling purposes within portions of Sections 21, 28, 29, 31 and 32, T.15N., R.24E., M.D.B.&M.; NW1/4 NW1/4 Section 6, T.14N., R.24E., M.D.B.&M.; and a portion of Section 1, T.14N., R.23E. M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 31, T.15N., R.24E., M.D.B.&M.¹

Application 46886 was filed on May 5, 1983, by Sario Livestock Co. to appropriate 0.1 c.f.s. of water from an underground source for stockwatering purposes within the SE1/4 SW1/4 Section 21, T.15N., R.24E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 21, T.15N., R.24E., M.D.B.&M.¹

Application 46887 was filed on May 5, 1983, by Sario Livestock Co. to appropriate 0.1 c.f.s. of water from an underground source for stockwatering purposes within the SE1/4 NE1/4 Section 31, T.15N., R.24E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 31, T.15N., R.24E., M.D.B.&M.¹

FINDINGS OF FACT

I

Churchill Valley Ground Water Basin was described and designated by the State Engineer on August 23, 1977, as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.²

¹ Public records in the office of the State Engineer under Applications 46738, 46739, 46886 and 46887.

² Public record in the office of the State Engineer and State Engineer's Order No. 689.

II.

A timely protest was filed to the granting of Application 46738 by Sario Livestock Co. on June 9, 1983.³ The grounds of the protest are as follows:

"Churchill Cyn. well is owned by the BLM and the protestor has the permit to graze sheep and to use said well for watering sheep. Said well has been applied for pursuant to application 46886 and for the benefit of protestor."

A timely protest was filed to the granting of Application 46739 by Sario Livestock Co. on June 9, 1983.³ The grounds of the protest are as follows:

"Sario Well is owned by the BLM and the protestor has the permit to graze sheep and to use said well for watering sheep. Said well has been applied for pursuant to Application 46887 and for the benefit of protestor."

A timely protest was filed to the granting of Applications 46886 and 46887 by Western Lode Mining Co. on July 15, 1983.⁴ The grounds of the protest are as follows:

"Western Lode Mining Co. filed on January 25, 1983, and has priority. Western Lode intends to use, but not consume the water."

III.

Records and information available to the State Engineer indicates that Applications 46738 and 46886 are from the same underground source located in the SE1/4 SW1/4 Section 21, T.15N., R.24E., M.D.B.&M., known as the "Churchill Canyon Well". Also, 46739 and 46887 are from the same underground source located in the SE1/4 NE1/4 Section 31, T.15N., R.24E., M.D.B.&M., known as the "Sario Well".⁵

IV.

A letter dated July 31, 1984, from Tom Own, District Manager, Bureau of Land Management, Carson City office, to the State Engineer's office states as follows:⁶

1. Sario Well was drilled 8-9-38.
Churchill Canyon Well was drilled 8/29/41.
2. Sario Livestock Co. has a cooperative agreement with the BLM Carson City District on both wells.

³ Public record in the office of the State Engineer under Applications 46738 and 46739.

⁴ Public record in the office of the State Engineer under Applications to Appropriate 46886 and 46887.

⁵ Public records in the office of the State Engineer.

⁶ Public record in the office of the State Engineer under Applications 46738, 46739, 46886 and 46887.

3. Western Lode Mining Co. does not have a cooperative agreement with BLM and would not be able to obtain one for use of these wells.

CONCLUSIONS

I.

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

II.

Applications 46738 and 46739 were filed in support of mining and milling use from points of diversion that they do not control or cannot demonstrate control as described under IV of Findings from the records of the Bureau of Land Management, therefore, the applicant cannot demonstrate the ability to place the water to beneficial use.

III.

Applications 46886 and 46887 were filed in support of stockwatering from points of diversion that they do control as described under IV of Findings from the records of the Bureau of Land Management, therefore, the applicant can demonstrate the ability to place the water to beneficial use.

RULING

The protests of Sario Livestock Co. to the granting of Applications 46738 and 46739 are hereby upheld and Applications 46738 and 46739 are herewith denied on the grounds that Sario Livestock Co. does control the two described points of diversion through cooperative agreement with the Bureau of Land Management and the granting thereof would not be in the public interest.

The protests of Western Lode Mining to the granting of Applications 46886 and 46887 are hereby overruled on the grounds that the applicant has demonstrated he can place the water to beneficial use. Permits will be issued upon the payment of the statutory per mit fees.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/BD/bl

Dated this 12th day of

SEPTEMBER, 1984.

7 NRS Chapters 533 and 534.