

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 47084)
FILED TO CHANGE THE MANNER OF USE)
AND PLACE OF USE OF A PORTION OF THE)
WATERS OF AN UNDERGROUND SOURCE)
HERETOFORE APPROPRIATED UNDER)
PERMIT 35884 IN BIG SMOKY VALLEY)
(TONOPAH FLAT), NYE COUNTY, NEVADA.)

RULING

GENERAL

Application 47084 was filed on July 19, 1983, by Houston International Minerals Corporation to change the manner of use and place of use of 0.1 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 35884. The proposed use is for quasi-municipal and domestic purposes within the SW1/4 NW1/4 Section 20 and the E1/2 NE1/4 Section 19, T.8N., R.44E., M.D.B.&M. The proposed point of diversion is described as being within the SE1/4 SE1/4 Section 19, T.8N., R.44E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 47084 was protested by Robert M. Bottom on August 29, 1983, on the grounds that: "...their well will be very damaging to our water level".¹

II.

Application 47084 was assigned to Tenneco Minerals Company on October 10, 1984.¹

III.

Protestant owns Permit 45326 which is an application to appropriate and not an application to change an existing right.²

IV.

The Board of Nye County Commissioners has no objections to the granting of this permit even though they serve water to other parts of the town of Manhattan.¹

¹ Public record in the office of the State Engineer under Application 47084.

² Public record in the office of the State Engineer under Permit 45326.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and subject matter of this action.³

II.

Application 47084 does not seek to change the existing point of diversion and, therefore, there can be no further interference with protestant's water right.

III.

The priority date for Application 47084 is not the date of filing but is the date of filing for the base right (Permit 35884) which is September 15, 1978.⁴

IV.

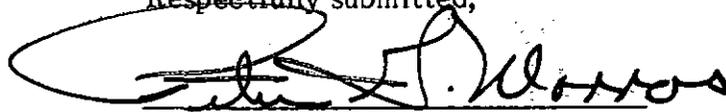
The State Engineer is prohibited by law⁵ from granting a permit under an application to appropriate the public waters where:

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public welfare.

RULING

The protest to Application 47084 is hereby overruled on the grounds that there is no change in the point of diversion and Application 47084 has an earlier priority and therefore, there is no interference with existing rights. A permit will be issued under Application 47084.

Respectfully submitted,


PETER G. MORROS
State Engineer

PGM/KN/bl

Dated this 23rd day of
May, 1985.

³ NRS 533.025 and NRS 533.030, subsection 1.

⁴ Public record in the office of the State Engineer under Permit 35884.

⁵ NRS 533.370(3).