

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 33616)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF SULPHUR SPRING IN)
PUMPERNICKEL VALLEY, HUMBOLDT)
COUNTY, NEVADA.)

RULING

GENERAL

Application 33616 was filed on September 14, 1977, by Roaring Springs Associates to appropriate 0.01 c.f.s. of water from Sulphur Spring for stockwatering purposes of 1000 sheep and 250 cattle within the SE1/4 NW1/4 Section 34, T.35N., R.41E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 34, T.35N., R.41E., M.D.B.&M.¹

Application 33616 was timely protested by the Bureau of Land Management on the grounds that the applicant can not appropriate the water without being in conflict with three other users of the range since they run in common with three other permittees. The protest further states that the applicant is not permitted on the range for the full season and that grazing privileges change as range conditions and management programs dictate.¹

FINDINGS OF FACT

I.

Sulphur Spring, identified as the source of water for this appropriation, has no prior filings or water rights of record.²

II.

Sulphur Spring is not tributary to any other fully appropriated source of water and the flow is sufficient to sustain the use intended in Application 33616.³

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁴

¹ Public record in the office of the State Engineer.

² A search of the files in the office of the State Engineer revealed no other applications, permits or claims to the waters of Sulphur Spring at this location.

³ See Memo to File 33616, dated October 21, 1985, public record in the office of the State Engineer under Application 33616.

⁴ NRS 533.325.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- 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 interest.

III.

The State Engineer finds that the source has not been fully appropriated and the applicant is licensed for grazing privileges within the general area of the spring source. Any other users of water from this source must comply with the provisions of NRS Chapter 533. The grounds of the protest are without merit and to deny the application on the grounds set forth would conflict with the provisions of NRS 533.030.

RULING

The protest to the granting of Application 33616 is hereby overruled and Application 33616 is hereby approved subject to receipt of the statutory permit fees.

Respectfully submitted,


PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 9th day of
December, 1985.

⁵ NRS 533.370(3).