

IN THE MATTER OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)  
40653 FILED TO APPROPRIATE )  
WATER FROM AN UNNAMED SPRING)  
IN THE NORTHERN PART OF BIG )  
SMOKEY VALLEY, NYE COUNTY, )  
NEVADA. )  
)

RULING

GENERAL

I.

Application 40653 was filed on February 25, 1980 by 7-K Ranching Corp. to appropriate .01 C.F.S. of water from an Unnamed Spring for stockwatering of 200 head of cattle within the NE1/4 SE1/4 of Section 17, T.14N., R.43E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 17, T.14N., R.43E., M.D.B.&M.<sup>1</sup>

II.

On September 23, 1980 this application was protested by the U.S. Bureau of Land Management on the following grounds:<sup>1</sup>

"The water is not available for appropriation under state law because it is a public water reserve. The lands contained in this public water reserve were withdrawn by Executive Order 107 of April 17, 1926. (43 CFR 2311)"

-----

<sup>1</sup> Public records in the office of the State Engineer

FINDINGS OF FACT

I.

Information available to the State Engineer indicates the applicant does not have access or control of grazing privileges within the place of use.<sup>2</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>3</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>4</sup>

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

III.

The State Engineer finds that it would not be in the public interest to approve an application when the applicant can not demonstrate the ability to place the water to beneficial use.

-----  
<sup>2</sup> See letter in file 40653 dated November 22, 1989 from the Bureau of Land Management wherein the source of water is described as being in the Wild Cat Canyon Allotment and the range user is Rock Springs Ranch.

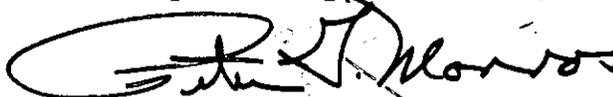
<sup>3</sup> NRS Chapter 533.

<sup>4</sup> NRS Chapter 533.370

RULINGS

Application 40653 is hereby Denied on the grounds that the applicant cannot demonstrate the ability to place the water to beneficial use and to approve said application would not be in the public interest. No ruling is made on the grounds of the protest.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/RMT/pm

Dated this 27th day of  
December, 1989.