

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION )  
NUMBER 48697 FILED TO APPROPRIATE)  
WATER FROM A SPRING LOCATED IN )  
EMIGRANT VALLEY (GROOM LAKE )  
VALLEY), LINCOLN COUNTY, STATE OF )  
NEVADA. )

RULING

GENERAL

I.

Application 48697 was filed on January 10, 1985 by D/4 Enterprises, Inc. to appropriate 0.01 c.f.s. of water from a spring for stockwatering of 400 head of cattle within a portion of the NE1/4 NE1/4 of Section 8, T.6S., R.551/2E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 8, T.6S., R551/2E., M.D.B.&M.<sup>1</sup>

II.

The subject application was timely protested on July 23, 1985 by the United States Bureau of Land Management on the following grounds:<sup>1</sup>

"Water from this source was reserved by Executive Order of April 17, 1926 (P.W.R #107). Also, the applicant has no grazing privileges on the surrounding public land."

III.

A phone call to Terry Smith, Range conservationist, Caliente Resource Area, United States Bureau of Land Management, confirmed that the proposed source is outside of the D/4 enterprises, Inc. allotment. The spring is located within the United States Air Force Groom Lake withdrawal area.<sup>2</sup>

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

<sup>2</sup> Personal Communication between Stephen J. Walmsley, Hydraulic Engineer III, Division of Water Resources, and Terry Smith, Range conservationist on January 8, 1990.

FINDINGS OF FACT

I.

The applicant is not the permitted range user on public lands described under the place of use, therefore can not demonstrate the ability to put the water to beneficial use.

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.

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<sup>3</sup> NRS Chapter 533

<sup>4</sup> NRS 533.370

RULING

The protest to granting of application 48647 is hereby upheld to the extent that application 48697 is hereby denied on the grounds that it would not be in the public interest to grant a permit where the applicant cannot demonstrate the ability to place the water to beneficial use.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a large, hand-drawn oval scribble.

Peter G. Morros  
State Engineer

PGM/SW/pm

Dated this 23rd day of  
January, 1990