

IN THE OFFICE OF THE STATE ENGINEER  
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBERS )  
43959, 43960, 43962, 43963, 43964, )  
43965 AND 43966 TO APPROPRIATE WATER )  
FROM FERRON CARROLL SPRING, GABEL )  
CANYON SPRING, WILLOW SPRING, UPPER )  
DRY SPRING, UPPER WILLOW SPRING, )  
BASIN SPRING, BILL'S SPRING, ALL )  
LOCATED IN PINE VALLEY, EUREKA )  
COUNTY, STATE OF NEVADA. )

RULING

GENERAL

I.

Application 43959 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Ferron Carroll Spring for stockwatering of 1,000 head of cattle within the NW1/4 SE1/4 of Section 3, T.23 1/2N., R.49E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 3, T.23 1/2N., R.49E., M.D.B.&M.<sup>1</sup>

Application 43960 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Gabel Canyon Spring for stockwatering of 1,000 head of cattle within the W1/2 SW1/4 of Section 32, T.24N., R.51E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 32, T.24N., R.51E., M.D.B.&M.<sup>1</sup>

Application 43962 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Willow Spring for stockwatering of 1,000 head of cattle within the NE1/4 SW1/4 and Lot 27 of Section 6, T.23N., R.51E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 6, T.23N., R.51E., M.D.B.&M.<sup>1</sup>

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

Application 43963 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Upper Dry Canyon Spring for stockwatering of 1,000 head of cattle within Lot 16 of Section 6, T.23N., R.51E., M.D.B.&M. The point of diversion is described as being within Lot 16 Section 6, T.23N., R.51E., M.D.B.&M.<sup>1</sup>

Application 43964 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Upper Willow Spring for stockwatering of 1,000 head of cattle within the SE1/4 SW1/4 of Section 6, T.23N., R.51E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 6, T.23N., R.51E., M.D.B.&M.<sup>1</sup>

Application 43965 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Basin Spring for stockwatering of 1,000 head of cattle within Lot 22 of Section 6, T.23N., R.51E., M.D.B.&M. The point of diversion is described as being within Lot 22 Section 6, T.23N., R.51E., M.D.B.&M.<sup>1</sup>

Application 43966 was filed on June 29, 1981 by Frank Paxton & Family and later assigned to Angelo K. Tsakopoulos to appropriate 0.10 c.f.s. of water from Bill's Spring for stockwatering of 1,000 head of cattle within the SW1/4 NE1/4 of Section 28, T.24N., R.49E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 28, T.24N., R.49E., M.D.B.&M.<sup>1</sup>

The subject applications were timely protested on January 11, 1982 by the United States Bureau of Land Management generally on the grounds that the water is required for multiple use management of the public land and the source is a public water reserve which was reserved for public use under the authority of Executive Order 107 on April 17, 1926 and as identified in 43 CFR 2311. The water is therefore, not available for appropriation under Nevada State Law.

FINDINGS OF FACT

I.

The grounds for the United States Bureau of Land Management protest has been extensively and fully considered and ruled upon in prior proceedings.<sup>2</sup>

II.

The United States has not filed any claims with the State of Nevada to establish a claim of a reserved right by executive order on the sources described under the subject applications.

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>2</sup> See State Engineers Ruling No. 3219 on Application 37061 et. al; issued on July 26, 1985. Public record in the office of the State Engineer.

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

<sup>4</sup> NRS Chapter 533.370

III.

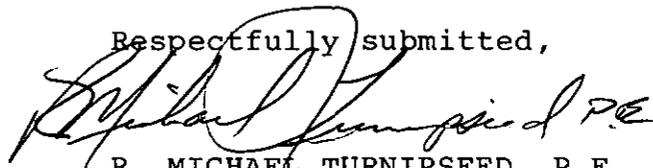
The State Engineer concludes that if in fact these sources of water meet the criteria of a Public Water Reserve, they shall be recognized as such and any permits granted would be subject to the prior reserved right. Conversely if the sources do not qualify for reserved status, any permits granted on the sources would only be later in priority to any other vested rights that may exist. Only after a general adjudication of all rights would there be a determination made of the extent of any other vested claims and the validity of any claimed or unclaimed reserved rights.

RULING

The protests to applications 43959, 43960, 43962, 43963 43964, 43965 and 43966 are hereby overruled and said applications are hereby approved subject to:

1. Payment of the statutory permit fees.
2. The prior reserved rights of the United States if in fact these rights exist and the sources meet the proper criteria.
3. All other existing rights.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SW/pm

Date this 5th day of  
December, 1990