

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

IN THE MATTER OF APPLICATION 52566)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE GRASS VALLEY GROUNDWATER)
BASIN, HUMBOLDT COUNTY, NEVADA.)

RULING

#3831

GENERAL

I.

Application 52566 was filed on September 26, 1988 by Ernest Boyd and Hansen Ranches to appropriate 0.3 c.f.s. of water from an underground source for stockwatering purposes. The point of diversion and the place of use are described as being within the NE1/4, NW1/4 Section 13, T.34N., R.37E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 52566 was timely protested on January 24, 1989, by Donnell J. Richards, for the following reasons and on the following grounds to wit.¹

"Applicants do not own, lease or otherwise control grazing land within 4 miles of the subject well. The ground is deeded open range controlled by myself and others. Boyd owns 60 acres, more or less in the immediate area which could possibly run 6 cows for 1 month. He doesn't feed cattle or does either of the applicants have a feed lot. Purpose of the application is to control the surrounding lands and thereby trespassing on the same. I have vested and adjudicated rights in the area and lease property in the area. Therefore the protestant requests that the above referenced application be denied and that an order be entered for such relief as the State Engineer deem just and proper.

¹ See State Engineer's file under Permit 52566.

II.

A public administrative hearing in the matter of Application 52566 was held before representatives of the State Engineer on May 18, 1990 in Winnemucca Nevada, after proper notice was given to all parties with standing.²

III.

The protestant, Donnell Richards, appearing on his own behalf, offered testimony to support his contention that the granting of Application 52566 would adversely effect his existing water rights within the general vicinity of the applicant's well.³

IV.

The State Engineer finds that the place of use of Application 52566 is represented by a 40 acre parcel located within the NE1/4 NW1/4, Section 13, T.34N., R.37E.⁴

V.

Testimony provided at the hearing by the applicant and protestant revealed that the aforementioned place of use is fee simple land controlled by the applicant.⁵

VI.

The State Engineer finds that the distance between the closest existing underground or surface water right held by the protestant and the applicant's well exceeds two miles.⁶

² State's Exhibit No. 1.

³ Transcript of hearing held May 18, 1990, in the matter of Application 52566 hereinafter referred to as Transcript. See Pages 26-35, 45-46.

⁴ State's Exhibit Nos. 2 and 7.

⁵ Transcript Pgs. 26, 34 and 49.

⁶ Records in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.

II.

The State Engineer is prohibited by law 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 interest.

III.

The State Engineer concludes that there is water available for appropriation in the source described under 52566.

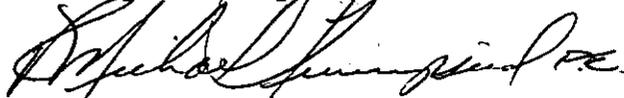
IV.

The State Engineer concludes that the granting of Application 52566 will not impair existing rights nor be detrimental to the public interest.

RULING

The protest to the granting of Application 52566 is hereby overruled and Application 52566 is hereby approved subject to prior rights and payment of the statutory permit fees.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MB/pm

Dated this 17th day of
September, 1991.