

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

IN THE MATTER OF APPLICATION 49604)  
TO APPROPRIATE UNDERGROUND WATER )  
WITHIN THE PIUTE VALLEY BASIN, )  
CLARK COUNTY, NEVADA. )

RULING

#3779

GENERAL

I.

Application 49604 was filed with the State Engineer by Bonneville Industries, Inc., on December 24, 1985, to appropriate 0.138 c.f.s. of underground water for mining and domestic purposes within the NE1/4 of the NW1/4 Section 31, T.30S., R.64E., M.D.B.&M., Clark County, Nevada.

II.

Application 49604 was timely protested by Nancy Lynn Kidwell on January 30, 1986, for the following reasons and on the following grounds to wit: "That the well being drilled under this permit number is within 500 feet of an existing community supply facility. The well and equipment is being constructed in the approach of an existing airport runway, and the possibility of contamination of existing water supply sources.<sup>1</sup>

Protestant Kidwell requested that the use of the water to be appropriated under Application 49604 be denied.

III.

After all of the subject parties had been duly notified as required under 533.365(3), a formal field investigation was held on October 12, 1989, for the receiving of factual information and evidence deemed necessary by the State Engineer for a full understanding of the above-referenced applications and protests.<sup>1</sup> A significant amount of information and evidence was developed at the subject field investigation as all parties were provided a full opportunity to present their respective positions.

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<sup>1</sup> See Exhibit 1, Notice of Formal Field Investigation of October 12, 1989.

FINDINGS OF FACT

I.

Application 49604 proposes to divert underground water for beneficial use in the Piute Valley Ground Water Basin.

II.

That subject basin has been declared a "designated" basin, pursuant to NRS 534.030(1).

III.

The applicant has stated that the proposed point of diversion of Application 49604 is an existing well located within Government Lot 1, NW1/4 NW1/4 Section 31, T.30S., R.64E., M.D.B.&M., Clark County, Nevada, from which the W1/4 corner of said Section 31 bears S. 35° 09" 50" W, a distance of 1,667.20 feet, and not the point indicated in Application 49604 and on the supporting map.

IV.

The proposed point of diversion identified by the applicant at the October 12, 1989, field investigation is owned by the United States of America, administered by the U.S. Bureau of Land Management.

V.

U.S. Bureau of Land Management records indicate that the lands described in Section III & IV above are withdrawn from mineral location and entry.<sup>2</sup>

CONCLUSIONS

I.

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

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<sup>2</sup> Public record in the office of the State Engineer, filed 49604 and 50404.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water 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 proposed beneficial use of Application 49604 is mining and domestic purposes. Because the proposed point of diversion and place of use of Application 49604 are located on lands withdrawn from mineral location and entry, the applicant cannot put the water he proposes to divert to beneficial use as set forth under NRS 533.380(1).

IV.

To grant an application to appropriated the public water of the State of Nevada for mining purposes on land withdrawn from mineral location and entry or where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest or welfare.

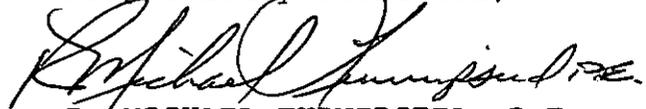
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<sup>4</sup> NRS Chapter 533.370

RULING

Application 49604 is herewith denied on the grounds that to grant an application for mining purposes on lands that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use would not be in the public interest and welfare.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/GWQ/pm

Dated this 14th day of  
February, 1991