

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

IN THE MATTER OF APPLICATION 46401)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF DAGO JOE'S SPRING WITHIN)
THE ALKALI SPRING VALLEY (ESMERALDA))
GROUNDWATER BASIN (142), ESMERALDA)
COUNTY, NEVADA.)

RULING

4649

GENERAL

I.

Application 46401 was filed on December 1, 1982, by Colvin Cattle Company, Inc., to appropriate 0.15 cubic feet per second of water from Dago Joe's Spring for stockwatering purposes within the NW¼ SE¼ of Section 36, T.2S., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of said Section 36.¹

FINDINGS OF FACT

I.

By letter dated April 23, 1998, the State Engineer's office requested information from the U.S. Department of Interior, Bureau of Land Management (BLM) regarding the permittee or current range user within the place of use described under Application 46401. On June 10, 1998, the State Engineer's office received a letter from BLM stating that the grazing lease for the Montezuma Allotment was cancelled and any livestock grazing within said allotment was unauthorized. The State Engineer finds that the applicant under Application 46401 is not an authorized range permittee for the place of use described under said application.

¹ File No. 46401, official records in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

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

III.

It has been a long established policy within the office of the State Engineer to limit the approval of applications filed to appropriate water for stockwatering purposes upon federal land to those applicants which are the current federal range permittees. Information supplied by the proper federal regulatory agency indicates that Colvin Cattle Company, Inc., is not permitted to graze livestock upon the lands described within the place of use of the subject application. The State Engineer concludes that it would not be in the public interest to approve an application to appropriate water for stockwatering purposes upon federal lands to an applicant who is not the current federal range permittee.

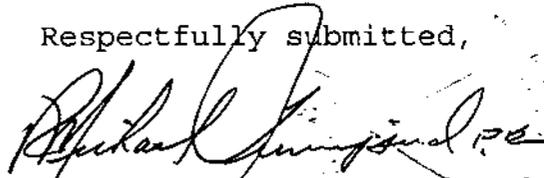
² NRS § Chapters 533.

³ NRS § 533.370 (3).

RULING

Application 46401 is hereby denied on the grounds that to approve an application for stockwatering use on the source where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/KEE/cl

Dated this 22nd day of
July, 1998.