

IN THE MATTER OF APPLICATION)
NO. 30879 TO APPROPRIATE)
WATER FROM BIDDLEMEN SPRINGS)
IN STOREY COUNTY, NEVADA)

R U L I N G

FINDINGS OF FACT

I

Application 30879 was filed on December 6, 1976, in the name of Curtiss-Wright Corporation to appropriate 3.0 c.f.s., of water from Biddlemen Springs for the irrigation of 1,120 acres, the point of diversion being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29, T.19N., R.23E., M.D.B.&M., and the place of use being located within portions of Sections 17, 18, 19 and 20, all in T.19N., R.23E., M.D.B.&M.

II

A timely protest to the granting of Application 30879 was filed on April 21, 1977, in the name of the State of Nevada, Department of Fish and Game. The protest was filed on the grounds that:

"Water from this source supports deer, chukar, quail, doves, and various other wildlife species. This protest will be withdrawn if, in the opinion of the protestant, adequate safeguards are provided for wildlife and its habitat."

The protest seeks that the application "be issued subject to the condition that sufficient water is left in such a manner that water at the spring source is available to wildlife."

III

Application 30879 became ready for action by the State Engineer's Office on April 22, 1977.

IV

A field investigation into the matter of Application 30879 was conducted on Tuesday, May 17, 1977, which was attended by representatives of the Nevada State Engineer's Office and by a representative of the Nevada Department of Fish and Game. No representative of the applicant was present although the applicant had been notified by the State Engineer's Office by Certified Mail letter dated April 29, 1977, of the date, time and location of the field investigation. The spring

flow is currently being impounded in an earthen reservoir and is apparently used for stockwatering purposes. The flow of the spring could not be accurately measured, but was approximated to be 2.0 g.p.m. at the time of the investigation. The spring may flow as high as 4.0 g.p.m. with a normal amount of precipitation according to observations made by the representative of the Nevada Department of Fish and Game.

V

The records of the State Engineer's Office indicate that there are no appropriative water rights on Biddlemen Springs, and no claims of vested rights have ever been filed.

VI

Biddlemen Springs is located on property under the ownership of the applicant, Curtiss-Wright Corporation.

CONCLUSIONS

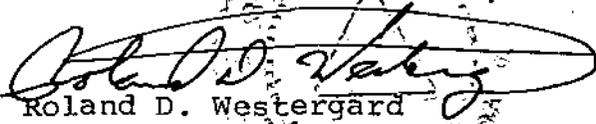
1. The State Engineer has jurisdiction of the parties and the subject matter of this ruling, as described under NRS 533.025 and 533.030, Subsection 1.
2. The State Engineer shall approve applications to appropriate water where the proposed use does not impair the value of existing rights or be otherwise detrimental to the public interest, as described under NRS 533.370, Subsection 1.
3. There are no claims of vested rights or appropriative rights of record on Biddlemen Springs.
4. The source and place of use are on property owned by the applicant, Curtiss-Wright Corporation.
5. There is no statutory authority for the State Engineer to provide that sufficient water be made available at the source for wildlife and its habitat.
6. Any permit granted by the State Engineer is issued subject to all existing rights, whether appropriated or vested.

Ruling
Application 30879
Page Three

RULING

The protest to the granting of Application 30879 is hereby overruled on the grounds that there is unappropriated water available from Biddlemen Springs for appropriation, and that the granting of a permit under this application will not impair the value of existing rights or be otherwise detrimental to the public interest. A permit will be issued under Application 30879, subject to existing rights, upon receipt of the statutory permit fee.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:BAR:sk

Dated this 4th day of
August, 1977.