

IN THE MATTER OF APPLICATION 41026 )  
FILED BY ALPINE RANCHING CO. ON A )  
GROUND WATER SOURCE IN GABBS VALLEY, )  
MINERAL COUNTY, NEVADA )

RULING

122

INTRODUCTION

I

Application 41026 was filed by Alpine Ranching Co. to appropriate water from an underground water source as described under the findings of fact for stock watering purposes within the Gabbs Valley (10-122) in Mineral County, Nevada.

FINDINGS OF FACT

I

Application 41026 was filed on April 7, 1980, in the name of Alpine Ranching Co. to appropriate 0.5 c.f.s. of water from an underground source located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 21, T.14N., R.35E., M.D.B. & M. for stock watering (2,000 cattle and 5,000 sheep) and domestic purposes, to be used within the E $\frac{1}{2}$  of said Section 21.

Notice of application was published in compliance with NRS 533.360. The deadline for the filing of protest to the granting of a permit, as provided under NRS 533.365, was October 31, 1980.

II

A protest to the granting of Application 41026 was timely filed with the State Engineer on October 7, 1980, by the U.S. Government, Bureau of Land Management, on the following grounds:

"U.S. Bureau of Land Management needs water to guarantee water availability for all livestock grazing, both present and future. This water is located in the Bell Flat allotment and it is estimated that 900 cows will use the allotments from December 16 to March 15 each year."

III

Information on file in the State Engineer's office indicates that the source under this application is located within the Bell Flat grazing allotment and that applicant, Alpine Ranching Co., is licensed for 900 cattle for the period March 1 to April 15.

IV

There are currently no claims of vested right or valid appropriative rights of record in the State Engineer's office on the source described under Application 41026.

CONCLUSIONS

I

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

II

The State Engineer is required by statute to approve all applications made in proper form where:

- a) All fees have been paid which contemplate the application of water to beneficial use
- b) The proposed use does not tend to impair the value of existing rights or to be otherwise detrimental to the public welfare.

III

The watering of livestock is declared by statute to be a beneficial use and the right to use water for that purpose may be acquired in the same manner as the right to use water for any other beneficial use.

IV

There is no evidence that subsisting or existing rights will be impaired or that the issuance of a permit under Application 41026 will be detrimental to the public interest or orderly management of the public range.

V

The State Engineer's office considers an appropriation in the amount of 20 gallons per day per head to be sufficient for the watering of cattle and 4 gallons per day per head to be sufficient for the watering of sheep and, therefore, considers an appropriation of 0.0934 c.f.s. of water to be sufficient for the watering of 2,000 head of cattle and 5,000 head of sheep.

VI

The State Engineer has no authority or jurisdiction for the granting of rights of access onto public range for stock watering purposes.

VII

Although information on record in the office of the State Engineer indicates that the Bell Flat allotment currently allows for a usage by Alpine Ranching Co. of 900 head of cattle from March 1 to April 15, these allowances are subject to future increase or decrease depending upon the condition of the range. Therefore, the granting of a permit for the watering of 2,000 head of cattle and 5,000 head of sheep would allow for future increases in grazing animals within this allotment. In the event the grazing allowance is not increased within the period for beneficial use allowed under a permit, the certificate ultimately issued would be reduced to the number of cattle actually watered at the source.

RULING

The protest to the granting of Application 41026 is herewith overruled on the grounds that the granting of a permit will not tend to impair the value of existing rights or be otherwise detrimental to the public welfare. Upon payment of the statutory permit fees, a permit will be issued which will be limited to 0.0934 c.f.s., or sufficient to water 2,000 head of cattle and 5,000 head of sheep. The permit will be issued with the specific provision that said issuance does not extend to the permittee the right of ingress and egress onto the public range.

Respectfully submitted,

*William J. Newman*

William J. Newman  
State Engineer

Dated this 23rd day of  
January, 1981

WJN/BAR/js