

IN THE MATTER OF APPLICATIONS 37043,)
AND 37059 FILED FOR SURFACE WATERS)
AND APPLICATIONS 37045 AND 37123)
FILED FOR THE WATERS OF AN UNDERGROUND)
SOURCE IN ELKO COUNTY, NEVADA)

R U L I N G

Applications 37043, 37045, and 37059 were filed on March 19, 1979, and Application 37123 was filed on March 22, 1979, by Robert R. Wright Co.

Application 37043 seeks to appropriate 0.5 c.f.s. from Spring No. 2 to be diverted and used within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8, T.38N., R.64E., M.D.B. & M., for the watering of 500 to 1,000 head of cattle. 188

Application 37045 seeks to appropriate 0.5 c.f.s. of the waters of an underground source to be diverted and used within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 36, T.38N., R.62E., M.D.B. & M., for the watering of 500 to 1,000 head of cattle. 42

Application 37059 seeks to appropriate 0.5 c.f.s. from Spring No. 17 to be diverted and used within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18; T.38N., R.64E., M.D.B. & M., for the watering of 500 to 1,000 head of cattle. 188

Application 37123 seeks to appropriate 0.5 c.f.s. of the waters of an underground source to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 10, T.37N., R.63E., M.D.B. & M., and used within portions of Sections 2, 3, and 10, T.37N., R.63E., and portions of Section 34 and 35, T.38N., R.63E., M.D.B. & M. 42

Applications 37043, 37045, and 37059 were protested on February 19, 1980, by the Bureau of Land Management on the following grounds:

"That the water is not available for appropriation under state law because it is already federally reserved as a public water. Land containing this water was withdrawn by E.O. on April 17, 1926, as Public Water Reserve No. 107 (43 CFR 2311)."

Application 37123 was protested on August 18, 1979, by the Bureau of Land Management on the following grounds:

"That the subject lands are vacant public lands, and while the applicant enjoys a preference to graze livestock on public lands; that preference is not necessarily tied to these particular public lands. Further, to provide the applicant with the water right/s as applied for effectively diminishes management alternatives for surface use by the surface owner, the United States."

By letters of June 29, 1979, this office requested information from the Bureau of Land Management regarding the range users, the number and kind of animals, and the period of use under the range allotment on the described place of use of the applications.

Lee K. Wangsgard, Manager, Wells Resource Area, Elko District Office of the Bureau of Land Management, responded by letter of August 23, 1979, stating in part:

"Applications 37043, 37059, 37045, and 37123 describe a place of use within the Holburn Allotment. In this allotment, Robert G. Wright Co. is recognized for a grazing preference amounting to 2,267 AUM's. This has been used in the past by a maximum of 938 cattle, between the dates of April 1 to November 30."

FINDINGS OF FACT

I

The applicant, Robert R. Wright Co., is a bonafide stock operator and is recognized for a grazing preference within the area of the propose appropriations. 1/

CONCLUSIONS

I

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

II.

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

- A. All fees have been paid which contemplates 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. 3/

III

The watering of livestock is declared 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 purpose. 4/

RULING

The protests to the granting of Applications 37043, 37045, 37059, and 37123 are herewith overruled on the grounds that their granting will not tend to impair the value of existing rights or be otherwise detrimental to the public welfare.

The amount of water allowed under the applications shall be limited to that amount sufficient to water 1,000 head of cattle.

Respectfully submitted,



William J. Newman
State Engineer

WJN/TJS/gk

Dated this 29th day
of JANUARY, 1981.