

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 34868)
FILED TO APPROPRIATE THE WATER FROM)
LOWRY SPRINGS, STEPTOE VALLEY, WHITE)
PINE COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 34868 was filed on January 13, 1978, by Flying Diamond Ranches, Inc. to appropriate 0.17 c.f.s. of water from Lowry Springs for stockwatering for 300 cattle and 2,000 sheep within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, T.15N., R.63E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 21, T.15N., R.63E., M.D.B.&M.¹

II.

The application was advertised for the statutory period and was informally protested by the U.S. Forest Service.¹

FINDINGS OF FACT

I.

On November 4, 1988, the State Engineer's office requested information from the U.S. Forest Service regarding the current range permittee/user within the described places of use.²

¹ Public record in the office of the State Engineer.

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² See letter in file 34868 dated November 4, 1988, public record in the office of the State Engineer.

II.

On January 11, 1989, the State Engineer's office received a letter from the U.S. Forest Service stating that applicant under Application 34868 was not the authorized range permittee for the places of use described under said Application.³

III.

The applicant cannot demonstrate the ability to place the water to beneficial use. The State Engineer, as a long standing policy, has limited approval of applications for stockwatering rights on public domain and national forest lands to the federal range permittee, or the federal agency managing and administering the federal lands.⁴

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁵

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁶

- 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.

³ See letter from U.S. Forest Service dated January 9, 1989, in file 34868, public record in the office of the State Engineer.

⁴ NRS 533.495.

⁵ NRS Chapters 533 and 534.

⁶ NRS 533.370(3).

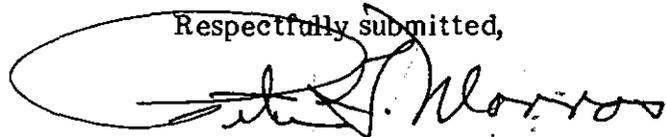
III.

Based upon the information provided by the U.S. Forest Service, the applicant is not the authorized range permittee/user within the allotment, therefore, the applicant cannot sufficiently demonstrate the ability to place the water to beneficial use for stockwatering purposes. It would, therefore, be detrimental to the public interest to approve the subject application and would further interfere with or impair the value of grazing use of the public lands by the federal range permittee.

RULING

Application 34868 is hereby denied on the grounds that to approve an application for stockwatering use on a source where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/RMT/bk

Dated this 5th day of
April, 1989.