

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
NUMBERS 44001 and 51298 FILED)
TO APPROPRIATE WATER FROM)
GRISWOLD-PARKER SPRING AND)
POLAR STAR SPRING LOCATED IN)
CLOVER VALLEY, ELKO COUNTY,)
STATE OF NEVADA.)

RULING

GENERAL

I.

Application 44001 was filed on June 29, 1981 by Loyd Sorensen to appropriate 0.05 c.f.s. of water from Griswold-Parker Spring for stockwatering of 600 head of cattle and 5,000 sheep within the NW1/4 SE1/4 and SW1/4 NE1/4 of Section 14, T.31N., R.63E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 14, T.31N., R.63E., M.D.B.&M.¹

Application 51298 was filed on September 14, 1987 by Loyd Sorensen to appropriate 0.05 c.f.s. of water from Polar Star Spring stockwatering of 300 head of cattle and 2,000 sheep within the NE1/4 SE1/4 of Section 23, T.33N., R.61E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 23, T.33N., R.61E., M.D.B.&M.¹

The subject applications were timely protested on February 12, 1982 and December 21, 1987 by the United States Bureau of Land Management generally on the following grounds: "that the water is required for multiple use management of the public land and the source is a public water reserve which was reserved for public use under the authority of Executive Order 107 on April 17, 1926 and as identified in 43 CFR 2311. The water is therefore, not available for appropriation under Nevada State Law."

¹ Public Record in the office of the State Engineer

FINDINGS OF FACT

I.

The grounds for the United States Bureau of Land Management protest has been extensively and fully considered and ruled upon in prior proceedings.²

II.

The United States has not filed any claims with the State of Nevada to establish a claim of a reserved right by executive order on Griswold-Parker Spring however they have filed claim R 04619 on Polar Star Spring (United States Government called it Government Spring). Clover Valley is under an adjudication order³ but the time for filing claims has only recently expired and there has been no determination made as to the limit and extent nor the validity of the reserved right claim.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁴

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where⁵:

- A. There is no unappropriated water at the proposed source, or

2 See State Engineers Ruling No. 3219 on Application 37061 et. al; issued on July 26, 1985. Public record in the office of the State Engineer.

3 See In The Matter of the Determination in and to the Relative Right in Clover Valley, Elko County, Nevada

4 NRS Chapter 533.

5 NRS Chapter 533.370

- B. The proposed use or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.

III.

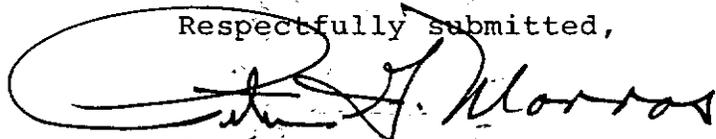
The State Engineer concludes that if in fact these sources of water meet the criteria of a Public Water Reserve, they shall be recognized as such and any permits granted would be subject to the prior reserved right. Conversely if the sources do not qualify for reserved status, any permits granted on the sources would only be later in priority to any other vested rights that may exist. Only after a general adjudication of all rights would there be a determination made of the extent of any other vested claims and the validity of any claimed or unclaimed reserved rights.

RULING

The protests to applications 44001 and 51298 are hereby overruled and said applications are hereby approved subject to the following conditions:

1. Payment of the statutory permit fees.
2. To the prior reserved rights of the United States if in fact these rights exist and the sources meet the proper criteria.
3. To all other existing rights.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/SW/pm

Date this 23rd day of
January, 1990