

IN THE OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 55266)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNNAMED SPRING)
LOCATED IN EAGLE VALLEY, CARSON)
CITY INCORPORATED AREA, STATE OF)
NEVADA.)

RULING
3783

GENERAL

I.

Application 55266 was filed on September 13, 1990, by Gene R. Anderson and Annie Laurie Anderson to appropriate 0.10 c.f.s. of water from an unnamed spring to irrigate 2.65 acres of landscaping within the SW1/4 SE1/4 of Section 2, T.15N., R.19E., M.D.B.&M. The point of diversion is within the same forty (40) acre subdivision as the place of use and is further described as Lot 10, Unit III, Timberline Subdivision, Carson City, Nevada.¹

FINDING OF FACT

I.

A field investigation was conducted on January 29, 1991. A discharge of 0.67 gallons per minute (0.001 c.f.s.) was measured at the source.²

II.

Access by wildlife to water from a spring or water that has seeped to the surface of the ground is required by statute.³

III.

Providing water for wildlife is a beneficial use.⁴

1 Public Information in the office of the State Engineer.

2 Public Information under Application 55266 in the office of the State Engineer.

3 See NRS 533.367.

4 State v. State Engineer, 104 Nev. 709, 706 P. 2d 263 (1988).

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where⁶:

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

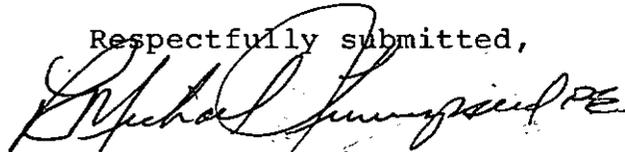
III.

An adequate flow does not exist at the source to support irrigation of 2.65 acres of land.

RULING

Application 55266 is hereby denied on the grounds that it would not be in the public interest to grant a permit on a source of water where there would not be sufficient flow to ensure the customary use by wildlife as required under NRS 533.367.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SW/pm

Dated this 14th day of
February, 1991

⁵ NRS Chapter 533.

⁶ NRS 533.370.