

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

IN THE MATTER OF APPLICATION 56822)
FILED TO APPROPRIATE WATER FROM AN)
UNDERGROUND SOURCE LOCATED IN)
LOVELOCK VALLEY, PERSHING COUNTY,)
NEVADA.)

RULING

3951

GENERAL

I.

Application 56822 was filed on October 10, 1991, by the Atchison, Topeka and Santa Fe Railway Company to appropriate 0.10 c.f.s. of water from an underground source for stockwatering for 200 cattle and 4,000 sheep within the NW1/4 of the NW1/4 of Section 5, T.25N., R.30E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4, Section 6, T.25N., R.30E., M.D.B.&M.¹

II.

Application 56822 was timely protested on December 6, 1991, by the Bureau of Land Management on the following grounds, to wit:¹

The source is located on public land in section 6 T.25N., R.30E., the beneficial use would be for support of livestock grazing. The Bureau of Land Management should have 100 per cent interest in the water right. Atchison, Topeka, and Santa Fe Railway Company are not authorized for livestock use on the public land.

FINDINGS OF FACT

I.

In a letter dated October 22, 1991, the State Engineer's office requested information from the Bureau of Land Management regarding the current range permittee within the described place of use. On December 6, 1991, the State Engineer's office received a letter from the Bureau of Land Management stating that the applicant of Application 56822 was not the authorized range

¹ File 56822, official records in the office of the State Engineer.

permittee for the place of use described under said Application.¹

II.

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 to the federal range permittee, or the federal agency managing and administering the federal lands.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

III.

Based on the information provided by the Bureau of Land Management, the applicant is not the authorized range permittee 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 subject application and would further interfere with or impair the value of grazing use of the public lands by the federal range permittee.

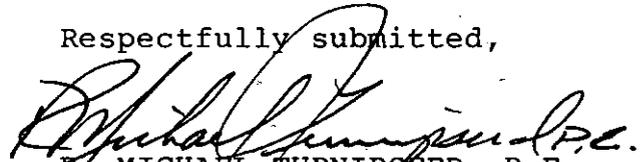
² NRS 533 and 534.

³ NRS 533.370.

RULING

The protest to Application 56822 is hereby upheld and Application 56822 is hereby denied on the grounds that to approve an application for stockwatering use on the source where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JCP/pm

Dated this 7th day of
April, 1993.