

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

IN THE MATTER OF APPLICATION 47468 FILED)
TO APPROPRIATE THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN THE INDEPENDENCE)
VALLEY GROUND WATER BASIN IN ELKO COUNTY,)
NEVADA.)

RULING
4000

GENERAL

I.

Application 47468¹ was filed on November 28, 1983 by Georgie Hansen to appropriate 6.4 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the NW $\frac{1}{4}$, and the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 23; and the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 22, T.40N., R.52E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T.40N., R.52E., M.D.B.&M.

II.

Application 47468 was timely protested on April 23, 1984 by James J. Wright Ranch, Inc. a Nevada Corporation on the following grounds, to wit:

To Protest in the Matter of Application Number 47468 Filed by James A. Hansen on November 28, 1983, to appropriate the Water of an underground source.

1. Protestant holds a preference right to graze a portion of the area proposed to be irrigated which area is an integral portion of an allotment management plan and disruption of said plan will adversely affect conservation measures in a considerable area of Public Lands.
2. The well is planned for use in connection with a Desert Land Entry upon which the Bureau of Land Management, Elko, Nevada, has not taken any action and the issuance if [sic] a permit at this time is premature.
3. Experience in Independence Valley has proven that in the area of the proposed well field crops cannot be produced at a profit as a ten

¹ Public record in the office of the State Engineer.

year record shows 66 frost free days with a 75% chance of a longer frost free period. As the type of use intended cannot be profitable, abandonment of the project will occur without proper reclamation of the disturbed area.

Therefore the protestant requests that the application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

Application was timely protested on May 8, 1984 by Van Norman Ranches, Inc. on the following grounds, to wit:

To Protest in the Matter of Application Number 47468 Filed by James A. Hansen on November 28, 1983, to appropriate the Waters of an underground source.

1. Protestant holds permits on two irrigation wells in the vicinity of the proposed well which well will be adversely affected by additional use of underground water.
2. Protestant makes use of a stockwater well located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23 T40N, R52E, MDM established by the Bureau of Land Management and granting of the application will adversely affect such use.
3. Protestant holds a preference right to graze livestock in the area from the Bureau of Land Management encompassed by said application, which area is an integral portion of an allotment management plan and disruption of said plan by the placement of an irrigation well will adversely affect conservation measures in a considerable area of Public Lands.
4. The well is planned for use in connection with a Desert Land Entry upon which the Bureau of Land Management, Elko, Nevada has not taken any action and the issuance of a permit at this time is premature.

Therefore the protestant requests that the application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

III.

Application 47468 was assigned on February 24, 1984 by Georgie Hansen to James A. Hansen.

FINDINGS OF FACT

I.

Records and information available to the State Engineer indicate that Application 47468 was filed in support of a Desert Land Entry application.²

II.

By letter dated September 11, 1992, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry application had been closed and the case file is dead.²

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-38762	James A. Hansen	T.40N., R.52E., Section 22, E $\frac{1}{2}$ NE $\frac{1}{4}$; Section 23, NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$

III.

The applicant under Application 47468 does not own or control the land described under the place of use of the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.³

II.

Application 47468 was filed in support of a Desert Land Entry. The Desert Land Entry application described under II of Findings of Fact has been closed on the records of the Bureau of Land Management, therefore, the applicant does not own or control the land described under the place of use of the application and cannot demonstrate the ability to place the water to beneficial use.

III.

To grant an application to appropriate the public water for irrigation on lands the applicant does not own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare.

² Public record of the office of the State Engineer filed under Application 47468.

³ NRS Chapters 533 and 534.

IV.

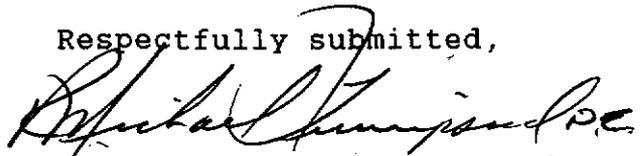
The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

- 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.

RULING

Application 47468 is herewith denied on the grounds that to grant an application for irrigation purposes on lands that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare. No finding is made on the validity of the protests submitted by James J. Wright Ranch, Inc. and Van Norman Ranches, Inc.

Respectfully submitted,


F. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MR/pm

Dated this 14th day of
June, 1993.

⁴ NRS Chapter 533.370(3).