

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

IN THE MATTER OF APPLICATION 13544)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE HOT CREEK GROUNDWATER)
BASIN (156), NYE COUNTY, NEVADA.)

RULING

4575

GENERAL

I.

Application 13544 was filed on November 16, 1950, by John J. Casey to appropriate 0.032 cubic foot per second of water from an underground source for stockwater purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, T.8N., R.49E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, T.8N., R.49E., M.D.B.&M.¹

II.

Application 13544 was timely protested by C. A. Blair, through his attorney William J. Crowell, on the following grounds:

That Protestant, together with his predecessors in interest have for more than forty (40) years last past used the range upon which the above application is requested, in common with other cattlemen and ranchers in the district, and as such, Protestant and his predecessors in interest in common with others, have utilized all of the range appurtenant to said well location, and that granting of a water right at that place to the applicant will materially affect, and invade, and impair the established rights of Protestant.¹

III.

Application 13544 was timely protested by Melvin J. Filippini on the following grounds:

Protestant and his predecessors in interest have a vested right and use to the range in which said well is situated, which vested right and use has been used by Protestant and his predecessors in interest since prior to 1917; that the range in said district is fully utilized by cattle now ranging thereat, and that the granting of the application will materially affect and

¹ File No. 13544, official records in the office of the State Engineer.

impair Protestant's vested right and use in and to the range.¹

FINDINGS OF FACT

I.

The perennial yield of a hydrologic basin is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. Perennial yield cannot exceed that natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural recharge that can be salvaged for beneficial use. If the perennial yield is continuously exceeded, groundwater levels will decline until the groundwater reservoir is depleted. Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping gradients which could result in significant changes in the recharge-discharge relationship. The United States Geological Survey estimates that the perennial yield of the Hot Creek Groundwater Basin is 5,500 acre-feet annually.² The State Engineer finds that existing certificated and permitted ground water rights in the Hot Creek Groundwater Basin do not exceed the perennial yield.³

II.

By certified letter dated July 30, 1996, the protestant, Melvin J. Filippini, was requested to advise this office if he was still interested in maintaining the subject protest. The State

² Rush, F. Eugene and Everett, Duane E., WATER RESOURCES - RECONNAISSANCE SERIES REPORT 38, WATER - RESOURCES APPRAISAL OF LITTLE FISH LAKE, HOT CREEK, AND LITTLE SMOKY VALLEYS, NEVADA, State of Nevada, Department of Conservation and Natural Resources and U.S.G.S., p. 2, May 1966.

³ Special Hydrologic Basin Abstract, Water Rights Database, October 2, 1997, official records in the office of the State Engineer.

Engineer finds the letter was returned by the U.S. Postal Service on August 6, 1996, marked as "Attempted Not Known".¹

III.

By certified letters dated July 30, 1996, the protestant, C. A. Blair, and his attorney were requested to advise this office if Mr. Blair was still interested in maintaining the subject protest. The certified letters were mailed to both addresses currently on file for C. A. Blair; however, both letters were returned by the U.S. Postal Service on August 2, 1996, and on August 6, 1996, marked as "Attempted Not Known" and "No Such Address".¹

IV.

In a letter to this office dated October 25, 1996, from Michael A. Valdes, District Ranger, U.S. Forest Service, Mr. Valdes confirmed that the current owner of record of Application 13544, Colvin and Son, is the current grazing permittee for the proposed place of use identified in Application 13544.¹ Mr. Valdes also confirmed that neither of the protestants to Application 13544 own grazing permits in the vicinity of the proposed well under Application 13544.¹

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- A. there is no unappropriated water at the proposed source, or
- B. the proposed use conflicts with existing rights, or

⁴ NRS Chapters 533 and 534.

⁵ NRS § 533.370(3).

- C. the proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes there is water available for appropriation in the Hot Creek Groundwater Basin.

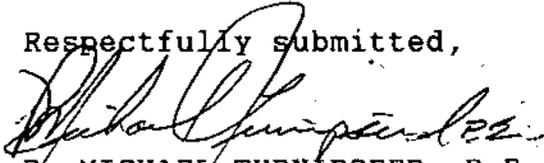
IV.

The State Engineer concludes that the protestants no longer have any grazing permits in the area; therefore, to grant a permit under the application would not interfere with any grazing right of protestants. The State Engineer further concludes to grant a permit under Application 13544 will not conflict with existing rights nor prove detrimental to the public interest.

RULING

The protests to Application 13544 are hereby overruled and Application 13544 is hereby granted upon payment of the required statutory permit fee.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RAD/ab

Dated this 17th day of
October, 1997.