

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

IN THE MATTER OF APPLICATION )  
8112 FILED TO APPROPRIATE THE )  
PUBLIC WATERS FROM GABBS )  
VALLEY WELL WITHIN THE )  
GABBS VALLEY HYDROGRAPHIC )  
BASIN (122), NYE COUNTY, )  
NEVADA. )

RULING  
**# 5178**

GENERAL

I.

Application 8112 was filed on April 27, 1927, in the name of J.N. Bryan to appropriate sufficient water for 500 head of cattle from the Gabbs Valley Well for stockwatering and domestic purposes. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 22, T.12N., R.36E., M.D.B.&M.<sup>1</sup>

II.

Application 8112 was deeded to the Ellenwood Livestock Company on May 23, 1969.<sup>1</sup>

III.

The application was protested formally by Cornell and Maestretti on the following grounds:

That the well dug by applicant is within 1¼ to 1½ miles of Franks Well No. 1, which source is held by the protestants under certificate issued under permit No. 6739; that protestants have continuously and uninterruptedly used the water from said Franks Well No. 1 ever since the right was initiated and that to grant applicant a permit under application No. 8112 would be absolutely in violation of the provisions, intents and purposes of the "Stockwatering Act", as protestants are using all of the range territory adjacent and surrounding said sources, and that said range territory has been used by them and their predecessors for many years prior to 1905, all of which can be readily corroborated [sic] by reference to the "range map" on file in the State Engineer's Office.

Wherefore the protestant prays that the application be denied.<sup>1</sup>

<sup>1</sup> File No. 8112, official records in the Office of the State Engineer.

**IV.**

The application was informally protested by J.F. Bowler on the following grounds:

That the point of diversion and place of use described in said application are situate about two miles West of Granite Spring, the use of the waters of which was granted to this protestant by a certain permit issued by the State Engineer of the State of Nevada, in the year 1917, and which is now owned and controlled by this protestant, and in connection with the use of the waters of said Granite Spring by virtue of his said permit this protestant has continuously since the year 1917 utilized all that portion of the public range readily available to livestock watering at that place, including the public range at and in the vicinity of said Gabbs Valley Well, and that any permit for the watering of range livestock at said Gabbs Valley Well would enable the proposed appropriator to deprive this protestant of the grazing use of said portion of the public range and would substantially interfere with, and impair and destroy the value of, such grazing use and of such water right.

Wherefore protestant prays that the application be denied.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The applicant and agent were notified by certified mail dated August 20, 2002, to advise this office in writing if they were interested in pursuing Application 8112. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letter was returned by the U.S. Postal Service stamped "Returned To Sender, Not Deliverable As Addressed".<sup>1</sup>

To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicant was properly notified of the request for additional information regarding interest in pursuing Application 8112 and failed to respond.

**II.**

The State Engineer finds that it is the responsibility of the applicant, or their successor in interest, to keep this office informed of a current mailing address.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.<sup>2</sup>

### II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>3</sup>

### III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>4</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

### IV.

The applicant was properly notified of the requirement for additional information concerning interest in this application and has failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to respond affirms the applicant's lack of interest in pursuing Application 8112.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(3).

RULING

Application 8112 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and that without this information the granting of the application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 22nd day of

November, 2002.