

IN THE MATTER OF APPLICATIONS 25427,)
25428, 25429, 25430, AND 25431, FILED)
BY CACTUS PETE'S, INC. FOR THE WATERS) R U L I N G
OF AN UNDERGROUND SOURCE IN THE SALMON)
FALLS CREEK AREA, ELKO COUNTY, NEVADA.)

Application 25427 was filed on January 12, 1970, by Cactus Pete's, Inc. to appropriate 1.0 c.f.s. of the waters of an underground source within the NW $\frac{1}{2}$ NW $\frac{1}{2}$ Section 12, T.47N., R.64E., M.D.B.&M. to be used for commercial and domestic purposes within the SW $\frac{1}{4}$ Section 1, NW $\frac{1}{4}$ Section 12, T.47N., R.64E., M.D.B.&M.

Application 25428 was filed on January 12, 1970, by Cactus Pete's Inc. to appropriate 1.0 c.f.s of the waters of an underground source within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, T.47N., R.64E., M.D.B.&M. to be used for commercial and domestic purposes within the SW $\frac{1}{4}$ Section 1 and the NW $\frac{1}{4}$ Section 12, T.47N.,R.64E., M.D.B.&M. The waters under this application and under Application 25427 are to be commingled to serve 60 trailer spaces.

Application 25429 was filed on January 12, 1970, by Cactus Pete's, Inc. to appropriate 1.0 c.f.s. of the waters of an underground source to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, T.47N.,R.64E., to be used for commercial and domestic purposes within the SW $\frac{1}{4}$ Section 1, and the NW $\frac{1}{4}$ Section 12, T.47N.,R.64E.

Application 25430 was filed on January 12, 1970, by Cactus Pete's, Inc. to divert 1.0 c.f.s. of the waters of an underground source within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, T.47N., R.64E., to be used for commercial and domestic purposes within the SW $\frac{1}{4}$ Section 1, the NW $\frac{1}{4}$ Section 12, T.47N.,R.64E., M.D.B.&M.

Application 25431 was filed on January 12, 1970, by Cactus Pete's, Inc. to appropriate 1.0 c.f.s. of the waters of an underground source to be diverted within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, T.47N.,R.64E., M.D.B.&M., and to be used for commercial and domestic purposes within the SW $\frac{1}{4}$ Section 1 and the NW $\frac{1}{4}$ Section 12, T.47N.,R.64E., M.D.B.&M. Waters under this application and Applications 25429 and 25430, are to be commingled to serve a bar, a restaurant, a 65 unit motel and swimming pool.

These applications were protested on June 4, 1970, by the Salmon River Canal Company, Ltd. on the following grounds:

"The ground water in the area where the appropriation is sought is part of the natural aquifer which supplies

Shoshone Creek and Salmon Falls Creek, the waters of which streams are entirely appropriated and which waters are, with the exception of certain rights therein vested in certain landowners not including the applicant, entirely appropriated by the Salmon River Canal Company, Ltd. on behalf of its stockholders, and which waters have been fully and finally adjudicated by the United States District Court for the District of Nevada and are subject to the comprehensive agreement between the Salmon River Canal Company, Ltd. and water users situated in Elko County, Nevada, claiming rights to the waters of the aquifer which supplies Shoshone Creek and Salmon Falls Creek."

The U. S. Geological Survey, in cooperation with the Department of Conservation and Natural Resources published Water Resources-Reconnaissance Series Report 48 Water-Resources Appraisal of The Snake River Basin in Nevada in July, 1968. This report deals in part with the Salmon Falls Creek area. It is stated in the report that 7,400 acre feet a year of ground water is lost to evapotranspiration. It further indicates that there is 100,000 acre feet of ground water in storage in the first 100 feet of saturated soils. The perennial yield of the Salmon Falls Creek area is estimated to be 7,400 acre feet. This report also states: "Withdrawals from well one-half to several miles from the main streams would have minimum effects on stream flow."

The total appropriations in the immediate area of Jackpot are in the order of 2,000 acre feet per year. The total appropriation within the Salmon Falls Creek area is in the order of 2,800 acre feet per year. While permits for other wells have been issued within the basin they are only used to make up deficiencies in the stream flow.

As noted above, the waters to be appropriated under Applications 25427 and 25428 are to be commingled to serve 60 motel units. If granted, the total right under both applications would cause a draft of 19.15 acre feet per year on the ground water basin. The waters, if granted under Applications 25429, 25430, and 25431 are to be commingled to serve a bar, a restaurant, a 65 unit motel and swimming pool. The total draft on the ground water basin would be 16.8 acre feet per year.

The total draft on the basin if all applications are granted would be 35.95 acre feet.

OPINION

It is our opinion that the water users of the State of Nevada are entitled to develop ground water resources

to salvage water lost from the system through evapotranspiration and this disposition does not contravene the findings of the Salmon River Decree, or the agreement between the Salmon River Canal Company, Ltd. and the Nevada water users.

RULING

The protests against the granting of Applications 25427 to 25431, inclusive, are hereby overruled on the grounds that the waters to be appropriated under these applications are not subject to the Salmon River Decree, or the agreement between the Salmon River Canal Company, Ltd. and the Nevada water users. Permits will be granted under the above numbered applications upon submission of statutory permit fees.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:TJS: jw

Dated this 6th day
of May, 1971.