

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 43929,)
43930, 43931, 43932, 43933 AND 43934 FILED)
TO APPROPRIATE SURFACE WATERS IN THE)
PINE CREEK, TONKA CREEK AND DIXIE)
CREEK DRAINAGES IN ELKO COUNTY,)
NEVADA.)

RULING

GENERAL

Application 43929 was filed on June 22, 1981, by Julian Tomera Ranches, Inc., to appropriate 0.05 c.f.s. of water from an unnamed spring for stockwatering purposes within the E1/2 SE1/4 Section 3, T.31N., R.53E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 3, T.31N., R.53E., M.D.B.&M.¹

Application 43930 was filed on June 22, 1981, by Julian Tomera Ranches, Inc., to appropriate 0.05 c.f.s. of water from an unnamed spring for stockwatering purposes within the NE1/4 NW1/4 Section 15, T.31N., R.53E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 15, T.31N., R.53E., M.D.B.&M.¹

Application 43931 was filed on June 22, 1981, by Julian Tomera Ranches, Inc., to appropriate 0.05 c.f.s. of water from an unnamed spring for stockwatering purposes within Lot 1 Section 18, T.31N., R.53E., M.D.B.&M. The point of diversion is described as being within Lot 1 Section 18, T.31N., R.53E., M.D.B.&M.¹

Application 43932 was filed on June 22, 1981, by Julian Tomera Ranches, Inc., to appropriate 0.05 c.f.s. of water from Bird Spring for stockwatering purposes within the NW1/4 NE1/4 Section 21, T.32N., R.53E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 21, T.32N., R.53E., M.D.B.&M.¹

Application 43933 was filed on June 22, 1981, by Julian Tomera Ranches, Inc., to appropriate 0.05 c.f.s. of water from Imigrant Spring for stockwatering purposes within the SW1/4 NE1/4 Section 34, T.32N., R.53E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 34, T.32N., R.53E., M.D.B.&M.¹

Application 43934 was filed on June 22, 1981, by Julian Tomera Ranches, Inc., to appropriate 0.05 c.f.s. of water from Beards Creek Spring for stockwatering purposes within the NE1/4 NW1/4 Section 20, T.32N., R.53E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 20, T.32N., R.53E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer under Applications 43929, 43930, 43931, 43932, 43933 and 43934.

FINDINGS OF FACT

I.

The unnamed springs identified as the source of water under Applications 43929 and 43930 are tributary to Dixie Creek which in turn is tributary to the Humboldt River.²

II.

The unnamed spring identified as the source of water under Application 43931 is tributary to Ferdelford Creek which is tributary to Pine Creek which in turn is tributary to the Humboldt River.²

III.

The Bird Spring and Beards Creek Spring identified as the source of water under Applications 43932 and 43934, respectively, are tributary to Tonka Creek which in turn is tributary to the Humboldt River.²

IV.

The Imigrant Spring (aka Emigrant Spring) identified as the source of water under Application 43933 is tributary to an unnamed draw which in turn is tributary to the Humboldt River.²

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of these applications.³

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in 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.⁴

² USGS 15 Minute Quadrangle Maps "Carlin and Dixie Flats, Nev.", 1962 (286 and 287).

³ NRS 533.325.

⁴ NRS 533.370, subsection 3.

III.

In the Bartlett Decree for the Humboldt River Adjudication, the Court states under Finding of Fact No. 44 that the stream system is fully appropriated.⁵

RULING

Applications 43929, 43930, 43931, 43932, 43933 and 43934 are hereby denied on the grounds there is no unappropriated water in the source as set forth in the Final Judgment and Decree of the Humboldt River Adjudication and further that the granting of the applications would tend to impair the value of existing rights.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/MT/bl

Dated this 5th day of
December, 1984.

⁵ The Humboldt River Adjudication 1923-1938. The Bartlett Decree Findings of Fact No. 44, p. 28, Humboldt County, Nevada.