

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 43778 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF SAGE HEN SPRINGS IN DIXIE )  
VALLEY, CHURCHILL COUNTY, NEVADA. )

RULING

GENERAL

Application 43778 was filed on May 22, 1981, by Frank W. Lewis to appropriate 0.5 c.f.s. of water from Sage Hen Springs for mining, milling and domestic purposes within Sections 4, 5, 8 and 9, T.18N., R.35E., M.D.B.&M., and Sections 32 and 33, T.19N., R.35E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 5, T.19N., R.36E., M.D.B.&M.<sup>1</sup>

Application 43778 was timely protested by Michael P. and Margaret J. Casey on November 24, 1981, on the grounds that the Caseys have an existing stockwatering right (Permit 7111, Certificate 1602) on Sage Hen Springs and feel the issuance of a permit under Application 43778 will adversely affect their right.<sup>2</sup>

After notice to all parties, a field investigation was held on September 17, 1984, to gather additional information and to attempt to resolve the protest.

Both parties agreed that Frank Lewis would provide four (4) control valves and Casey would supply four (4) watering troughs; and that all stock and wildlife would be allowed water at all times provided there is water available at the source. The agreement is filed under Application 43788.<sup>3</sup>

FINDINGS OF FACT

I.

In 1963, Water Resources-Reconnaissance Series Report No. 23, "A Brief Appraisal of the Ground-Water Hydrology of the Dixie-Fairview Valley Area, Nevada", was prepared cooperatively by the U.S. Geological Survey, U.S. Department of the Interior, and the Nevada Department of Conservation and Natural Resources. This report can be viewed at the office of the State Engineer.

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<sup>1</sup> Public record in the office of the State Engineer under Application 43778.

<sup>2</sup> A copy of the protest is a public record on file with Application 43778 in the office of the State Engineer.

<sup>3</sup> A copy of the field investigation report is a public record on file with Application 43778 in the office of the State Engineer.

In 1974, "Water for Nevada - Reconnaissance Soil Survey Dixie Valley", was prepared cooperatively by the Department of Conservation and Natural Resources, Division of Water Resources; the Agricultural Experiment Station, University of Nevada, Reno; and the Soil Conservation Service, U.S. Department of Agriculture. This report is available at the office of the State Engineer.

II.

Information on file in the State Engineer's office indicates that Michael P. and Margaret J. Casey have a grazing certificate for 500 sheep and 100 cattle.<sup>4</sup>

III.

All streams in Dixie Valley are ephemeral, however, some are perennial for short distances where springs discharge into the channel. Most of the streamflow normally occurs in the spring and early summer as the snowpack that accumulates during the previous winter melts - the resulting peak flows commonly being May and June.<sup>5</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>6</sup>

II.

The evidence and information available does not indicate that there will be any adverse effects on existing rights if Application 43778 is granted.

RULING

The protest to the granting of Application 43778 is hereby overruled on the grounds that granting said permit will not tend to impair the value of existing rights or be otherwise detrimental to the public welfare.

A permit will be issued under said application on receipt of the statutory permit fees and subject to the following provisions:

- (1) Subject to existing rights;

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<sup>4</sup> Public record in the office of the State Engineer under Permit 7111, Certificate 1602.

<sup>5</sup> Water Planning Report - Reconnaissance Soil Survey Dixie Valley, p. 5.

<sup>6</sup> NRS 533.325.

(2) Part of the stockwatering facilities must be supplied by the applicant and these facilities must be made available to livestock and wildlife at all times provided there is water at the source as per the agreement filed September 17, 1984, under Application 43778.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a horizontal line.

Peter G. Morros  
State Engineer

PGM/MD/bl

Dated this 5th day of  
February, 1985.

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
BEFORE PETER G. MORROS, STATE ENGINEER

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In the Matter of Cancellation  
Numbers

33393, 34279, 34280,  
34281, 34282, 34283.

TRANSCRIPT OF PROCEEDINGS

HEARING

TUESDAY, FEBRUARY 12, 1985

CARSON CITY, NEVADA

APPEARANCES:

For the Division:

PETER G. MORROS  
State Engineer  
HUGH RICCI  
Ground Water Engineer  
201 South Fall Street  
Carson City, Nevada

For the Permittees:

CONSULTING ENGINEERING SERVICES  
BY: GEORGE THIEL, P.E.  
1031 Riverview Drive  
Gardnerville, Nevada

REPORTED BY:

MARY E. BELL, CSR, RPR, CP  
Nevada CSR #98

1 obvious that there's a substantial investment in the  
2 development of the sources of water under these permits by  
3 your clients and their predecessors.

4 In view of these circumstances, I'm going to rule  
5 that the cancellation of these permits as set forth in State  
6 of Nevada exhibit number 1 will be rescinded and the permits  
7 will be reinstated on the records of the State Engineer's  
8 Office in conformance with the provisions of NRS 533.395.

9 I think the record should further reflect that the  
10 priority date under these permits will now be January 7th,  
11 1985 and that's provided for again under NRS 533.395,  
12 subsection 3.

13 MR. THIEL: That will be subject to the Permittee's  
14 exhibit, bringing that in also?

15 MR. MORROS: It will be subject to the Petitioners  
16 submitting the additional exhibit and it will also be subject  
17 to the payment of the transcript costs for this hearing.

18 I think that in reviewing the permits, that there are  
19 various proofs that are due under the permits and there will a  
20 requirement that an application for an extension of time be  
21 filed within 30 days of today's date or that the proof be  
22 filed as required under the terms of the permit.

23 I think the record should further reflect that there  
24 have been several extensions of time granted under these  
25 permits in the past and that the permittees are certainly  
26 going to have to demonstrate due diligence in the future for

1 any additional consideration.

2 MR. THIEL: CES, Incorporated will be acting as  
3 agent on these water rights permits, so in the future when  
4 something like this happens we will be involved directly.

5 MR. MORROS: Then it's necessary that we have a  
6 letter from the permittees to the effect that they wish your  
7 company to act as agents in the future so that the proper  
8 notes can be made in the file as to the parties to be noticed  
9 by any notices that go out in the future concerning these  
10 permits.

11 Is there anything further?

12 MR. THIEL: No.

13 MR. MORROS: I'll declare the hearing closed.

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15 (The hearing was duly concluded.)

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