

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 40976)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNNAMED SPRING IN)
TRUCKEE MEADOWS, WASHOE COUNTY,)
NEVADA.)

RULING

GENERAL

Application 40976 was filed on March 28, 1980, by William Shay to appropriate 0.1 c.f.s. of water from an unnamed spring for wildlife and recreation purposes within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12, T.18N., R19E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, T.18N., R19E., M.D.B.&M.¹

FINDINGS OF FACTS

I.

The unnamed spring identified as the source of water in Application 40976 is tributary to the Lake Ditch or Dry Creek which is tributary to Boynton Slough.²

II.

The unnamed spring is to be contained in Lakes where evaporation from the surface area constitutes a consumptive use.³

III.

Rights to Dry Creek and Boynton Slough are enumerated in the Truckee River Decree.³

CONCLUSIONS

I.

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

¹ Public record in the office of the State Engineer.

² Report of field investigation attached to file 40976 on record in the office of the State Engineer.

³ United States v. Orr Water Ditch Company et al in and for the district of Nevada, In Equity Docket No. A3.

⁴ NRS 533.375.

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 appropriated water at 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.

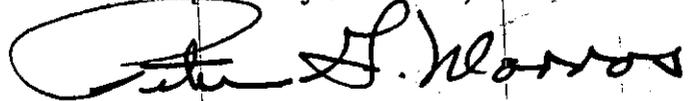
III.

The granting of a permit under subject application would conflict with and impair existing decreed rights to tributaries to the Truckee River.

RULING

Pursuant to the foregoing Findings of Fact and Conclusions Application 40976 is hereby denied on the grounds that granting said application would conflict with and impair existing decreed rights.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/II

Dated this 22nd day of

February, 1985.

⁵ NRS 533.370 (3).