

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 44232,) 44233, 44234, 44235, 44353, 44354, 44355,) 44356, 44364 AND 44365 FILED TO) APPROPRIATE THE PUBLIC WATERS OF) SURFACE SOURCES IN THOUSAND SPRINGS) VALLEY, ELKO COUNTY, NEVADA. )

RULING

GENERAL

Application 44232 was filed on August 5, 1981, by Alfred J. Thompson to appropriate 0.5 c.f.s. of water from Unnamed Spring No. 1 for irrigation and domestic purposes on 5 acres of land within the NW1/4 SW1/4 Section 19, T.40N., R.64E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 19, T.40N., R.64E., M.D.B.&M.<sup>1</sup>

Application 44233 was filed on August 5, 1981, by Alfred J. Thompson to appropriate 0.5 c.f.s. of water from Unnamed Spring No. 2 for irrigation and domestic purposes on 5 acres of land within the SE1/4 SW1/4 Section 19, T.40N., R.64E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 19, T.40N., R.64E., M.D.B.&M.<sup>1</sup>

Application 44234 was filed on August 5, 1981, by Alfred J. Thompson to appropriate 0.5 c.f.s. of water from Unnamed Spring No. 3 for irrigation and domestic purposes on 5 acres of land within the SE1/4 NE1/4 Section 30, T.40N., R.64E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 30, T.40N., R.64E., M.D.B.&M.<sup>1</sup>

Application 44235 was filed on August 5, 1981, by Alfred J. Thompson to appropriate 0.5 c.f.s. of water from Unnamed Spring No. 4 for irrigation and domestic purposes on 5 acres of land within the NW1/4 NW1/4 Section 1, T.39N., R.64E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 1, T.39N., R.64E., M.D.B.&M.<sup>1</sup>

Application 44353 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 c.f.s. of water from Toby Springs for stockwater purposes within the SE1/4 NE1/4 Section 33, T.40N., R.64E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 33, T.40N., R.64E., M.D.B.&M. The application proposes to water 2000 head of cattle.<sup>1</sup>

Application 44354 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 c.f.s. of water from Roger Springs for stockwater purposes within the SE1/4 NE1/4 Section 32, T.40N., R.64E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 32, T.40N., R.64E., M.D.B.&M. The application proposes to water 2000 head of cattle.<sup>1</sup>

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

Application 44355 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 c.f.s. of water from Matthew Springs for stockwater purposes within the NW1/4 SW1/4 Section 3, T.39N., R.64E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 3, T.39N., R.64E., M.D.B.&M. The application proposes to water 2000 head of cattle.<sup>1</sup>

Application 44356 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 c.f.s. of water from Wood Spring for stockwater purposes within the SE1/4 SW1/4 Section 3, T.39N., R.64E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 3, T.39N., R.64E., M.D.B.&M. The application proposes to water 2000 head of cattle.<sup>1</sup>

Application 44364 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 c.f.s. of water from Thurston Spring for stockwater purposes within the NE1/4 SE1/4 Section 1, T.39N., R.64E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 1, T.39N., R.64E., M.D.B.&M. The application proposes to water 2000 head of cattle.<sup>1</sup>

Application 44365 was filed on August 25, 1981, by Shirley Packer to appropriate 1.0 c.f.s. of water from West Brush Creek and tributaries for stockwater purposes within the SW1/4 SE1/4 Section 18, T.40N., R.64E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 18, T.40N., R.64E., M.D.B.&M. The application proposes to water 2000 head of cattle.<sup>1</sup>

Applications 44353, 44354, 44355, 44356, 44364 and 44365 were timely protested by Lands of Sierra, Inc., on February 2, 1982, on the following grounds:<sup>1</sup>

- "1. Amount of water applied for is excessive for stockwater.
2. Lands of Sierra is the present owner of a majority of the decreed water rights on Thousand Springs Creek and its tributaries. Appropriation..., if approved, would be detrimental to water rights currently owned and being put to beneficial use by Lands of Sierra."

#### FINDINGS OF FACTS

##### I.

The Unnamed Springs, identified as the source of water under Application 44232, 44233, and 44234, are tributary to the West Fork of Brush Creek which in turn is tributary Thousand Springs Creek.<sup>2</sup>

The Unnamed Spring, identified as the source of water under Application 44235, is in a natural channel of Medicine Creek which is tributary to Toano Draw which in turn is tributary to Thousand Springs Creek.<sup>2</sup>

Toby Spring, identified as the source of water under Application 44353, is 300 feet west of Brush Creek and tributary to Brush Creek which in turn is tributary to Thousand Springs Creek.<sup>2</sup>

<sup>2</sup> Field investigation report filed with Applications 44232, 44233, 44234, 44235, 44353, 44354, 44355, 44356, 44364 and 44365, public record in the office of the State Engineer.

Roger Creek, identified as the source of water under Application 44354, is in a small draw tributary to Brush Creek which in turn is tributary to Thousand Springs Creek.<sup>2</sup>

Matthew Spring, identified as the source of water under Application 44355, is in a draw which is the main source of Brush Creek which in turn is tributary to Thousand Springs Creek.<sup>2</sup>

Wood Spring, identified as the source of water under Application 44356, is at the head waters of Brush Creek which in turn is tributary to Thousand Springs Creek.<sup>2</sup>

Thurston Spring, identified as the source of water under Application 44364, is tributary to Medicine Creek which is tributary to Toano Draw which in turn is tributary to Thousand Springs Creek.<sup>2</sup>

The West Fork of Brush Creek and tributaries, identified as the source of water under Application 44365, is tributary to Thousand Springs Creek.<sup>2</sup>

## II.

The right to divert water for stockwatering and domestic purposes during both the irrigation and non-irrigation season is granted in the Final Decree of Thousand Springs Creek.<sup>3</sup>

## III.

The Thousand Springs Creek Decree prohibits use of waters of said creek in any manner not set forth in said decree or lawfully proposed under appropriate application.<sup>4</sup>

## CONCLUSIONS

### I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>5</sup>

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<sup>3</sup> Article VII, p. 12 of the Final Decree filed December 6, 1929, in the Matter of the Determination of Relative Rights in and to the Waters of Thousand Springs Creek and Its Tributaries, in Elko County, State of Nevada.

<sup>4</sup> Article VIII of the Final Decree filed December 6, 1929, in the Matter of the Determination of Relative Rights in and to the Waters of Thousand Springs Creek and Its Tributaries, in Elko County, State of Nevada.

<sup>5</sup> NRS 533.025 and NRS 533.030.

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 welfare.<sup>6</sup>

III.

The Thousand Springs Creek Decree fully adjudicates, allocates, and describes the use of the waters of Thousand Springs Creek and its tributaries.<sup>7</sup>

RULING

Applications 44232, 44233, 44234, 44235, 44353, 44354, 44355, 44356, 44364 and 44365 are hereby denied on the grounds that granting said applications would conflict with and be detrimental to existing rights.

Respectfully submitted,

  
PETER G. MORROS  
State Engineer

PGM/MT/bl

Dated this 28th day of  
February, 1985.

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<sup>6</sup> NRS 533.370, subsection 3.

<sup>7</sup> In the Matter of the Determination of Relative Rights in and to the Waters of Thousand Springs Creek and Its Tributaries, in Elko County, State of Nevada, Fourth Judicial District Court.