

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 45399,
45400, 45401, 45402, 45403 AND 45404 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF)
QUEEN SPRING IN QUEEN VALLEY,)
ESMERELDA COUNTY, NEVADA.)

RULING

GENERAL

Application 45399 was filed on February 2, 1982, by Gold Spor Mining Company to appropriate 0.025 c.f.s. of water from Queen Spring for mining, milling and domestic purposes within the SE1/4 SE1/4 Section 31, T.1N., R.33E. M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 4, T.1S., R.33E., M.D.B.&M.¹

Application 45400 was filed on February 2, 1982, by Gold Spor Mining Company to appropriate 0.025 c.f.s. of water from Poorman Tunnel for mining, milling and domestic purposes within the SE1/4 SE1/4 Section 31, T.1N., R.33E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 4, T.1S., R.33E., M.D.B.&M.¹

Application 45401 was filed on February 2, 1982, by Gold Spor Mining Company to appropriate 0.025 c.f.s. of water from Exposed Treasure #2 Spring for mining, milling and domestic purposes within the SE1/4 SE1/4 Section 31, T.1N., R.33E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 4, T.1S., R.33E., M.D.B.&M.¹

Application 45402 was filed on February 2, 1982, by Gold Spor Mining Company to appropriate 0.025 c.f.s. of water from Pedro Spring for mining, milling and domestic purposes within the SE1/4 SE1/4 Section 31, T.1N., R.33E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 4, T.1S., R.33E., M.D.B.&M.¹

Application 45403 was filed on February 2, 1982, by Gold Spor Mining Company to appropriate 0.025 c.f.s. of water from Exposed Treasure #1 Spring for mining, milling and domestic purposes within the SE1/4 SE1/4 Section 31, T.1N., R.33E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 5, T.1S., R.33E., M.D.B.&M.¹

Application 45404 was filed on February 2, 1982, by Gold Spor Mining Company to appropriate 0.025 c.f.s. of water from Riverside #4 Spring for mining, milling and domestic purposes within the SE1/4 SE1/4 Section 31, T.1N., R.33E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 32, T.1N., R.33E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

The subject applications were published in the Goldfield News and subsequently protested by the Queen Valley Ranch Co. on the grounds that all of the springs contribute to Queen Valley Creek on which they have prior water rights.

An on site field investigation was performed by members of the State Engineer's staff on May 30, 1984, with the applicants and protestants present.

FINDINGS OF FACT

I.

The source of water for Application 45399 was found to be in the higher elevation of the Queen Canyon Creek drainage. No water was observed on the surface at the time of the inspection.²

The source of water for Application 45400 was found to be a tunnel in the higher elevation of the Queen Canyon Creek drainage from which a small amount of water was running down the canyon.²

The source of water for Application 45401 was found to be a tunnel in the higher elevation of the Queen Canyon Creek drainage which had standing water at the mouth.²

The source of water for Application 45402 was found to be a tunnel in the higher elevation of the Queen Canyon Creek drainage but no water was evident at the time of the investigation.²

The source of water for Application 45403 was found to be a spring in the higher elevation of the Queen Canyon Creek drainage with water standing at the surface.²

The source of water for Application 45404 was found to be a spring in the higher elevation of the Queen Canyon Creek drainage with only small willows and no water flowing on the surface.²

II.

The protestants rights are evidenced by Permit 1603, Certificate 178; Permit 2924, Certificate 5073; Permits 23608, 23609 and 29628, which total 5.20 c.f.s. and 25 acre-feet of storage from Queen Creek and tributaries for irrigation, stockwatering, domestic and commercial purposes.¹ The priority dates of the protestants permits and certificates range from January 31, 1910, through September 4, 1975.³

² Report of field investigation is a public record filed under Applications 45399 through 45404, inclusive, in the office of the State Engineer.

³ Permit 29628 had a priority date of September 4, 1975, but has since been cancelled. A petition for reconsideration was received and reviewed and the cancellation has been rescinded. The priority has been set under the provisions of NRS 533.395 (2 & 3).

CONCLUSIONS

I.

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

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.

All water appearing in Queen Canyon above elevation 8,000 feet is underlain by bedrock and is fed by precipitation and snow melt so that most water flowing on the surface or percolating through the shallow outwash, reappears further down the canyon and contributes to the flow of Queen Creek, aka Queen Canyon Creek.

IV.

Existing rights to Queen Creek, aka Queen Canyon Creek, total more than the normal flow.

RULING

The protest to Applications 45399, 45400, 45401, 45402, 45403 and 45404 is upheld and Applications 45399, 45400, 45401, 45402, 45403 and 45404 are herewith denied on the grounds that the approval of said applications would interfere with and impair the value of existing rights.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 19th day of
March, 1985.

⁴ NRS 533.025 and NRS 533.030(1).

⁵ NRS 533.370(3).