

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 50475)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF A)
PORTION OF THE WATERS OF THE TRUCKEE)
RIVER (STEAMBOAT CREEK) HERETOFORE)
APPROPRIATED UNDER TRUCKEE RIVER)
DECREE CLAIM NO. 676 IN TRUCKEE)
CANYON SEGMENT, WASHOE COUNTY,))
NEVADA.

RULING

GENERAL

Application 50475 was filed on January 6, 1987, by Edward I. Price to change the point of diversion and place of use of 1.0 acre-feet, a portion of water from Steamboat Creek (Big Ditch) to the Truckee River (Steamboat Creek) heretofore appropriated under Truckee River Decree Claim No. 676.¹ The proposed use is as decreed within the W1/2 NE1/4 Section 18, T.18N., R.20E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 Section 31, T.19N., R.18E., M.D.B.&M. The existing place of use is within the SW1/4 SE1/4 Section 4, T.17N., R.20E., M.D.B.&M. The existing point of diversion is described as being within the SW1/4 SE1/4 Section 5, T.17N., R.20E., M.D.B.&M.²

FINDINGS OF FACT

I.

Truckee River Claim No. 676 evidences a right to use water from Steamboat Creek which originates in Washoe Valley and/or by storage in Washoe Lake and is tributary to the Truckee River. The confluence of Steamboat Creek and the Truckee River is within the SW1/4 SE1/4 Section 11, T.19N., R.20E., M.D.B.&M.

II.

The Steamboat Creek water to which the applicant is entitled under the Truckee River Decree is not available at the proposed point of diversion since the proposed point of diversion is upstream from the confluence of Steamboat Creek and the Truckee River.²

¹ See U.S. v. Orr Water Ditch Co., In Equity Docket No. 3, Final Decree.

² Public record in the office of the State Engineer under Application 50475.

III.

Truckee River Claims 90 through 619¹ evidence water rights to the Truckee River between where the applicant seeks to divert the water and the confluence of Steamboat Creek and the Truckee River.³

IV.

The Truckee River Decree at page 88 specifically states:

"Persons whose rights are adjudicated hereby, their successors or assigns, shall be entitled to change, in the manner provided by law the point of diversion and the place, means, manner or purpose of use of the waters to which they are so entitled or of any part thereof, so far as they may do so without injury to the rights of other persons whose rights are fixed by this decree."

V.

The applicant is seeking the right to transfer 1.0 acre-foot for the irrigation 1.1 acres in the W1/2 NE1/4 Section 18, T.18N., R.20E., M.D.B.&M.² This is not sufficient water and is not consistent with the irrigation duties set forth in the decree.¹

CONCLUSIONS

I.

The State Engineer⁴ has jurisdiction of the parties and the subject matter of this action and determination.

II.

The State Engineer is prohibited by law⁵ from granting a permit under an application to appropriate the public waters where:

- A. There is no unappropriated 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.

³ During a large portion of the irrigation season, Steamboat Creek is not tributary to the Truckee River except for return flow from other existing irrigation rights and discharges by the Reno-Sparks Sewage Treatment Plant.

⁴ NRS 533.325.

⁵ NRS 533.370(3).

III.

Other rights fixed by the Truckee River Decree would be effected by approval of Application to Change 50475.

IV.

The amount of water the applicant is seeking to transfer is approximately 25% of the amount of water required to irrigate his place of use consistent with duties set forth in the Truckee River Decree.

RULING

Application 50475 is hereby denied on the grounds that to approve the application would adversely effect existing rights and, therefore, would not be in the public interest.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 2nd day of
June, 1987.