

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
49874 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF BOULDER SPRING)
IN ORIENTAL WASH VALLEY,)
ESMERALDA COUNTY, NEVADA.)

RULING

Application 49874 was filed on May 9, 1986, by Richard Ridgway and Robert Rude to appropriate 0.10 c.f.s. of water from Boulder Spring to be used for mining, milling and domestic purposes within the SW1/4 NW1/4 NW1/4 Section 14, T.7S., R.40E., M.D.B.&M; and the NE1/4 SW1/4 Section 3, T.7S., R.41-1/2E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 14, T.7S., R.40E., M.D.B.&M.¹

Application 49874 was timely protested by the Bureau of Land Management (subsequently withdrawn on October 14, 1986) and on August 25, 1986, by the Oro Corporation through its vice president and general manager, Vincent B. Trepl, on the following grounds:¹

"It is apparent that the location of Boulder Spring is located on Oro's Placer Claims. Pilot Placer Claim #5; (W1/4 of the NE1/4 of the NW1/4; NE1/4 of the NE1/4 of the NW1/4; W1/2 of the SE1/4 of the NW1/4 Sec. 14 Twp 7 South R40E MDB&M. The applicants intend to build a pipeline across Oro's Placer Claims (Pilot #5 - Bat #11) a distance of 1800 feet to a point in Tule Canyon at the main road. This would interfere with Oro's lessee (Tule Canyon Gold Partners, Ltd.) to exercise its rights to mine and or make use of said properties."

FINDINGS OF FACT

I.

The applicant and protestant were represented at a formal field investigation held on April 1, 1987, wherein certain matters were discussed regarding the location of the pipeline in relation to protestant's mining claims and the location of the spring in relation to the protestant's mining claim.²

¹ Public record in the office of the State Engineer.

² See Report of Field Investigation filed under Application 49874.

II.

The application seeks to appropriate water from Boulder Spring at a point S. 84° 32' 04" W., a distance of 8671.24 feet from the NE Corner of Section 13, T.7S., R.40E., M.D.B.&M. (a surveyed location). The State Engineer must assume that it is the true location of the spring.¹ Further information supplied by the applicant in a letter dated August 4, 1987, indicates that the spring is not on the protestant's claims.³

III.

On July 15, 1987, a letter was received from the protestant withdrawing the protest under certain conditions regarding ingress, egress, rights-of-way, easements, etc., and their relationship to the protestant's mining claims.⁴

IV.

The State Engineer finds that there are no other water rights of record on the proposed source.

V.

The issuance of a permit on this source will not interfere with any water rights of the protestant and will not interfere with any other existing rights.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁵

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁶

- 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.

III.

³ See letter dated August 4, 1987, filed under Application 49874.

⁴ See letter dated July 13, 1987, filed under Application 49874.

⁵ NRS 533.325.

⁶ NRS 533.370(3).

The State Engineer is without authority to adjudicate matters relating to trespass, rights-of-way, easements, or whether the location of the protestant's mining claims coincide with the location of the spring.

IV.

Since there are no other rights of record on the source, the State Engineer concludes that there is unappropriated water and that approval of this application will not interfere with existing rights or prove detrimental to the public interest.

RULING

The protest to Application 49874 is hereby overruled and said application is hereby approved subject to prior rights and subject to the payment of the statutory permit fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a horizontal line. The signature is stylized and somewhat cursive.

PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 25th day of
August, 1987.