

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 49740)  
FILED TO APPROPRIATE THE PUBLIC)  
WATERS OF AN UNNAMED SPRING IN THE)  
TRUCKEE MEADOWS, WASHOE COUNTY,)  
NEVADA. )

RULING

GENERAL

Application 49740 was filed on February 28, 1986, by Duane Moore and Don Ekins to appropriate 1.5 c.f.s. of water from an unnamed spring for recreational purposes within portions of the SW1/4 SW1/4, NW1/4 SW1/4 Section 16; NE1/4 SE1/4, SE1/4 SE1/4 Section 17, T.19N., R.19E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 20, T.19N., R.19E., M.D.B.&M.<sup>1</sup>

A field investigation was conducted on March 9, 1987 to gather additional information for the State Engineer.<sup>2</sup> The point of diversion was found to be a patch of cattails located in a stream bed which was dry upstream and flowing roughly 30 to 60 gallons per minute below the referenced point. This area is about 600 feet east of the northeast corner of Hunter Creek Reservoir which is known to have excessive seepage problems.

The stream channel proceeds northeasterly through the Last Chance Ditch and eventually dumps into the Lake Ditch which runs adjacent to the Truckee River.

The applicant proposes to divert a like amount from the Lake Ditch near the section line between Sections 16 and 17, T.19N., R.19E., M.D.B.&M., to be conveyed to the place of use.

On July 7, 1987, the exit stream, as it leaves the Last Chance Ditch, was measured at 0.159 c.f.s. or 71 gallons per minute.

FINDINGS OF FACT

I.

There is no indication of the source of water for the spring identified under Application 49740 above the Hunter Creek Reservoir. The drainage originates in a small dry swale about one-half mile south of the point of diversion.<sup>3</sup>

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

<sup>2</sup> Report of Field Investigation is a public record in the office of the State Engineer filed under Application 49740.

<sup>3</sup> Report of Field Investigation is a public record in the office of the State Engineer filed under Application 49740. U.S. Geological Survey Map 7.50 Minute Quadrangle entitled Reno, Nevada, and Mt. Rose NW.

II.

The amount of water flowing in the stream system is sufficient (0.159 c.f.s.) to be tributary to the Truckee River before it is intercepted by the Lake Ditch which flows adjacent to the Truckee River at that intersection.<sup>2</sup>

III.

The Truckee River is a decreed stream system.<sup>4</sup>

CONCLUSIONS

I.

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

II.

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

- 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.

The State Engineer concludes that the source of water under the subject application is tributary to the Truckee River and that the granting of Application 49740 would interfere with existing rights.

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<sup>4</sup> Final Decree in United States v. Orr Water Ditch Co., et al., Equity A-3 (D. Nev. 1944).

<sup>5</sup> NRS 533.325.

<sup>6</sup> NRS 533.370(3).

RULING

Application 49740 is hereby denied on the grounds that approval thereof would impair and interfere with those existing rights set forth in the Truckee River Decree.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Peter G. Morros", is written over a horizontal line. The signature is enclosed within a hand-drawn oval.

PETER G. MORROS  
State Engineer

PGM/GC/jjs

Dated this 18th day of

April, 1989.