

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 4414)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF MILLIGAN CREEK LOCATED)
WITHIN THE LITTLE HUMBOLDT VALLEY)
GROUNDWATER BASIN (067), ELKO)
COUNTY, NEVADA.)

RULING

4555

GENERAL

I.

Application 4414 was filed on April 28, 1917, by Margaret M. Gorham to appropriate 2.80 cubic feet per second (cfs) of water from Milligan Creek to irrigate 280 acres within Lots 7, 8, 9, 10, 16, 17 and 24, Section 2, T.40N., R.46E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 2.¹

FINDINGS OF FACT

I.

The State Engineer finds that Milligan Creek is tributary to the South Fork of the Little Humboldt River, which is subject to the claims decreed within the Little Humboldt River Decree², a fully appropriated stream.

II.

The State Engineer finds that in the Final Decree on the Little Humboldt River and its tributaries Proof 01067 awarded water rights to Lots 7, 8, 9 and 10, some of the same lots for which this application requests a water right.

III.

The State Engineer finds that the Final Decree on the Little Humboldt River and its tributaries adjudicated all claims to all

¹ File No. 4414, official records in the office of the State Engineer.

² Findings of Fact, Conclusions of Law and Decree, In the Matter of the Determination of the Relative Rights in and to the Waters of the Little Humboldt River and Its Tributaries in Humboldt and Elko Counties, Case No. 3157, Sixth Judicial District Court of Nevada, In and for the County of Humboldt, 1935.

the waters of Milligan Creek leaving no water available for appropriation pursuant to Application 4414.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

- A. there is no unappropriated water at the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes there is no water available for appropriation on this fully appropriated stream.

IV.

The State Engineer concludes that to approve this application would impair the value of and conflict with existing decreed rights in the Little Humboldt River.

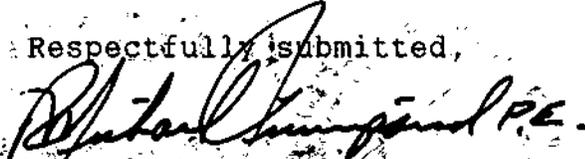
³ NRS Chapter 533. 2VBF E

⁴ NRS § 533.370.

RULING

Application 4414 is hereby denied on the grounds that no water is available for appropriation and the approval of said application would impair the value of existing decreed water rights.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MLN/ab

Dated this 15th day of
August, 1997.