

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

3258

IN THE MATTER OF APPLICATION 46299)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF HORSE SPRING LOCATED)
WITHIN THE MARY'S CREEK AREA)
HYDROGRAPHIC BASIN (4-052), EUREKA)
COUNTY, NEVADA)

RULING

#5258

GENERAL

I.

Application 46299 was filed on November 5, 1982, by Palisade Ranch, Inc., to appropriate 0.1 cubic-feet per second of water from Horse Spring for stockwatering and domestic purposes within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, T.32N., R.51E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, T.32N., R.51E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Horse Spring was examined and found to be tributary to Mary's Creek, which is tributary to the Humboldt River.² The State Engineer finds that Horse Spring is tributary to the Humboldt River, which is subject to the claims decreed within the Humboldt River Adjudication,³ a fully appropriated stream.

¹ File No. 46299, official records in the Office of the State Engineer.

² See memo in File No. 46299, official records in the Office of the State Engineer.

³ Findings of Fact, Conclusions of Law and Decree, In the Matter of the Determination of the Relative Rights of Claimants and Appropriators of the Waters of the Humboldt River Stream System and Its Tributaries in Elko, Eureka, Humboldt, Lander and Pershing Counties, Case No. 2804, Sixth Judicial District Court of Nevada, in and for the County of Humboldt, 1935.

II.

The State Engineer finds that the Final Decree on the Humboldt River and its tributaries adjudicated all claims to all the waters of the Humboldt Stream System leaving no water available for appropriation pursuant to Application 46299.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁵

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use 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 system.

IV.

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

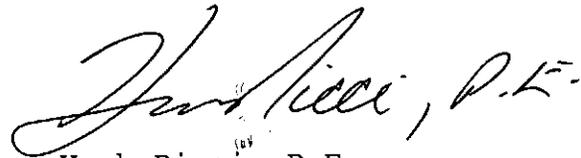
⁴ NRS chapter 533.

⁵ NRS § 533.370.

RULING

Application 46299 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,



Hugh Ricci, P.E.
State Engineer

HR/KE/dl

Dated this 6th day of

June, 2003.