

IN THE MATTER OF APPLICATION 47123)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE NORTH FORK GROUND WATER)
BASIN IN ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 47123 was filed on August 5, 1983, by Manuel and Amy Vega, Dennis B. and Shirley S. Duewel and Royce L. Hackworth to appropriate 1.0 cubic feet per second (c.f.s.) of water from an underground (sump) source for industrial (gravel plant) purposes.¹

The proposed point of diversion of Application 47123 is located in the SE1/4 SW1/4 Section 3, T.35N., R.57E., M.D.B.&M. The place of use of Application 47123 is a portion of the S1/2 NW1/4 and SW1/4 of Section 3; the W1/2 NW1/4 and NW1/4 SW1/4 of Section 10; all in T.35N., R.57E., M.D.B.&M.

FINDINGS OF FACT

I.

A letter, dated July 26, 1983, from Myron J. Goldsworthy, Secretary-Manager, Pershing County Water Conservation District of Nevada, addressed to Dennis Duewel, in applicable part stated:

"The Pershing County Water Conservation District has no objection to your pumping approximately one-half second foot of water from the North Fork of the Humboldt River.

Return water from your operation must meet the requirements of the Nevada Division of Environmental protection.

This letter in no way guarantees the availability of water or conveys any legal right to water."²

¹ Public record in the office of the State Engineer under Application 47123.

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II.

The review of Application 47123 indicates that the sump, purported to be an underground (sump) source is actually water which would be diverted from the North Fork Humboldt River. The supporting map for this application shows the proposed point of diversion of the "sump" to be approximately 40-50 feet (by sealing) from the North Fork Humboldt River. A field inspection report dated May 15, 1984, by personnel of the State Engineer's office confirms the location and source of the point of diversion. The foregoing indicates that a "[S]ump, pipelines, small pond for recirculating water to gravel plant"³ will be utilized.

The estimated consumptive use for Application 47123 was shown to be 10,663,315 gallons annually.⁴

III.

The Findings of Fact, Conclusions of Law and Decree of Judge Geo. A. Bartlett, known as the Bartlett Decree, declares the Humboldt River and its tributaries to be fully appropriated. The decree goes on to state that "...[T]he Court makes no findings on the water available for storage water in the nonirrigation season on the Humboldt River stream system".⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction under the provisions of NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law⁶ from granting a permit where:

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;

³ Application 47123, Item 8, public record in the office of the State Engineer.

⁴ Application 47123, Item 12, public record in the office of the State Engineer.

⁵ Bartlett Decree, Findings of Fact No. 44, p.28.

⁶ NRS 533.370.

- C. the proposed use threatens to prove detrimental to the public welfare.

RULING

Application 47123 is hereby denied on the grounds that there is no unappropriated water at the proposed source and that the granting thereof would adversely affect existing rights set out under the Humboldt River Decree.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/HR/bl

Dated this 23rd day of
MAY, 1984.