

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 46762)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF WEAVER CREEK IN SNAKE)
VALLEY, WHITE PINE COUNTY, NEVADA.)

RULING

GENERAL

Application 46762 was filed on March 25, 1983, by Rodney Dean Clark to appropriate 1.0 c.f.s. of water from Weaver Creek for mining, milling and domestic purposes within portions of the NW1/4, NE1/4 and SW1/4 of Section 15, T.14N., R.68E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 15, T.14N., R.68E., M.D.B.&M.¹

Application 46762 was timely protested by Fredrick Baker of Baker Ranches, Inc.; Neno Schena of Cloe Robison Ranch; and William Masker. The protests stated that:

"The granting of this application would conflict and interfere with existing prior water rights in the area".¹

Application 46762 was timely protested by T.A. Roederer for the United States Forest Service. The protest stated that:

"In most years, use of the amount of water applied for will dewater this stream below the point of diversion. This will interfere with the United States' vested rights for livestock and reserved rights under both the Organic Administrative Act of 1897 and the Multiple Use - Sustained Yield Act of 1960. However, should the applicant agree to leave sufficient water in the channel to meet the needs of the United States, the Forest Service will withdraw this protest."¹

FINDINGS OF FACT

I.

Proof of Appropriation 01131 was filed on September 4, 1912, by George S. Robison. Proof 01131 stated that 160 inches (4.0 c.f.s.) from Weaver Creek has been used to irrigate 45.22 acres in Section 24, T.14N., R.69E., M.D.B.&M., since 1883. The current owner of record of Proof 01131 is Baker Ranches, Inc.

II.

Proof of Appropriation 02538 was filed on September 2, 1964, by John Eldridge. Proof 02538 stated that the natural channel of Weaver Creek was used to water 50 to 100 head of cattle and 500 to 1000 sheep since prior to 1880.¹

¹ Public record in the office of the State Engineer.

III.

Permit 474 was filed on May 16, 1907, by George S. Robison to appropriate 4.0 c.f.s. from Strawberry and Weaver Creeks to irrigate 240 acres in Sections 13 and 24, T.14N., R.69E., M.D.B.&M. Permit 474 was certificated on May 6, 1913, for 1.488 c.f.s. to irrigate 148.8 acres in Sections 13 and 24, T.14N., R.69E., M.D.B.&M. The current owner of record is Baker Ranches, Inc.¹

IV.

Permit 2119 was filed on June 24, 1911, by Janis E. Robison to appropriate 320 inches of water from Weaver Creek to irrigate lands located within Sections 19 and 20, T.14N., R.70E., M.D.B.&M. Permit 2119 was certificated on February 4, 1925, for 0.6024 c.f.s. to irrigate 60.24 acres in Section 19, T.14N., R.70E., M.D.B.&M. The current owner of record is B. S. Robison.¹

V.

Permit 4100 was filed on August 12, 1916, by Frank L. Sellstrom to appropriate 1.6 c.f.s. from Weaver Creek to irrigate 160 acres in Section 7, T.20S., R.19W., S.L.B.&M. Permit 4100 was certificated on October 10, 1923, for 1.5862 c.f.s. to irrigate 158.62 acres in the NW1/4 Section 7, T.20S., R.19W., S.L.B.&M.¹

VI.

A hearing in the matter of protested Application 46762 was held on November 7, 1984, in White Pine County. Exhibit 1 from the U.S. Forest Service is a one page document which shows various flow measurements of Weaver Creek as follows: October 1952 average, 1.0 c.f.s.; April 25, 1975, 3.0 c.f.s.; August 12, 1979, taken one mile above highway 6-50 on BLM, .42 c.f.s.; July 1984 average, 2.1 c.f.s.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

- 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.

² NRS 533.025 and NRS 533.030(1).

³ NRS 533.370(3).

RULING

The protests of Baker Ranches, Inc.; Cloe Robison Ranch and William Masker to the granting of Application 46762 are hereby upheld and Application 46762 is hereby denied on the grounds that the proposed use would conflict with existing rights. No ruling is made on the protest of the United States Forest Service.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/GT/bl

Dated this 10th day of
April, 1985.