

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 49192)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNNAMED SPRING IN LEE)
CANYON, LAS VEGAS VALLEY, CLARK)
COUNTY, NEVADA.)

RULING

GENERAL

Application 49192 was filed on July 15, 1985, by James A. Mulidore to appropriate 0.02 c.f.s. of water from an unnamed spring in Lee Canyon for domestic purposes within the SW1/4 SE1/4 Section 35, T.18S., R.56E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 2, T.19S., R.56E., M.D.B.&M.¹

Application 49192 was timely protested by Teri Morgan on the following grounds:¹

- 1) There has recently been a serious problem with the amount of water available for the Whispering Pines Area. Numerous times there has been no water in area.
- 2) Mulidores have already tapped into the main water line with no regard for the decision of Water Resources.
- 3) The lines the Mulidores ran from the main line have continuously had problems with breakage due to the less expensive material and non professional labor used in putting in the line.
- 4) As was brought out at the homeowners meeting of Aug. 10, 1985, it was stated by Red Phillips who assisted Tom Smales in gaging the water, only to find it produces 1 gallon every 78 seconds which is insufficient for area.
- 5) In November 1983, Thomas Smales provided me with a letter as per this matter and clearly states that "no other homes, cabins or campsites can be served under this permit". A copy of letter and map attached.
- 6) Illegal use of water.

The protestant requests that Application 49192 be denied.

In response to a written complaint received from Teri Morgan on July 2, 1985, a field investigation was conducted by the State Engineer's office on July 10, 1985, to determine the validity of the complaint and to check the use of the unnamed spring under the conditions imposed by Permit 16987, Certificate 5726.²

¹ Public record in the office of the State Engineer.

² Public record in the office of the State Engineer under Permit 16987, Certificate 5726.

The field investigation determined the following:³

1) There were water line connections to Lots 6, 7, 8, 9, 10, 12, 13, 14, 17 and 28 in accordance to Certificate 5726, with the exception that Lots 13 and 14 were one parcel according to the Proof of Beneficial Use and supporting map.

2) Water line connections were also made to Lots 15 and 18 which are not included under Certificate 5726. The complaint refers only to Lot 18.

3) A "15" year septic tank was observed on Lot 18.

4) According to Mr. Phillips, Lot 18 was owned by Ed and Eva Wright in 1962-3 as a campsite served by a water line from the spring. In 1975, Mr. Phillips installed a new "main" from the spring and provided water connections to those lots occupied at the time. Lot 18 was unoccupied so no connection was made.

5) The spring was measured during the investigation to be flowing at 0.77 gallons per minute.

A letter dated November 14, 1983, from the Las Vegas Branch Office to Ms. Teri Kerr states that Certificate 5726 limits the use of water to quasi-municipal and domestic use for 5 houses, 1 cabin and 3 camping areas and advises that no other homes, cabins or campsites may be served under said certificate.²

An accompanying map indicates that Lot 18 is not covered under the certificate.

FINDINGS OF FACT

I.

The source of water for Application 49192 has the following water right of record in the office of the State Engineer.

Permit 16987, Certificate 5726, was issued on June 10, 1964, for 0.02 c.f.s. of water from an unnamed spring for quasi-municipal uses to include 5 houses, 1 cabin and 3 camping areas on Lots 6, 7, 8, 9, 10, 12, 13, 14, 17 and 28, within the W1/2 SE1/4 Section 35, T.18S., R.56E., M.D.B.&M.²

II.

The place of use for Application 49192 is Lot 18 which is not included under Certificate 5726.³

³ Report of field investigation dated August 28, 1985, filed under Permit 16987, Certificate 5726, public record in the office of the State Engineer.

III.

The source of water for Certificate 5726 and Application 49192 was measured on July 10, 1985, and found to be flowing at 0.77 gallons per minute or 0.0017 c.f.s.³

IV.

There is evidence that the water source for Certificate 5726 is periodically insufficient for existing use.¹

V.

During the field investigation on July 10, 1985, it was determined that there are two illegal water connections to Lots 15 and 18, contrary to the provisions of Certificate 5726.³

CONCLUSIONS

I.

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

II.

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

- 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 result of recent measurements of the unnamed spring and complaints of inadequate water supply to the water system indicate that approval of Application 49192 would have an adverse effect on the existing rights.

⁴ NRS 533.325.

⁵ NRS 533.370(3).

RULING

Application 49192 is hereby denied on the grounds that granting said permit would impair the value of existing rights and would be detrimental to the public welfare.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a horizontal line.

PETER G. MORROS
State Engineer

PGM/GC/bl

Dated this 6th day of

December, 1985.