

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 42196,) 42197, 43260, 47325 AND 47639 FILED TO) APPROPRIATE THE PUBLIC WATERS OF AN) UNDERGROUND SOURCE AND UNNAMED) SPRINGS IN WILLOW CREEK VALLEY, ELKO) COUNTY, NEVADA.)

RULING

GENERAL

Application 42196 was filed on August 26, 1980, by John J. and Betty Elges to appropriate 0.015 c.f.s. of water from an unnamed spring for irrigation and domestic purposes on 2.373 acres of land within the NE1/4 NE1/4 Section 20, T.39N., R.46E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 9, T.39N., R.46E., M.D.B.&M.¹

Application 42197 was filed on August 26, 1980, by John J. and Betty Elges to appropriate 0.015 c.f.s. of water from an unnamed spring for irrigation and domestic purposes on 2.373 acres of land within the NE1/4 NE1/4 Section 20, T.39N., R.46E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 17, T.39N., R.46E., M.D.B.&M.¹

Application 43260 was filed on February 25, 1981, by John J. and Betty Elges to appropriate 0.015 c.f.s. of water from an unnamed spring for irrigation and domestic purposes on 2.373 acres of land within the NE1/4 NE1/4 Section 20, T.39N., R.46E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 17, T.39N., R.46E., M.D.B.&M.¹

Application 47325 was filed on October 17, 1983, by John F. Sabin and Evelyn M. Sabin to appropriate 0.112 c.f.s. of water from an underground source for quasi-municipal purposes within the S1/2 SE1/4 Section 17, E1/2 E1/2 Section 20 and W1/2 W1/2 Section 21, T.39N., R.46E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 17, T.39N., R.46E., M.D.B.&M. Application 46325 was assigned on January 4, 1984, to Evelyn M. Sabin.¹

Application 47639 was filed on February 1, 1984, by Murdock Enterprises, Inc., to appropriate 0.005 c.f.s. of water from an unnamed spring for quasi-municipal and domestic purposes within a portion of the NE1/4 SE1/4 and NW1/4 SE1/4 Section 17, T.39N., R.46E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 17, T.39N., R.46E., M.D.B.&M.¹

Applications 42196 and 42197 were timely protested on March 20, 1981, by the Bureau of Land Management. Said protests were subsequently withdrawn on July 22, 1986.¹

¹ Public record in the office of the State Engineer.

FINDINGS OF FACT

I.

A field investigation conducted on July 10, 1986, by Division of Water Resources personnel revealed that Application 42196 is filed on the same spring as Permit 31184, Certificate 9284, and that the spring makes up the head waters of the east branch of Midas Creek.²

II.

The field investigation revealed that a tunnel is the source of water for Applications 43260 and 47325. The tunnel is not an abandoned mine tunnel, rather it was dug adjacent to and underneath the west branch of Midas Creek for the purpose of collecting water into a pipeline for use by existing homes in Midas.²

III.

The field investigation revealed that the source of water under Applications 42197 and 47639 is a spring in close proximity and tributary to the east branch of Midas Creek.²

IV.

Midas Creek is tributary to Rock Creek³ and Rock Creek is a named tributary to the Humboldt River in the Bartlett Decree.⁴ Claim No. 00156 is one of many claims on Rock Creek to be used on Squaw Valley Ranch owned by Ellison Ranching Company.

V.

The Humboldt River and its tributaries were decreed by the court to be fully appropriated.⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁶

² See report of field investigation under Applications 42196, 42197, 43260, 47325 and 47639, public record in the office of the State Engineer.

³ See the Midas Quadrangle and Squaw Valley Ranch Quadrangle, U.S.G.S. 7 1/2 minute series.

⁴ See Adjudication of the Humboldt River 1923-1938, in the Sixth Judicial District Court of the State of Nevada, Finding of Fact #38.

⁵ See Adjudication of the Humboldt River 1923-1938, in the Sixth Judicial District Court of the State of Nevada, Finding of Fact #44.

⁶ NRS 533.325

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- A. There is no unappropriated water at the proposed source;
- B. The proposed use conflicts with existing rights; or
- C. The proposed use threatens to prove detrimental to the public welfare.

III.

To approve Applications 42196, 42197, 43260, 47325 and 47639, would interfere with existing rights, prove detrimental to the public interest and would be contrary to findings in the Bartlett Decree in the Humboldt River Adjudication.

RULING

Applications 42196, 42197, 43260, 47325 and 47639 are hereby denied on the grounds that there is no unappropriated water in the source as set forth in the Final Judgment and Decree of the Humboldt River Adjudication and further that granting said applications would impair the value of existing rights.

Respectfully submitted


PETER G. MORROS
State Engineer

PGM/RMT/jjk

Dated this 2nd day of
September, 1986

⁷ NRS 533.370(3).