

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 6862)  
FILED TO APPROPRIATE THE PUBLIC)  
WATERS OF THE CARSON RIVER AND)  
INDIAN CREEK IN DOUGLAS COUNTY,) )  
NEVADA, AND ALPINE COUNTY,) )  
CALIFORNIA. )

RULING

GENERAL

Application 6862 was filed on February 9, 1923, by Irrigation District No. 1, Carson Valley Unit, Truckee Carson Project, to appropriate 40,000 acre-feet of water from the West Fork of the Carson River and Indian Creek for irrigation, stockwater and domestic purposes on 46,924.77 acres of land within portions of T.12N., R.19E.; T.13N., R.19E.; T.14N., R.19E.; T.12N., R.20E.; T.13N., R.20E.; T.14N., R.20E.; T.12N., R.19E. and T.13N., R.19E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 15, T.11N., R.20E., M.D.B.&M. (approximately California/Nevada state line).<sup>1</sup>

Application 6862 was timely protested on April 16, 1923, by H. H. Springmeyer Land Development and Livestock Company and F. C. Springmeyer on the following grounds:<sup>1</sup>

"Protestant is the owner of lands in Douglas County, Nevada, for which it has a vested right to the use of the waters of said East Fork of the Carson River; that the appropriation and use of such waters by applicant would deprive protestant of said waters, would cause great and irreparable injury to its said lands, and would result in continuous and endless trouble, strife and litigation over the right to the use of said waters; and that such appropriation would result in protestant being compelled to pay large sums of money to said applicant for the irrigation of lands upon which it already has full and complete water rights, and so would deprive protestant of property without due process of law.

Protestant's rights to the waters of said East Fork of the Carson River are based upon a decree of a Court of competent jurisdiction, are vested, and such waters have been used by protestant, its grantors and predecessors in interest, freely, uninterruptedly, openly and notoriously and adversely to applicant and to the whole world ever since the year 1858."

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<sup>1</sup> Public record in the office of the State Engineer.

**FINDINGS OF FACT**

I.

The Carson River Decree establishes and determines direct diversion rights for irrigation and other uses upstream from and including the Newlands Project and declares the Carson River and tributaries to be fully appropriated for these purposes.<sup>2</sup>

II.

The historic flow records of the Carson River and tributaries provide substantial evidence that from time to time surplus flows reach the terminus of the system but only after all upstream users are satisfied including those flows subject to capture and storage by Lahontan Reservoir.<sup>1</sup>

III.

The applicant appears to seek to appropriate surplus flows by diversion from the West Fork of the Carson River through a canal to Diamond Valley, California, and by storage in a reservoir directly on Indian Creek. The water would then be released from storage for irrigation of the western portion of Carson Valley, Nevada.<sup>1</sup>

**CONCLUSIONS**

I.

The State Engineer<sup>3</sup> has jurisdiction of the parties and the subject matter of this action and determination.

II.

The State Engineer is prohibited by law<sup>4</sup> from granting a permit under an application to appropriate the public waters where:

- 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.

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<sup>2</sup> See U.S. v. Alpine Land & Reservoir Company, et al., Civil No. D-183 BRT, Finding of Fact II. Nevada v. United States, 103 S. Ct. 2906 (1984); United States v. Alpine Land & Reservoir Co., Equity No. D-183 BRT (D. Nev. 1980), cert. denied 104 S. Ct. 193 (1983).

<sup>3</sup> NRS 533.325.

<sup>4</sup> NRS 533.370(3).

III.

Many studies by the U.S. Bureau of Reclamation and private consultants have been accomplished for various upstream storage projects on the Carson River. They have concluded that flows in excess of those required to fill the decreed rights downstream, including the storage at Lahontan Dam, occur so infrequently that it is impractical to build a storage project purely for use as irrigation.<sup>6</sup>

IV.

The Carson River is fully appropriated during the irrigation season.<sup>7</sup>

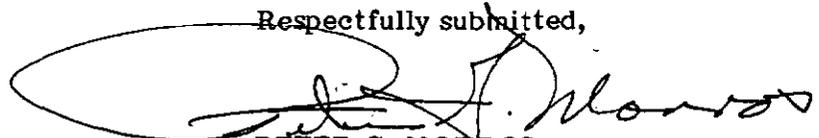
V.

The State Engineer concludes that approval of Application 6862 would conflict with existing rights and therefore would be detrimental to the public interest.

**RULING**

The protest to the granting of Application 6862 is hereby upheld and Application 6862 is hereby denied on the grounds that the granting thereof would impair the value of existing rights and would be detrimental to the public interest, and further on the grounds that it is not feasible to store water under said application for irrigation purposes and therefore it cannot be demonstrated that water to be appropriated could be placed to beneficial use.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/RMT/bl

Dated this 20th day of  
November, 1987.

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<sup>6</sup> See feasibility studies on Watashema Dam, U.S.B.R., Carson River Basin Study, Kennedy/Jenks/Chilton and others.

<sup>7</sup> U.S. v. Alpine Land & Reservoir Co., et al., Civil No. D-183 BRT, Finding of Fact II.