

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 50918)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF THE)
WATER IN STAR CANYON CREEK, PERSHING)
COUNTY, NEVADA.)

RULING

GENERAL

Application to Change 50918 was filed on May 11, 1987, to change the point of diversion and place of use of 0.4905 c.f.s. of water heretofore appropriated by Permit 2925, Certificate 575, which evidences right to use 0.4905 c.f.s. from Star Canyon Creek for the irrigation of 49.05 acres. The application seeks the right to use the water for supplemental irrigation on 2,000 acres within all of Section 6; S1/2 Section 5; S1/2 Section 4; N1/2 Section 10 N1/2, E1/2 SW1/4 Section 9, T.30N., R.35E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 10, T.30N., R.35E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Permit 2925 was granted January 18, 1915, and was certificated February 21, 1922, for 0.4905 c.f.s. for surplus water that had already been diverted and placed to beneficial use by the Star Creek Ranch.¹

II.

In April 1924, a Mr. G. Gallio, the owner of Permit 2925, filed an action against Margaret Ryan, owner of the Star Creek Ranch.²

¹ Public record in the office of the State Engineer.

² Gallio v. Ryan, 52 Nev. 330, 286 P. 963 (1930).

III.

In 1930 the Nevada Supreme Court found that Mr. Gallio's use of water "... does not constitute an appropriation of waters under the laws of Nevada. It constitutes at most a mere recapture of drain and waste waters which are not subject to appropriation."²

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.³

II.

The State Engineer is prohibited by law from approving a change application if:

- A) The change will conflict with existing rights, or
- B) The change threatens to prove detrimental to the public interest.

III.

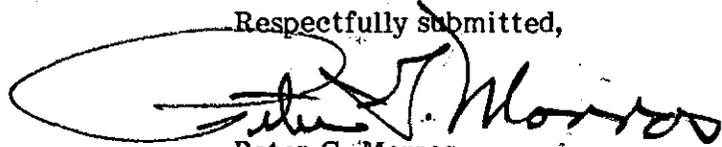
The State Engineer concludes that the applicant can beneficially use the drain and waste waters from the Star Creek Ranch and does not need the approval of this application to accomplish that use.

³ NRS Chapter 533.

RULING

Change Application 50918 is hereby denied on the grounds that the Nevada Supreme Court has declared the basis for the change not to be a valid appropriation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a large, faint oval-shaped stamp or watermark.

Peter G. Morros
State Engineer

PGM/RMT/bk

Dated this 27th day of
May, 1988.