

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF CHANGE APPLICATION)
50896 FILED TO CHANGE A PORTION OF A
TRUCKEE RIVER DECREED WATER RIGHT IN)
THE TRUCKEE MEADOWS, WASHOE)
COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 50896 was filed on May 1, 1987, by Lawyers Title of Reno, Inc. to change the place of use of a portion of water as evidenced by Claim No. 73 in the Orr Ditch Decree¹ which decrees the right to use 0.88 c.f.s. from the Truckee River for the irrigation of 70.3 acres. The application seeks the right to use 0.375 c.f.s. of water on 23 acres for irrigation within the E1/2 NW1/4 Section 13, T.18N., R.19E. The point of diversion is described as being within the NE1/4 SW1/4 Section 31, T.19N., R.18E., M.D.B.&M. (Steamboat Canal).²

II.

The application was duly processed and protested by the Maverick Water Co. on the grounds²:

- 1) The 15 inches of water being requested is not a portion of the 30 1/2 inches allocated for the Maverick Water Company (Milton Russell Survey) under Document 297760, dated April 3, 1944, between Caffrey and Johnson and Document 316990, dated March 11, 1960, between Johnson and Russell.
- 2) Document 264533, dated May 9, 1955, between Johnson and Quilici grants the privilege of use of 15 inches of water of the 58 inches owned by Johnson. This 15 inches is the water in question.

¹ United States v. Orr Water Ditch Co., et al. Docket No. A3, U.S. District Court, District of Nevada.

² Public record in the office of the State Engineer.

- 3) No proof exists that the Maverick Water Company (Milton Russell Survey), a chartered Nevada corporation, is entitled to less than the 30 1/2 inches they have been receiving and paying for over the past 26 years.

III.

A public administrative hearing before the State Engineer was held March 30, 1988, wherein evidence and testimony were presented by both the applicant and the protestant.³

FINDINGS OF FACT

I.

Evidence was introduced into the record by the applicant in the form of certified copies of deeds from the decreed owner of record to Kendrick Johnson and Enid Johnson. The deeds contained no language reserving appurtenant water rights to the assignor.⁴

II.

A subsequent deed was entered into evidence wherein Kendrick Johnson and Enid Johnson granted E. M. Quilici "the privilege of using, and the obligation of paying assessments on 15 inches of water of the Steamboat Ditch, which 15 inches of water are a portion of the 58 inches which Kendrick Johnson and Enid Johnson formerly used from the Steamboat Ditch."⁵

³ Transcript of Public Administrative Hearing March 30, 1988.

⁴ Exhibits 14 through 16 Public Administrative Hearing March 30, 1988.

⁵ Exhibit 17 Public Administrative Hearing March 30, 1988, also recorded as document No. 264533, September 6, 1956, in Book 423 of deeds page 13 records of Washoe County, Nevada.

III.

Additional deeds were entered into evidence transferring title from E. M. Quilici to the applicants. There is no evidence in the record of the chain of title that the grant of water rights was ever changed, revoked or amended.⁶

IV.

There was much testimony addressing the 58 inches of water that Johnson referred to in the deed but the record is undisputed that he owned at least 35 inches in 1955, that being claim 73 in the Orr Ditch Decree.⁷

Deeds from Johnson to the protestants include all appurtenances but no specific amount of water is identified.⁸

CONCLUSIONS

I.

The State Engineer has jurisdiction in the matter of change applications on the Truckee River.⁹

II.

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

- 1) The change will impair or interfere with existing rights, or
- 2) The change will prove detrimental to the public interest.

⁶ Exhibits F and G of Applicant's Exhibit 22 Public Administrative Hearing March 30, 1988.

⁷ Transcript of Public Administrative Hearing p. 33.

⁸ Protestants' Exhibit 11 and 18 Public Administrative Hearing March 30, 1988.

⁹ Orr Ditch Final Decree p. 88.

III.

The protestants produced no evidence that the predecessor to the applicant (Johnson) held any other water rights other than Claim 73 from which the grant was made, nor that the applicants had not fulfilled the obligations and conditions of the grant.

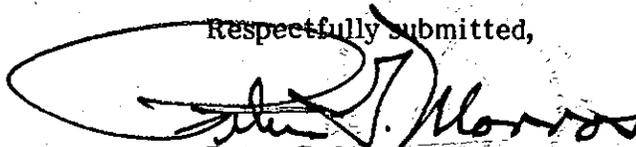
IV.

The protestant produced no evidence that the change would prove detrimental to the public interest.

RULING

The protest to Application 50896 is hereby overruled and said application is hereby approved subject to existing rights on the source.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a faint circular stamp. The signature is fluid and cursive.

Peter G. Morros
State Engineer

PGM/MT/bk

Dated this 29th day of

June, 1988.