

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
NUMBER 46298 FILED TO APPROPRIATE)
THE PUBLIC WATERS OF WILLY BILLY)
SPRING, BOULDER FLAT VALLEY,)
EUREKA COUNTY NEVADA.)

RULING

GENERAL

I.

Application 46298 was filed on November 5, 1982 by Palisade Ranch, Inc. to appropriate 0.1 c.f.s. of water from Willy Billy Spring for stockwatering of 300 head of cattle within the SE1/4 NW1/4 of Section 32, T.32N., R.51E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 32, T.32N., R.51E., M.D.B.&M.¹

II.

On March 9, 198 this application was protested by the U.S. Bureau of Land Management on the grounds that:¹

"This water is required for multiple-use management of the public lands and the water is a Public Water Reserve reserved under the authority of E.O. 107, April 17, 1926 and as identified in CFR 2311. This water is therefore not available for appropriation under Nevada State Law."

FINDING OF FACT

I.

The source was examined and found to be tributary to Buck Rake Jack Creek which at certain times of the year is tributary to the Humboldt River.²

1 Public Record in the Office of the State Engineer.

2 See Memo in file 46298 public record in office of the State Engineer.

II.

The district court found that the Humboldt River stream system is fully appropriated during the irrigation season.³

III.

The applicant is not the permitted range user on public lands therefore can not demonstrate the ability to put the water to beneficial use.⁴

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁵

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where⁶:

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

³ Final Decree, Finding of Fact 44 pg. 28 In the Matter of the Relative Rights of Claimants and Appropriators of the Water of the Humboldt River Stream System Case No. 2804, Sixth Judicial District Court, County of Humboldt.

⁴ See letter in file 46298 from U.S. Department of Interior dated January 20, 1983. However, if the applicant has water rights in the above mentioned decree, he has the right to water Livestock by virtue of page 243 of the Bartlett Decree.

⁵ NRS Chapter 533

⁶ NRS 533.370

RULING

Application 46298 is hereby denied on the grounds that it would not be in the public interest to grant a permit where the applicant cannot demonstrate the ability to place the water to beneficial use and on the grounds that the source is tributary to the Humboldt River Stream System, a fully appropriated system. No ruling is made on the grounds of the protest.

Respectfully submitted,

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

Peter G. Morros
State Engineer

PGM/RMT/pm

Dated this 27th day of
December, 1989.