

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
NO. 52695 FILED TO APPROPRIATE)
WATER FROM NORTH CREEK (THIRD)
CREEK), LAKE TAHOE BASIN,)
WASHOE COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 52695 was filed on November 7, 1988 by Robert L. Weise to appropriate 4 acre feet per year of water from North Creek (Third Creek) for maintenance of wetlands on 8 acres within the NE1/4 SW1/4, SE1/4 SW1/4, SW1/4 SE1/4 of Section 23, T.17N., R.18E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 23, T.17N., R.18E., M.D.B.&M.¹

II.

The application was advertised for the statutory period and was timely protested by the Truckee Carson Irrigation District on the following grounds:¹

This application will tend to adversely affect adjacent and downstream adjudicated surface water since the diversion will consumptively use water which has historically returned to the Truckee River to satisfy downstream flows.

FINDING OF FACT

I.

North Creek (Third Creek) heads in the Carson Range of the Sierra Nevada Mountains at an elevation above 9,000 feet and flows generally south and becomes tributary to Lake Tahoe.² Lake Tahoe is the source of the Truckee River.

¹ Public record in the office of the State Engineer.

² See U.S. Geological Survey 15 minute quadrangle maps title "Mount Rose" and "Carson City". Also see final decree in W.E. Price vs. Virginia and Gold Hill Water Company in the District Court of Nevada in and for the County of Washoe, A.E. Cheney District Judge February 8, 1892.

II.

The United States, through the Secretary of Interior is allowed to store in Lake Tahoe all of the inflow up to 3,000 c.f.s. for storage and future release to all water users of the Truckee River.³

III.

The Truckee River Decree adjudicated the water rights of the claimants to the use of Truckee River water and Lake Tahoe storage which is the main water supply for the Truckee Meadows, the cities of Reno and Sparks, the Truckee Carson Irrigation District and others along the Truckee River from its head waters in Sierra Nevada Mountain to its terminus in Pyramid Lake.^{1, 3}

IV.

The amount of water in the Lake Tahoe Basin that can be utilized for beneficial use is limited by interstate agreement between the States of California and Nevada and is the subject to the negotiated settlement between the Pyramid Lake Paiute Tribe, Truckee Carson Irrigation District, Westpac Utilities and others.⁴

CONCLUSIONS

I.

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

³ See Claim No. 4 in Final Decree in U.S. vs. Orr Water Ditch Company et. al. in equity Docket No. 3, U.S. District Court in and for the District of Nevada; September 8, 1944. Also see Final Decree in U.S. vs. Truckee River General Electric Company. U.S. District Court, Northern District of California June 4, 1915.

⁴ See transcript of hearings 1989 held by U.S. Senator Harry Reid, U.S. Senator from Nevada.

⁵ NRS Chapter 533.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water 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.

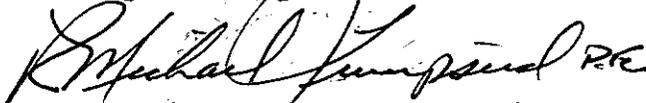
III.

The State Engineer finds that the approval of this application would deplete the Tahoe Basin/Truckee River by a finite amount and would be detrimental to the rights of the United States for storage in Lake Tahoe for use on the Newlands Project and be detrimental to the decreed claims to the Truckee River.

RULING

The protest filed by the Truckee-Carson Irrigation District to granting application 52695 is UPHELD and application 52695 is hereby DENIED on the grounds that it would be detrimental to prior decreed water rights in the Truckee River system and further that it would not be in the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/pm

Dated this 21st day of
March, 1990.

⁶ NRS Chapter 533.370