

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 30215)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF WILSON CREEK LOCATED)
WITHIN THE LAKE VALLEY HYDROGRAPHIC)
BASIN (183), LINCOLN COUNTY,)
NEVADA.)

RULING

4801

GENERAL

I.

Application 30215 was filed on May 4, 1976, by Patrick Laughlin to appropriate 2.5 cubic feet per second of water from Wilson Creek for the irrigation of 146.2 acres of land which are described as being located within Lots 1 and 2 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, T.5N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 1.¹

II.

Application 30215 was timely protested by Frank Delmue on the general grounds that the water has been used continuously since 1914.¹

III.

Application 30215 was timely protested by Imperial Farms Land and Cattle Co., Inc., on the following grounds:¹

That it would impair and conflict with the value of existing rights; that it would be against public policy to grant said application, and contrary to statute; that the granting of said application would interfere with the customary use of Protestants' existing water rights.

IV.

Application 30215 was timely protested by Kenneth Lytle on the general grounds that the water has been used continuously since 1914.

¹ File No. 30215, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

The Wilson Creek Decree contains a declaration of full appropriation which states that from the record of the adjudication proceedings and the record of claimed vested water rights and permits issued by the State Engineer, it was determined that the waters of Wilson, Winz and Bailey Creeks and their tributaries, including all springs within their drainages were fully appropriated.² The State Engineer finds that the waters of Wilson Creek have been determined through the adjudication process to be fully appropriated, therefore, no additional appropriation of water can be allowed from this source.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

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

III.

Application 30215 requests an additional appropriation of surface water from a source which has been determined to be fully

² Findings of Fact, Conclusions of Law, Judgment and Decree, In the Matter of the Determination of the Relative Rights in and to the Waters of Wilson Creek and Its Tributaries in Lincoln County, Seventh Judicial District Court In and for the County of Lincoln, Nevada, January 25, 1990.

³ NRS Chapter 533.

⁴ NRS § 533.370(3).

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appropriated. The State Engineer concludes that there is no unappropriated water available for use from Wilson Creek, therefore, Application 30215 must be denied.

RULING

Application 30215 is hereby denied on the grounds that there is no unappropriated water available at the source. No ruling is made on the merits of the protests.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 3rd day of
November, 1999.