

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

IN THE MATTER OF APPLICATION 60993)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF CORRAL CANYON CREEK)
WITHIN THE CRESCENT VALLEY)
HYDROGRAPHIC BASIN (054), LANDER)
COUNTY, NEVADA.)

RULING

4953

GENERAL

I.

Application 60993 was filed on March 3, 1995, by Donald Ebbe and Arnold Flanzer to appropriate 1.0 cubic feet per second (cfs) of water from Corral Canyon Creek for mining, milling, and domestic purposes within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T.30N., R.47E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 33.¹

FINDINGS OF FACT

I.

Corral Canyon Creek is located on the west side of Crescent Valley, immediately north of Bald Mountain. From its headwaters in the Shoshone Mountains, Corral Canyon Creek assumes an easterly flow, with the upper portion of the stream course confined within a narrow canyon. A break in the topography occurs in Section 34, T.30N., R.47E., M.D.B.&M. as the stream emerges from the confines of the mountains and enters the basin alluvium.² It can be expected that the stream experiences a gradual reduction in flow as it traverses the alluvium until a point is reached where it can no longer maintain a surface expression. This assumption was verified during a May 31, 2000, informal field investigation that was conducted by personnel from the office of the State Engineer.

¹ File No. 60993, official records in the office of the State Engineer.

² U.S.G.S. 7.5 minute Mud Springs Gulch Quadrangle topographic map, provisional edition, 1985.

One of the observations made at the time of this field investigation was the fact that the flow of Corral Canyon Creek dissipates at the point in which the stream leaves the canyon.³ The State Engineer finds based upon the information obtained during the May 31, 2000, field investigation, that the flow of Corral Canyon Creek is limited in its extent and duration.

II.

An examination of the records of the State Engineer determined that there are currently two water rights that have points of diversion from Corral Canyon Creek. These are represented by Proof V-07572 and Permit 13434, Certificate 5043, which are held in the names of Julian Tomera Ranches, Inc. and Fred Gilmore and Art Seltzer, respectively. Proof V-07572 claims an 1889 priority for a use of water for the stockwatering of 100 cattle, 10 horses and 1000 sheep. The place of use claimed under the proof is adjacent to the stream course and is located above and below the applicants' proposed point of diversion and place of use.⁴ Permit 13434, Certificate 5043 was issued by the office of the State Engineer for 2.0 cfs, not to exceed 364.32 acre feet per season (March 1 through June 1), of Corral Canyon Creek water for the irrigation of 283.26 acres of land that is located within the SW $\frac{1}{4}$ and the W $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, T.30N., R.48E., M.D.B.&M. The point of diversion established under this permit is located approximately 5 miles downstream from the point of diversion requested under Application 60993.⁵ The State Engineer finds the proposed point of diversion and place of use requested under Application 66093 are located upstream from existing water rights and that any appropriation of water from applicants' proposed point of diversion would reduce the amount of flow available to senior downstream appropriators.

³ Report of Field Investigation No.1010, official records in the office of the State Engineer.

⁴ Proof No. V-07572, official records in the office of the State Engineer.

⁵ File No. 13434, official records in the office of the State Engineer.

III.

The allocation of water from a stream system is regulated on a priority basis whereby a water right that is junior in time can only be served after all senior water rights have been fully satisfied. The State Engineer finds that if Application 60993 was approved, an appropriation of water could occur only during those times of the year, if any, when the flow of Corral Canyon Creek exceeded the amount of water required to fulfill the needs of senior water rights.

IV.

Application 60993 was filed to appropriate the waters of Corral Canyon Creek from February 1 to November 30 of each year. A stream flow measurement was performed during the May 31, 2000, field investigation at a measuring point that was located a short distance downstream from the proposed point of diversion. The stream flow of the main channel of Corral Canyon Creek was calculated using a portable 90 degree v-notch weir to be approximately 0.147 cfs.³ This measurement was taken during a time of the year when peak sustained seasonal flows have subsided and represents a flow level that can only be expected to decline as the summer months progress. The State Engineer finds that during significant periods of time, there is insufficient water available from Corral Canyon Creek to meet the demands of the existing senior water rights on the stream system, let alone any additional appropriation of water for the period and manner of use requested under Application 60993.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁷

- 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 60993 requests an appropriation of Corral Canyon Creek water from a point of diversion that is located upstream from an existing point of diversion established under a certificated water right permit and above and below the points of diversion under a claim of vested right. A recent stream flow measurement obtained from the field indicates that these senior rights would be adversely affected by any additional upstream diversions of water; therefore, the State Engineer concludes that the approval of Application 60993 would have an adverse effect upon existing water rights.

IV.

The May 31, 2000, field investigation determined that for significant periods of time the flows of Corral Canyon Creek fall below that level necessary to satisfy the water demands of existing water rights. The State Engineer concludes that there is insufficient water to meet the consumptive use requirements of the manner of use proposed under Application 60993. The State Engineer

⁶ NRS chapter 533.

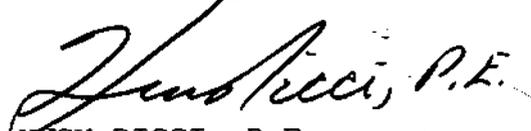
⁷ NRS § 533.370(2).

further concludes that the approval of an additional appropriation of water from this limited resource would threaten to prove detrimental to the public interest.

RULING

Application 60993 is hereby denied on the grounds that its approval would adversely affect existing rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/MDB/cl

Dated this 8th day of
August, 2000.