

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

ORDER

Mr. Michael Dennis Sayan
1135 Highway 395 North
Carson City, Nevada 89704
Cert. Mail No. P 560 265 051

Mr. Myron Gaylord Sayan
c/o Michael and Patricia
Stockwell
Winters Creek Bed & Breakfast
1201 Highway 395 North
Carson City, Nevada 89704
Cert. Mail No. P 560 265 052

Pursuant to complaints received by the office of the State Engineer from representatives of John Jay Casey, a letter was sent to Mr. Michael D. Sayan on September 21, 1989, advising him of unauthorized diversions observed by staff on Winters Creek, a decreed natural stream located within portions of the NW1/4 Section 26, NE1/4 Section 27, T.17N., R.19E., M.D.B.&M.

Mr. Sayan was requested to correct any such diversions, ponds or other interruption of the flow of Winters Creek, the violation of which is subject to criminal and/or civil penalties.

Following another complaint, a field investigation was conducted by this office on March 30, 1990, to determine if Winters Creek was being obstructed illegally.

The investigation revealed the water was being detained and consumed through illegal ditches and ponds diverted from the natural channel within your respective properties.

An Order No. 1022 signed by the State Engineer on April 16, 1990, was served upon you by the Washoe County Sheriff's office directing you to restore the entire flow of water of Winters Creek to the natural channel within the confines of your respective properties as depicted on an attached map. You were given a period of thirty days to comply with the order.

On August 2, 1990, a follow-up field investigation revealed that Winters Creek was still being illegally diverted through Myron Gaylord Sayan's property and that the natural channel had not been restored on Michael Dennis Sayan's property contrary to the forementioned order.

Following more recent complaints from the manager of John Casey's Ranch, a decreed water user of Winters Creek, another inspection of your respective properties on June 20, 1991, confirmed that an illegal diversion of Winters Creek was being used to maintain two ponds, provide pasture irrigation and water horses on Myron Gaylord's (Michael Stockwell - lessee) property and that the natural channel of Winters Creek empties into an enlarged pond area without an apparent outlet on Michael Dennis Sayan's property. According to the complaint no water had been allowed to flow down the natural channel to the culvert on Highway 395 during this current year.

You are again advised that NRS 535.050 prohibits the obstruction of any stream channel or water course in the State of Nevada when said obstruction has not been legally established and recognized through a valid claim of vested right by court decree or by a permit issued by the State of Nevada.

Further NRS 535.050 provides for removal of any dam or obstruction not in compliance with said statute.

Further NRS 533.460 provides "the unauthorized use of water to which another person is entitled or the willful waste of water to the detriment of another; shall be a misdemeanor and the possession or use of such water without legal rights shall be prima facie evidence of the guilt of the person using or diverting it."

YOU ARE HEREBY ORDERED to restore the entire flow of water in Winters Creek to the natural stream channel within the confines of your properties as depicted on the attached map. This includes removing all diversion ditches and ponds or dams related thereto and providing stream bank protection for those sections that have been altered. Failure to comply with this order within a period of 15 days of the date of this order will result in the State Engineer pursuing appropriate action in the appropriate district court.


R. MICHAEL TURNIPSRED, P.E.
State Engineer

Dated at Carson City, Nevada

this 28th day of June, 1991.