

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

1186

ORDER

**WHEREAS**, a State Decree for the waters of Unionville Creek (aka Buena Vista Creek) and Its Tributaries was adjudged by the Sixth Judicial District Court of the State of Nevada in and for the County of Pershing dated April 28, 1971. This Decree adjudicated all the relative rights of all plaintiffs and defendants relative to the use of the waters of Unionville Creek and its tributaries.

**WHEREAS**, the Unionville Creek Decree has defined the relative date of priority, duty of water expressed in cubic feet per second and acre-feet, the number of acres to be irrigated, the length of the irrigation season, place of appropriation and the owners of all the waters of Unionville Creek and its tributaries.

**WHEREAS**, the Unionville Creek Decree requires that all measurements of amounts of water diverted are to be made at the point where the main ditch enters or becomes adjacent to the land to be irrigated or as near thereto as is practicable; that the location if not selected by the State Engineer, to be approved by him. That each water user shall install and maintain at his own expense, substantial and easily operated regulating headgates and measuring devices in his ditch or ditches or channel.

**WHEREAS**, field investigations conducted by the Nevada Division of Water Resources determined that substantial and easily operated regulating headgates and measuring devices do not exist at all diversion ditches.

**WHEREAS**, a field investigation conducted by personnel of the Nevada Division of Water Resources on January 10, 2007, indicated that headgates on existing ditches that control water flow to Claim V-0735 and Claim V-02593 are located within Sections 20 and 21, T.30N., R.35E., M.D.B.&M. The observed headgates cannot be controlled and secured with a lock by a water commissioner.

**WHEREAS**, the headgate that controls the distribution of flow between said decreed claims was regulated by personnel of the Nevada Division of Water Resources on January 10, 2007. Both parties were verbally notified that the diversions had been regulated by Division of Water Resources employees and were not to be changed.

Subsequently, the diversion has been altered by one or both parties and they are not in agreement with the distribution of the waters of Unionville Creek.

**NOW THEREFORE**, to insure that the waters of Unionville Creek and its tributaries are delivered according to the Decree and to insure that all users receive the amount of water to which they are entitled, you are hereby ordered as follows:

1. To install and maintain a substantial headgate at points of diversion as approved by the State Engineer. These headgates must be adequate to enable regulation of water from an open or closed position and must be able to be secured and locked. The location of these diversion structures will be established by May 1, 2007.
2. To install and maintain a measuring device at each diversion as approved by the State Engineer. These measuring devices must be adequate to measure water easily in order to facilitate water distribution.
3. To have the above described headgates and measuring devices constructed as approved by the State Engineer and installed in operable condition before May 31, 2007.
4. To pay the costs of the installation of these headgates. Failure to comply with this order will result in the installation of a substantial headgate by employees of the State Engineer's Office or a private contractor hired by the same as provided by NRS 536.030, which states:

*If any person neglects or refuses to install the headgate, measuring device or flume, as required by NRS 536.010, the State Engineer may, in his discretion, install the headgate, measuring device or flume, as the case may be, and in the first instance charge the actual cost thereof to the water distribution account and thereafter present an itemized statement of the charge to the board of county commissioners of the county wherein the charge and expenses were incurred. The board of county commissioners shall thereupon present a bill for the expenses to the person liable therefor under NRS 536.010, 536.020 and 536.030 and if that person neglects for 30 days thereafter to pay it, the bill and costs become a lien upon the lands and property of the person so liable for the payment of the bill, and must be collected as delinquent taxes against the lands and property are collected.*

  
TRACY TAYLOR, P.E.  
State Engineer

Dated at Carson City, Nevada,

this 19th day of April, 2007