

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 48005)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF BUTTERFIELD COUNTY SPRING)
IN CARSON VALLEY, CARSON COUNTY,)
NEVADA.)

RULING

GENERAL

Application 48005 was filed on April 26, 1984, by Ron Butterfield to appropriate 1.0 c.f.s. of water from Butterfield County Spring for commercial and domestic purposes within portions of the E1/2 SE1/4 Section 3, NW1/4 SW1/4 Section 2 and NW1/4 NE1/4 Section 10, all in T.14N., R.20E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 3, T.14N., R.20E., M.D.B.&M.¹

Application 48005 was timely protested by Carson City on the following grounds:²

- "1) The granting of the application will adversely affect the prior ground water rights of the protestant.
- 2) The granting of the application will adversely affect the prior surface water rights to the waters of the Carson River owned by the protestant.
- 3) The State Engineer has, on numerous occasions, denied applications situated within the Carson Valley Drainage Basin."

The protestant requested that Application 48005 be denied. (NOTE: Carson City formally withdrew its protest to Application 48005 on November 5, 1984.)

A field investigation was conducted on October 29, 1984, to attempt to resolve the protest and to gather additional information for the State Engineer.³

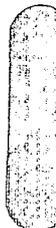
Butterfield County Spring is located on the east side of the Carson River where it erupts from the bottom of a hill and fills a small pond adjacent to a channel of the river. No measurement was taken of the flow, however, it was estimated to be almost 5 gallons per minute.

Representatives of the protestant reiterated their concern that the flow was tributary to the river.

¹ Public record in the office of the State Engineer under Application 48005.

² A copy of the protest is a public record on file with Application 48005 in the office of the State Engineer.

³ A copy of the report of field investigation conducted on October 29, 1984, is a public record filed with Application 48005 in the office of the State Engineer.



FINDINGS OF FACT

I.

The source of water for Application 48005 is a spring located in such proximity to the Carson River channel as to be considered tributary to the river flow.

II.

In the findings of fact of U.S. vs. Alpine Land and Reservoir Co., et al., the decree states:⁴

"The Carson River and its tributaries are interstate streams and the waters of the Carson River and its tributaries are fully appropriated."

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public interest.⁶

III.

The source of water for Application 48005 is tributary to the Carson River system which has been declared fully appropriated.

⁴ U.S. vs. Alpine Land and Reservoir Co., et al., Final Decree, U.S. District Court for the State of Nevada, Civil No. D-183 BRT, Findings of Fact, p. 1.

⁵ NRS 533.325.

⁶ NRS 533.370, subsection 3.

RULING

Application 48005 is hereby denied on the grounds that the Carson River system is fully appropriated and that approval of a tributary to said stream would conflict with and impair the value of existing rights.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a horizontal line.

Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 4th day of

January, 1985.