

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 40467)
AND 40468 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF LEIDY CREEK IN FISH)
LAKE VALLEY, ESMERALDA COUNTY,)
NEVADA.)

RULING

GENERAL

Application 40467 was filed on February 6, 1980, by Four Rent Inc. to appropriate 10.0 c.f.s. of water from Leidy Creek for irrigation purposes on 2480 acres of land within the E1/2 Section 28; E1/2 Section 33; W1/2, SE1/4, S1/2 NE1/4 Section 27; N1/2, N1/2 S1/2, SW1/4 SW1/4 Section 34; NW1/4, NW1/4 SW1/4, NW1/4 NE1/4 Section 35; S1/2 N1/2, N1/2 S1/2, S1/2 SW1/4, SW1/4 SE1/4 Section 26; SW1/4 NW1/4, NW1/4 SW1/4 Section 25, all in T.2S., R.35E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 29, T.2S., R.35E., M.D.B.&M.¹

Application 40468 was filed on February 6, 1980, by Four Rent Inc. to appropriate 10.0 c.f.s. of water from Leidy Creek for irrigation purposes on 2480 acres of land within the E1/2 Section 28; E1/2 Section 33; W1/2, SE1/4, S1/2 NE1/4 Section 27; N1/2, N1/2 S1/2, SW1/4 SW1/4 Section 34; NW1/4, NW1/4 SW1/4, NW1/4 NE1/4 Section 35; S1/2 N1/2, N1/2 S1/2, S1/2 SW1/4, SW1/4 SE1/4 Section 26; SW1/4 NW1/4, NW1/4 SW1/4 Section 25, all in T.2S., R.35E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 29, T.2S., R.35E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Leidy Creek is also known as Robinson Creek and McGee Creek.²

II.

Robinson Creek (Leidy Creek) is fully appropriated according to the Decree which states that "...the vested water right from this source and...the permitted water rights, which together, fully take up all of the waters of this source..."³

¹ Public record in the office of the State Engineer.

² Judgment and Decree in the Fifth Judicial District Court on and for the State of Nevada, No. 4131, April 29, 1946, p. 4.

³ Judgment and Decree in the Fifth Judicial District Court, No. 4131, April 29, 1946, p. 4.

III.

Regarding junior rights, the Decree states that "The waters of Robinson (Leidy) Creek and its Tributaries are fully utilized for irrigation, stockwatering and domestic purposes by the claimant named herein and no person or persons holding a right of appropriation not herein listed shall be entitled to receive any water from said Robinson (Leidy) Creek and its Tributaries".⁴

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 there is no unappropriated water in the proposed source.⁶

RULING

Applications 40467 and 40468 are hereby denied on the grounds that there is no unappropriated water in the source as set forth in the Judgment and Decree in the Robinson (Leidy) Creek Decree.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/KN/bl

Dated this 23rd day of
Janaury, 1985.

⁴ Judgment and Decree in the Fifth Judicial District Court in and for the State of Nevada, No. 4131, April 29, 1946, p. 9.

⁵ NRS 533.025 and NRS 533.030.

⁶ NRS 533.370.