

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 42869)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF SHOSHONE CREEK IN BIG)
SMOKY VALLEY, NYE COUNTY, NEVADA.)

RULING

GENERAL

Application 42869 was filed on November 21, 1980, by Copper Range Company dba Shoshone Water Company to appropriate 0.5 c.f.s. of water from Shoshone Creek for quasi-municipal and domestic purposes within Section 20, T.10N., R.44E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 21, T.10N., R.44E., M.D.B.&M.¹

Said application was processed, published and subsequently protested by Richard L. Carver on the grounds that the granting of the application would interfere with his rights as evidenced by Permits 24442 and 41147 and any vested rights to surface water as well as a possible interference with underground Permits 30613, 40619, 40620 and 42439.¹

FINDINGS OF FACT

I.

Shoshone Creek is tributary to Jefferson Creek which is used for irrigation by the protestant.²

II.

Protestant's rights of record total 30.0 c.f.s. from Jefferson Creek and its tributaries as evidenced in Permit 24442, Certificate 9746 and Permit 41147.³

III.

Applicants are successors in interest to Permit 1077, Certificate 267, for 0.25 c.f.s. from Shoshone Creek for milling and domestic purposes.⁴

¹ Public record in the office of the State Engineer.

² Report of field investigation, a copy of which is attached to file 42869, and letter dated June 24, 1971, from Starr Hill, Jr., Division of Water Resources, attached to file 24442.

³ Public record in the office of the State Engineer under Permits 24442 and 41147.

⁴ Public record in the office of the State Engineer under Permit 1077.

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 welfare.⁶

III.

The existing rights on Shoshone Creek and/or Jefferson Creek total more than the normal flow.

RULING

The protest to the granting of Application 42869 is hereby upheld and Application 42869 is hereby denied on the grounds that the granting would conflict with and be detrimental to existing rights.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/MT/bl

Dated this 20th day of
February, 1985.

⁵ NRS 533.025 and 533.030(1).

⁶ NRS 533.370(3).