

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 49445)
PERMITTED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF A)
PORTION THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE HERETOFORE)
APPROPRIATED UNDER PERMIT 30109 IN)
WARM SPRINGS VALLEY, WASHOE COUNTY,)
NEVADA.)

RULING

GENERAL

Application 49445 was filed on October 11, 1985, by MCO Properties to change the point of diversion and place of use of 0.56 c.f.s., a portion of water from an underground source for irrigation and domestic purposes on 14 acres of land within the NE1/4 SE1/4, NW1/4 SE1/4 Section 15, T.22N., R.20E., M.D.B.&M., heretofore appropriated under Permit 30109. The point of diversion is described as being within the NE1/4 SE1/4 Section 15, T.22N., R.20E., M.D.B.&M. Application 49445 was subsequently permitted to MCO Properties on April 25, 1986. The current owners of record are Dennis R. and Genie M. Moore and Jan S. McCrorey.¹

FINDINGS OF FACT

I.

The permit under Application 49445 was granted with the understanding that the proof of completion of work shall be filed on or before May 25, 1987, and the proof of beneficial use shall be filed on or before May 25, 1989.¹

II.

On October 5, 1986, a quitclaim deed was filed in the office of the State Engineer to assign the water right to Dennis R. and Genie M. Moore, 1/2 interest, and Jan S. McCrorey, 1/2 interest.¹

III.

On June 25, 1987, a notice was sent certified mail to the owner of record that the proof of completion was due on May 25, 1987, and that they would have thirty (30) days from the date of the notice to submit the proof or apply for an extension of time.¹

IV.

On August 7, 1987, the owner of record was notified that Permit 49445 had been cancelled for failure to submit the proof of completion of work as set forth under Chapter 533 of the Nevada Revised Statutes.¹

¹ Public record in the office of the State Engineer.

Applications 50392, 50393 and 50394 were timely protested on February 17, 1987, by Nevada First Corporation on the following grounds:

"on the grounds it would be impossible to administer such small amounts of water (0.005 CFS). We have no problem with the present delivery in one ditch but several ditches with such a small amount would not be feasible."

FINDINGS OF FACT

I.

On March 16, 1987, an informal field investigation was conducted by the State Engineer's office with both the applicants and protestant represented.³

II.

On March 16, 1987, the applicants submitted a letter explaining that they would be installing plastic pipes with valves in order to transport small amounts of water to the place of use.³

III.

The representative of the protestant stated he would have to meet with the corporate owners to see if that method of diversion was satisfactory to resolve the protest, in which case it would be withdrawn.

IV.

The State Engineer finds that the protestant has prior decreed rights to the tributary source under the subject applications.² There are times that there is insufficient water to reach the protestant's property, therefore, later priority rights are entitled to take the water. During the spring runoff and during flash flows, there is sufficient water for all priorities.

V.

The Little Humboldt River Decree, Finding XIII, provides that "...all claimants herein having water for irrigation are entitled to use such water for stockwatering and domestic purposes".⁴

³ See letter filed under Application 50392, public record in the office of the State Engineer.

⁴ See Little Humboldt River Decree, Finding XIII, page 10.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁶

- A. There is no unappropriated water at 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.

III.

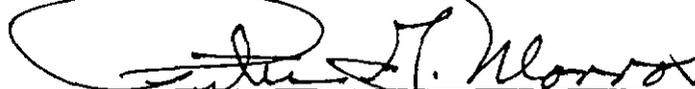
If the applicants divert the water by pipeline and install valves that can be locked shut along with measuring devices approved by the State Engineer, there should be no additional distribution problems and the proposed changes will not interfere with the rights of the protestant.

RULING

The protest to Applications 50392, 50393 and 50394 is hereby overruled and said applications are hereby approved subject to prior rights subject to the following conditions.

- 1. The applicants shall install control devices at the points of diversion that can be locked or otherwise controlled by the water commissioner.
- 2. The subject change applications are approved subject to existing rights and with the understanding that the approval cannot affect any existing rights on the source regardless of priority.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 11th day of
September, 1987.

⁵ NRS 533.325.

⁶ NRS 533.370(3).

V.

Communication with the agent under Permit 49445 indicated that the owner of record had filed the proof of completion of work. Subsequently, a search of the records in the office of the State Engineer revealed that the proof was submitted on July 6, 1987, by Genie Moore, part owner of the permit, and that a typographical error had been made on the proof indicating that it was submitted to be filed under Permit "49455" instead of Permit 49445.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.²

II.

The State Engineer concludes that an unintentional typographical error was made by the permittee when completing the proof of completion of work for submission to the State Engineer's office. The error resulted in the proof of completion of work being filed under Permit 49455 instead of Permit 49445.

RULING

The proof of completion of work will be filed under Permit 49445 as of July 6, 1987, and the cancellation of Permit 49445 is hereby rescinded. All references to the filing the proof of completion of work under Permit 49455 will be deleted from the records in the office of the State Engineer.

Respectfully submitted,


PETER G. MORROS
State Engineer

PGM/DLW/bl

Dated this 1st day of
September, 1987.

² NRS 533.325.