

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 49074 and)
49101 FILED TO APPROPRIATE THE PUBLIC)
WATERS OF SONOMA CREEK IN GRASS)
VALLEY, PERSHING COUNTY, NEVADA.)

RULING

GENERAL

Application 49074¹ was filed on May 21, 1985, by Donnell Richards to appropriate 3.0 c.f.s. of water from Sonoma Creek for irrigation of 360 acres of land within the N $\frac{1}{2}$ Section 29 and the S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 20, T.34N., R.38E., M.D.B.&M. Domestic use is also included. The point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 20, T.34N., R.38E., M.D.B.&M.

Application 49101² was filed on May 31, 1985, by Garrett Van Diest to appropriate 1.0 c.f.s. of water from Sonoma Creek to irrigate 84.70 acres within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T.34N., R.37E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T.34N., R.37E., M.D.B.&M.

FINDINGS OF FACT

I.

A determination of the relative rights to the use of water in Sonoma Creek was completed in the Sixth Judicial District Court when it entered its Findings of Fact, Conclusions of Law, Judgment and Decree on March 16, 1971.³

¹ Public record in the office of the State Engineer under Application to appropriate 49074.

² Public record in the office of the State Engineer under Application to appropriate 49101.

³ Final Decree - Sonoma Creek, Pershing County, Sixth Judicial District, State of Nevada Case No. 3776, 1971.

II.

The place of use for Application 49101 is covered in the Sonoma Creek decree. No additional water may be applied to those lands from Sonoma Creek under a later priority filing than has already been provided under Sections V, VI VII, VIII and IX of the Conclusions of Law in the decree.⁴

III.

A portion of the place of use for Application 49074 is covered in the Sonoma Creek decree. No additional water may be applied to those decreed portions from Sonoma Creek under a later priority filing than has already been provided under Sections V, VI, VII, VIII and IX of the Conclusions of Law in the decree.⁵

IV.

Existing permits for the place of use under Application 49074 are as follows:⁶

1. Permit 49075 was issued for 3.0 c.f.s. of water from Home Spring and adjoining springs to irrigate 360 acres of land . The owner of record is Donnell Richards.
2. Permit 49238 was issued for 1.0 c.f.s. of water from Home Springs spring area to irrigate 360 acres of land. The owner of record is Donnell Richards.
3. Permit 30469, Certificate 10746 was issued for 1.322 c.f.s. of water from Sonoma Creek and tributaries to irrigate 20.48 acres of land. The owner of record is Donnell J. and Andree Richards.
4. Permit 30523, Certificate 10747 was issued for 0.2674 c.f.s. of water from Home Springs to irrigate 49.47 acres of land. The owner of record is Donnell J. and Andree Richards.

⁴ Public record in the office of the State Engineer under the Sonoma Creek adjudication.

⁵ Public record in the office of the State Engineer under the Sonoma Creek adjudication.

⁶ Public record in the office of the State Engineer under Permits 49074, 49238, 30469 and 30523.

V.

Sonoma Creek has been decreed for 9.182 c.f.s. of water to irrigate 367.28 acres of land. Permit 30469 has been certificated for 1.322 c.f.s. of water from Sonoma Creek and its tributaries to irrigate 20.48 acres of land.

A recent field investigation on May 4, 1990, revealed Sonoma Creek to be flowing 4.1 c.f.s. of water.⁷

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁸

II.

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

- 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.

Approval of Application 49101 would be a duplication of what already is a decreed right under the Sonoma Creek Adjudication.

⁷ Report of Field Investigation is filed under Application 49074 in the office of the State Engineer.

⁸ NRS 533.325.

IV.

Approval of Application 49074 would allow a substantial portion of Sonoma Creek to be diverted above existing decreed rights. A measured flow taken during a traditionally high water period this year is already far short of meeting existing decreed and certificated rights of record.

RULING

Applications 49074 and 49101 are hereby denied on the grounds that they would conflict with and impair existing rights on the source and would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/GC/bk

Dated this 18th day of

May, 1990.