

IN THE OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 8818)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF MUDDY RIVER IN THE)
MUDDY RIVER SPRINGS AREA (UPPER)
MOAPA VALLEY), CLARK COUNTY,)
NEVADA.)

RULING

#3789

GENERAL

I.

Application 8818¹ was filed on January 23, 1929 by Clarence A. Lewis to appropriate 10,000 acre-feet of the waters of the Muddy River and its tributaries to be used for irrigation and domestic purposes on 8,000 acres located within portions of T.15S. R.66E., T.15S. R.67E., T.16S. R.67E., T.16S. R.68E., T.17S. R.68E., and T.18S., R.68E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 26, T.14S., R.65E., M.D.B.&M. The current owner of record is the Muddy Valley Irrigation Company.

FINDINGS OF FACT

I.

The proposed point of diversion of application 8818 was to be the outlet of a dam site and storage reservoir located at the White Narrows immediately above the Moapa Indian Reservation on the Muddy River. The dam and storage reservoir have not been constructed to date.

II.

The Muddy Valley Irrigation Company as claimant to the Muddy River Decree² is entitled to divert 36.2588 c.f.s. of water for summer use and 45.394 c.f.s. for winter use under various certificates 58, 59, 59AA, 60, 267, 272, 273, 266 and 1199.

¹ Public record in the office of the State Engineer.

² Muddy River Decree, more specifically described as Muddy Valley Irrigation Company et al vs. Moapa Salt Lake Produce Company et al 10th Judicial District of the State of Nevada in and for the County of Clark. Case No. 377, March 12, 1920. Public record in the Office of the State Engineer.

III.

The twelfth ordering paragraph of the Muddy River Decree² provides: "that the aggregate volume of the several amounts and quantities of water awarded and allotted to the parties named in said order of determination, which include all the parties to said action and the said Moapa Indian Reservation, is the total available flow of the said Muddy River and consumes and exhausts all of the available flow of the said Muddy River its headwaters, sources of supply and tributaries". The State Engineer finds that it is not in the public interest to approve applications to appropriate water from a source that is decreed fully appropriated.

IV.

The following permitted water rights³ for the Muddy River and its tributaries are in the name of the Muddy Valley Irrigation Company in the records of the State Engineer's Office.

- A. Permit 21847 (Certificate 8324) was filed on February 26, 1964 to change the point of diversion of 3.98 c.f.s. of (winter) water from the Muddy River heretofore appropriated under Certificate 58A Muddy River Decree. The new point of diversion is within the NW1/4 NE1/4 Section 21, T.15S., R.67E., M.D.B.&M. The water continues to irrigate 2774 acres of land within portions of Sections 15, 21, 22, 26, 27, 34 and 35, T.15S., R.67E., Sections 1, 2, 3, 11, 12, 13, 14 and 24, T.16S., R.67E., Sections 7, 18, 19, 29 and 30, T.16S., R.68E., all in M.D.B.&M. Stockwater and Domestic use are included.
- B. Permit 21873 (Certificate 8325) was filed on March 16, 1964 to change the point of diversion and place of use of 9.7 c.f.s. of (winter) water from the Muddy River heretofore appropriated under Certificate 1199. The

³ Public record in the office of the State Engineer.

new point of diversion is within the NW1/4 NE1/4 Section 21, T.15S., R.67E., M.D.B.&M. The new place of use is the irrigated 2774 acres of land within portions of Sections 15, 21, 22, 26, 27, 34 and 35, T.15S., R.67E., Sections 1, 2, 3, 11, 12, 13, 14 and 24, T.16S., R.67E., Sections 7, 18, 19, 29 and 30, T.16S., R.68E., all in M.D.B.&M. Domestic use is included.

- C. Permit 21874 (Certificate 8326) was filed on March 16, 1964 to change the point of diversion and place of use of 0.0286 c.f.s. (summer) and 0.02 c.f.s. (winter) water from the Muddy River heretofore appropriated under Certificate 267, Muddy River Decree. The new point of diversion is within the NW1/4 NE1/4 Section 21, T.15S., R.67E., M.D.B.&M. The new place of use is the irrigated 2774 acres of land within portions of Sections 15, 21, 22, 26, 27, 34 and 35, T.15S., R.67E., Sections 1, 2, 3, 11, 12, 13, 14 and 24, T.16S., R.67E., Sections 7, 18, 19, 29 and 30, T.16S., R.68E., all in M.D.B.&M. Domestic use is included.
- D. Permit 21875 (Certificate 8327) was filed on March 16, 1964 to change the point of diversion and place of use of 0.80 c.f.s. (winter) water from the Muddy River heretofore appropriated under Certificate 273, Muddy River Decree. The new point of diversion is within the NW1/4 NE1/4 Section 21, T.15S., R.67E., M.D.B.&M. The new place of use is the irrigated 2,774 acres located within Sections 15, 21, 22, 26, 27, 34 and 35, T.15S., R.67E., Sections 1, 2, 3, 11, 12, 13, 14 and 24, T.16S., R.67E., Sections 7, 18, 19, 29 and 30, T.16S., R.68E., all in M.D.B.&M. Domestic use is included.
- E. Permit 21876 (Certificate 8328) was filed on March 16, 1964 to change the point of diversion of 31.0068 c.f.s. (summer) and 14.448 c.f.s. (winter)⁴ water from the

⁴ Office memorandum dated October 22, 1974 is a public record filed under Permit 21876 in the office of the State Engineer.

Muddy River heretofore appropriated under Certificate 266, Muddy River Decree. The new point of diversion is within the NW1/4 NE1/4 Section 21, T.15S., R.67E., M.D.B.&M. The new place of use continues to be the 2774 irrigated acres within portions of Sections 15, 21, 22, 26, 27, 34 and 35, T.15S., R.67E., Sections 1, 2, 3, 11, 12, 13, 14 and 24, T.16S., R.67E., Sections 7, 18, 19, 29 and 30, T.16S., R.68E., all in M.D.B.&M. Domestic use is included.

- F. Permit 21877 (Certificate 8329) was filed on March 16, 1964 to change the point of diversion and place of use of 4.252 c.f.s. (summer) and 8.466 c.f.s. (winter) water from the Muddy River heretofore appropriated under Certificate 59AA, and Permit 31 Certificate 272 included in the Muddy River Decree. The new point of diversion is within the NW1/4 NE1/4 Section 21, T.15S., R.67E., M.D.B.&M. The new place of use is the irrigated 2,774 acres within Sections 15, 21, 22, 26, 27, 34 and 35, T.15S., R.67E., Sections 1, 2, 3, 11, 12, 13, 14 and 24, T.16S., R.67E., Sections 7, 18, 19, 29 and 30, T.16S., R.68E., M.D.B.&M. Stockwatering and domestic are also included.
- G. Permit 22739⁵ (Certificate 10060) was filed on August 25, 1965 to change the point of diversion, place of use and manner of use of 1.0 c.f.s. of water from the Muddy River heretofore appropriated under Certificate 266, Muddy River Decree. The new point of diversion is within the NW1/4 SE1/4 Section 16, T.14S., R.65E., M.D.B.&M. The water is used for culinary, municipal and domestic purposes within the Moapa Valley, Glendale, Overton and Logandale areas.

⁵ Deeds filed under Permit 22739, public record in the office of the State Engineer, show Muddy Valley Irrigation Company to be the owner of 32% of said water right.

- H. Permit 23600 (Certificate 7316) was filed on January 11, 1967 to change the point of diversion, manner and place of use of 7.0 c.f.s. of water from the Muddy River and its tributaries heretofore appropriated under Permit 21876, Certificate 8328. The new point of diversion is within the SE1/4 SE1/4 Section 15, T.14S., R.65E., M.D.B.&M. The water is used for industrial purposes within a portion of Section 5, T.15S., R.66E., M.D.B.&M.
- I. Permit 28791 was filed on October 11, 1974 to change the point of diversion, manner and place of use of 3.0 c.f.s. of water heretofore appropriated under Permit 21876, Certificate 8328. The new point of diversion is within the SW1/4 NW1/4 Section 16, T.14S., R.65E., M.D.B.&M. The water is used for municipal and domestic purposes within Sections 13, 14, 15, 16 and 24, T.14S., R.65E., Sections 15, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 32, 33, 34, 35 and 36 T.14S., R.66E., Sections 1, 2 and 12, T.15S., R.66E., Sections 6, 7, 8, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35 and 36, T.15S., R.67E., Section 31, T.15S., R.68E., Sections 1, 2, 3, 10, 11, 12, 13, 14, 24 and 25 T.16S., R.67E., Sections 6, 7, 8, 17, 18, 19, 20, 30 and 31, T.16S., R.68E., all in M.D.B.&M.

V.

All subsequent appropriation requests by the Applicant under Application 8818 have moved the point of diversion of decreed rights for irrigation to the Bowman Dam. Bowman Dam was raised in 1969 allowing the storage capacity of the reservoir to be increased to 4,000 acre-feet.

VI.

A certified letter⁶ was sent to the Muddy Valley Irrigation Company on October 7, 1968 by this office requesting additional

⁶ Public record in the office of the State Engineer, under Application 8818.

information concerning their intention to pursue the subject application. There is no indication of a response in the record.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁷

II.

The State Engineer is prohibited by law from granting a permit where:⁸

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

III.

There is evidence in the records of the State Engineers office that indicates the applicant of does not intend to pursue the subject Application (8818).

IV.

The twelfth ordering paragraph of the Muddy River decree provides that the total available flow of Muddy River is fully appropriated.

V.

Granting approval of Application 8818 would not be in the public interest due to the fact that the proposed source of water has been decreed fully appropriated.

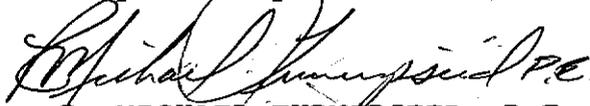
⁷ NRS Chapter 533.

⁸ NRS Chapter 533.370.

RULING

Application 8818 is hereby denied on the grounds that the source of water is fully appropriated and that the granting would adversely affect and impair existing rights and would be detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/GC/pm

Dated this 20th day of
March, 1991.