

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

IN THE MATTER OF APPLICATION 26595)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF JOY CREEK WITHIN WASHOE)
VALLEY HYDROGRAPHIC BASIN (089),)
WASHOE COUNTY, NEVADA.)

RULING

4795

GENERAL

I.

Application 26595 was filed on February 28, 1972, by Millard H. Duxbury to appropriate water from Joy Creek for quasi-municipal purposes for use within portions of the N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 23, T.17N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T.17N., R.19E., M.D.B.&M. Application 26595 became ready for action by the State Engineer's office on June 5, 1972.¹

FINDINGS OF FACT

I.

The State Engineer finds that the source of Joy Creek is Joy Lake located approximately 1,500 feet northwest of the proposed point of diversion.

II.

The State Engineer finds that the right to use the water of Joy Lake is pursuant to a decreed water right found under Proof 02750 for recreational and stockwatering purposes in the amount of 14.0 acre-feet annually as set forth in the Browns Creek

¹ File No. 26595, official records in the office of the State Engineer.

Decree.² The point of diversion of Proof 02750 is Browns Creek located approximately 2,200 feet northwest of Joy Lake.²

III.

The outlet of Joy Lake is uncontrolled and the allowable diversion under Proof 02750 is the net difference between the inflow and the outflow from the lake to a maximum of 14.0 acre-feet annually.² The State Engineer finds the waters found in Joy Creek are fully appropriated as set forth in the Browns Creek Decree.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

² In the Matter of the Determination of the Relative Rights in and to the Water of Browns Creek and Its Tributaries In Washoe County, State of Nevada, Second Judicial District Court of the State of Nevada, August 18, 1976, official records in the office of the State Engineer.

³ NRS Chapter 533.

⁴ NRS § 533.370(3).

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III.

The State Engineer concludes there is no water available for appropriation as requested under Application 26595.

RULING

Application 26595 is hereby denied on the grounds that there is no unappropriated water at the proposed source.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RAD/cl

Dated this 16th day of
September, 1999.