

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF PROTESTED )  
APPLICATION 43953 FILED BY DON. B. )  
RIDDLE TO APPROPRIATE WATERS OF )  
WILLOW CREEK IN BUFFALO VALLEY, )  
LANDER COUNTY, NEVADA. )

RULING

GENERAL

Application 43953 was filed on June 26, 1981, by Don B. Riddle to appropriate 0.5 c.f.s. of water from Willow Creek for mining and milling purposes within the E1/2 W1/2, W1/2 NE1/4, W1/2 W1/2 SE1/4 Section 20, T.31N., R.43E., M.D.B.&M., totaling 280 acres. The point of diversion is described as being within the SW1/4 NW1/4 Section 29, T.31N., R.43E., M.D.B.&M.<sup>1</sup>

Application 43953 was timely protested by Duval Corporation on February 10, 1982 on the following grounds:<sup>2</sup>

"Duval Corporation is the owner of permitted and vested rights on Willow Creek which it considers as fully appropriated and not able to satisfy any portion of the water requested in Application 43953."

Application 43953 was timely protested by Louie Venturacci and Eddie Venturacci on February 12, 1982, on the following grounds:<sup>2</sup>

The Venturaccis have vested rights on Willow Creek that have been used for stockwatering since the late 1800's.

Both protestants requested denial of Application 43953.

After notice to all parties, a field investigation was held on August 17, 1984, to gather additional information and to attempt to resolve the protests.<sup>3</sup>

Don Riddle provided documents that described in more detail his existing and proposed mining operations and also gave an assurance that provisions for wildlife would be made as part of the works of diversion.

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<sup>1</sup> Application 43953 is a public record on file in the office of the State Engineer.

<sup>2</sup> A copy of the protest is a public record on file with Application 43953 on file in the office of the State Engineer.

<sup>3</sup> A copy of the field investigation is a public record on file with Application 43953 in the office of the State Engineer.

Richard Sumin and Richard Arden, for Duval, reaffirmed the protest because of (1) overappropriation based on existing rights; (2) pending Application 16820 by Duval should be acted on first; and (3) by granting 43953, there may be resulting disputes between parties during normal precipitation years when no water reaches Mr. Riddle's proposed point of diversion.

Mr. Riddle concluded that he would be glad to receive water when it was available, as it has been this year, since his proposed point of diversion is the lowest on the stream.

#### FINDINGS OF FACT

##### I.

Willow Creek originates on Battle Mountain near Antler Peak from springs and snow accumulation and flows south to Buffalo Valley.

##### II.

There is no conclusive evidence to indicate that Willow Creek is fully appropriated under existing certificated water rights numbers 162, 3050, 3680; permitted right 16820 and claim of vested right 01263.

##### III.

There are no existing or proposed water right applications downstream from Application 43953 on file in the office of the State Engineer.

##### IV.

There was water flowing in Willow Creek past the point of diversion of Application 43953 at the time of the field investigation on August 17, 1984.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>4</sup>

##### II.

The evidence and information available does not indicate that there will be any adverse effect on existing rights if Application 43953 is permitted.

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<sup>4</sup> NRS 533.325.

RULING

The protests to Application 43953 are hereby overruled on the grounds that granting said permit will not tend to impair the value of existing rights or be otherwise detrimental to the public welfare.

A permit will be issued for Application 43953 upon payment of the required statutory permit fees.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a horizontal line.

Peter G. Morros  
State Engineer

PGM/GC/bl

Dated this 26th day of  
OCTOBER, 1984.