

**IN THE OFFICE OF THE STATE ENGINEER**

IN THE MATTER OF APPLICATION 44308)  
FILED TO APPROPRIATE THE PUBLIC)  
WATERS OF HENDRY CREEK IN SNAKE)  
VALLEY, WHITE PINE COUNTY, NEVADA. )

**RULING**

**GENERAL**

Application 44308 was filed on August 17, 1981, by Clarence Probst to appropriate 4.5 c.f.s. of water from Hendry Creek for irrigation purposes on 650 acres of land within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 20, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  N $\frac{1}{2}$ , SW $\frac{1}{4}$  and W $\frac{1}{2}$  SE $\frac{1}{4}$  Section 21; N $\frac{1}{2}$  Section 28, T.18S., R.19W., S.L.B.&M. (Utah). The point of diversion is described as being within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 35, T.16N., R.70E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACTS**

I.

Existing water rights of record on Hendry Creek are as follows:

- A. Proof 02654 was filed for 2.5 c.f.s. for the irrigation of 216.572 acres of land in Utah from a diversion on Hendry creek in Nevada.<sup>1</sup> The original claimant being J.D. Hill who has since sold the claim to Clarence Probst.<sup>2</sup>
- B. Utah Diligence Claim No. 1967 filed in the office of the Utah State Engineer for 10.0 c.f.s. from Hendry Creek to irrigate 475 acres of land in Utah. The original claimant being J.D. Hill but having been transferred to Arthur and Carol Cook.<sup>3</sup>

II.

Hendry Creek was determined to be fully appropriated during the irrigation season by prior State Engineer's Ruling.<sup>4</sup>

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<sup>1</sup> Public record in the office of the State Engineer.

<sup>2</sup> Report of field investigation held December 11, 1980, attached to Application 38619 on file in the office of the State Engineer.

<sup>3</sup> A copy of Utah Diligence Claim No. 1967 attached to Application 38619 on file in the office of the State Engineer.

<sup>4</sup> Ruling No. 3070 attached to Application 38619 and Application 40200 on file in the office of the State Engineer.

CONCLUSIONS

I.

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

II.

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

- A. There is no appropriated 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.

RULING

Pursuant to the foregoing Findings of Fact and Conclusions Application 44308 is hereby denied on the grounds that the approval of said application would impair and conflict with existing rights.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/MT/II

Dated this 22nd day of

February, 1985.

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<sup>5</sup> NRS 533.025 and 533.030 (1)

<sup>6</sup> NRS 533.370 (3).