

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 43755)
FILED TO CHANGE THE POINT OF)
DIVERSION, PLACE AND MANNER OF USE)
OF THE PUBLIC WATERS OF BIRD CREEK IN)
STEPTOE VALLEY, WHITE PINE COUNTY,)
NEVADA.)

RULING

GENERAL

Application 43755 was filed on May 18, 1981, by Kennecott Corporation to change the point of diversion, place and manner of use of 6.5 c.f.s. of water from Bird Creek heretofore appropriated under Permit 9636, Certificate 2534, from hydro power to industrial and domestic purposes within the SE1/4 Section 21; E1/2, E1/2 SW1/4, E1/2 NW1/4 Section 28, T.18N., R.64E., M.D.B.&M., described as being the townsite of McGill and the Copper Reduction Plant. The proposed point of diversion is described as being within the SW1/4 SW1/4 Section 34, T.19N., R.65E., M.D.B.&M.¹

FINDINGS OF FACT

I.

This application seeks to change 6.5 c.f.s. from Bird Creek from a non-consumptive use (hydro power) to a consumptive use (industrial and domestic).

II.

The applicant presently has a consumptive water right in Bird Creek, as evidenced under Permit 42108, for 8.0 c.f.s.²

III.

Hydrologic information in the office of the State Engineer shows that Bird Creek flows approximately 8.0 c.f.s.

CONCLUSIONS

I.

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

¹ Public record in the office of the State Engineer under Application 43755.

² Public record in the office of the State Engineer under Permit 42108.

³ NRS 533.025 and NRS 533.030, subsection 1.

II.

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

- 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.

III.

Bird Creek is fully appropriated under prior permits and certificates.

IV.

The approval of a permit to change a non-consumptive water right to a consumptive use would prove detrimental to the public interest.

RULING

Application 43755 is hereby denied on the grounds that granting said application would conflict with and impair the value of existing rights.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 19th day of
March, 1985.

⁴ NRS 533.370, subsection 3.