

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 29639)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF BUFFALO, FALLS, PINE, HORSE,)
DOG AND McCONNELL CREEKS AND THEIR)
TRIBUTARIES IN QUINN RIVER VALLEY,)
HUMBOLDT COUNTY, NEVADA.)

RULING

GENERAL

Application 29639 was filed on September 12, 1975, by Eleanore A. Wiedmann to appropriate 20.0 c.f.s. of water from Buffalo, Falls, Pine, Horse, Dog and McConnell Creeks and their tributaries for irrigation purposes on 1160 acres of land within the S1/2 S1/2 SE1/4 Section 19; W1/2 Section 20; W1/2 Section 29; E1/2, E1/2 W1/2 Section 30, T.42N., R.37E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 20, T.42N., R.37E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The following water rights and claims of vested use for Buffalo, Falls, Pine, Horse, Dog and McConnell Creeks and their tributaries are of record in the office of the State Engineer.¹

Proof 0711 in the name of Frank David and Janet C. Echave was filed on January 22, 1910, claiming a vested right from Buffalo Creek to irrigate up to 1400 acres in Sections 15, 16, 21, 22 and 27, T.42N., R.37E., M.D.B.&M.

Proof 0712 in the name of Frank David and Janet C. Echave was filed on January 22, 1910, claiming a vested right for irrigation of up to 1400 acres from McConnell Creek, Horse Creek and Falls Creek. The place of use is 480 acres in Section 15, T.42N., R.37E., M.D.B.&M.

Proof 02218 in the name of Frank David and Janet C. Echave was filed on November 21, 1929, claiming a vested right from Falls Creek to irrigate 300.26 acres in Sections 15, 21 and 22, T.42N., R.37E., M.D.B.&M. Water was also claimed for stockwatering.

Proof 02219 in the name of Frank David and Janet C. Echave was filed on November 21, 1929, claiming a vested right for 432.25 acres from McConnell and Horse Creeks for irrigation and stockwatering purposes. The place of use is within Sections 15, 16 and 21, T.42N., R.37E., M.D.B.&M.

Proof 02220 in the name of Frank David and Janet C. Echave was filed on November 21, 1929, claiming a vested right from Buffalo Creek to irrigate 178.99 acres in Sections 21, 22 and 27, T.42N., R.37E., M.D.B.&M.

¹ Public record in the office of the State Engineer.

Proof 02934 in the name of Frank David and Janet C. Echave was filed on July 6, 1977, as a claim of vested right from Buffalo Creek to irrigate 1036.44 acres of land in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M.

Proof 02935 in the name of Frank David and Janet C. Echave was filed on July 6, 1977, claiming vested rights to irrigate 731.5 acres of land from Pine Creek. The place of use is within Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. Stockwatering was also claimed.

Proof 02936 in the name of Frank David and Janet C. Echave was filed on July 6, 1977, as a claim of vested right to irrigate 756.5 acres from Falls Creek. The place of use is within Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. Stockwatering was also claimed.

Proof 02937 in the name of Frank David and Janet C. Echave was filed on July 6, 1977, claiming a vested right for 756.5 acres of irrigated land from Horse Creek. The place of use is located within Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M.

Proof 02938 in the name of Frank David and Janet C. Echave was filed on July 6, 1977, claiming vested rights from Dog Creek on 756.5 acres of irrigated land in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. Stockwatering was also claimed.

Proof 02939 in the name of Frank David and Janet C. Echave was filed on July 6, 1977, claiming a vested right for 756.5 acres of irrigated land from McConnell Creek. Stockwater is also claimed. The place of use is within Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M.

Proof 02940 in the name of United States of America was filed on July 22, 1977, as a claim of vested right for stockwatering from Buffalo Creek and its tributaries, all along its natural channel.

Proof 02941 in the name of United States of America was filed on July 22, 1977, claiming a vested right from Buffalo Creek for instream flow for fish and wildlife propagation, all along the natural channel.

Proof 02942 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming vested rights for stockwatering from Falls Creek and its tributaries along the natural channel.

Proof 02943 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming a vested right for instream flow from Falls Creek for fish and wildlife propagation.

Proof 02944 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming a vested right for stockwatering from Pine Creek and its tributaries.

Proof 02945 in the name of United States of America, Forest Service, claims vested rights for stockwatering purposes from Dog Creek.

Proof 02948 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming vested rights for stockwatering purposes from McConnell Creek. The place of use is along the natural channel.

Proof 02946 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming vested rights for stockwatering from Horse Creek and its tributaries.

Proof 02947 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming a vested right for instream flow from Horse Creek for fish and wildlife propagation.

Proof 02949 in the name of United States of America, Forest Service, was filed on July 22, 1977, claiming a vested right for instream flow from McConnell Creek for fish and wildlife propagation along the natural channel.

Proof 02982 in the name of United States of America, U.S.D.I., Bureau of Land Management, was filed on November 30, 1977, claiming a vested right for stockwatering from Buffalo Creek.

Proof 02985 in the name of United States of America, U.S.D.I., Bureau of Land Management, claims vested rights for stockwatering from Dog Creek.

Proof 02987 in the name of United States of America, U.S.D.I., Bureau of Land Management was filed on November 30, 1977, claiming a vested right on Falls Creek for stockwatering purposes.

Proof 02988 in the name of United States of America, U.S.D.I., Bureau of Land Management claims a vested right for stockwatering from Horse Creek.

Proof 02989 in the name of United States of America, U.S.D.I., Bureau of Land Management, claims vested rights for stockwatering from Pine Creek.

Proof 02991 in the name of United States of America, U.S.D.I., Bureau of Land Management, claims vested rights for stockwatering from McConnell Creek.

Application 6357 in the name of Howard Burnell Huttman and Vivian Claire Huttman was filed on December 9, 1920 and issued for 4.8 c.f.s. of water from McConnell Creek and flood and surplus waters from Buffalo Creek Ranch to irrigate 477.3 acres in Section 30, T.42N., R.37E., M.D.B.&M.

Application 8524 in the name of Woodrow and Rilda Erikson was filed on April 24, 1928, and issued for 0.453 c.f.s. to irrigate 45.3 acres from McConnell Creek in Section 10, T.42N., R.37E., M.D.B.&M.

II.

Proofs 02934 through 02939, filed by Eleanore A. Wiedmann which claim a total of 1792.94 acres, supersede all earlier claims of vested rights for the Buffalo Ranch presently in the name of Frank David and Janet C. Echave.

III.

The place of use for Application 29639 was not included in lands transferred from Eleanore A. Wiedmann to Frank and Janet Echave, present owners of the Buffalo Ranch and major water user of Buffalo, Falls, Pine, Horse, Dog and McConnell Creeks; however, a portion of the place of use is covered under Permit 6357, Certificate 3176, in the name of Howard and Vivian Huttman which was issued for irrigation from flood waters and surplus waters from Buffalo Ranch.

IV.

In the Order of Determination of the Relative Rights In and To the Waters of McConnell, Dog, Horse, Falls, Pine and Buffalo Creeks and Their Tributaries in Humboldt County, Nevada,² said streams were declared fully appropriated by the State Engineer.

CONCLUSIONS

I.

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

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 unappropriated 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.

Approval of Application 29639 would allow a substantial portion of the storm and flood waters from Buffalo, Falls, Pine, Dog, Horse and McConnell Creeks to be applied to land covered in part by an existing water right under a different ownership and from streams which, under the Order of Determination of the Relative Rights thereof, have been declared fully appropriated by the State Engineer.

² In the Matter of the Determination of the Relative Rights In and To the Waters of McConnell Creek, Dog Creek, Horse Creek, Falls Creek, Pine Creek, Buffalo Creek and Their Tributaries in Humboldt County, Nevada. Order of Determination filed October 23, 1985.

³ NRS 533.325.

⁴ NRS 533.370(3).

RULING

Application 29639 is hereby denied on the grounds that it would conflict with and impair existing rights on the source, that there is no unappropriated water in the source, and that the granting of said permit would be detrimental to the public interest.

Respectfully submitted,

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

PETER G. MORROS
State Engineer

PGM/GC/bl

Dated this 8th day of
November, 1985.