

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS)
45291 AND 45292 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
FROM SPRINGS WITHIN DAYTON)
VALLEY, LYON COUNTY, NEVADA)

RULING

GENERAL

I.

Application 45291 was filed on February 5, 1982, by Leo Frey (Stage Coach Ranch) to appropriate 0.50 c.f.s. of water from Stage Coach Spring No. 1 for irrigation and domestic purposes on 50 acres of land within portions of the S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, and the SW $\frac{1}{4}$ Section 33, T.18N., R.23E., M.D.B.&M. The point of diversion is described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, T.18N., R.23E., M.D.B.&M.¹

Application 45292 was filed on February 5, 1982, by Leo Frey (Stage Coach Ranch) to appropriate 0.50 c.f.s. of water from Stage Coach Spring No. 2 for irrigation and domestic purposes on 50 acres of land within portions of the S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, and the SW $\frac{1}{4}$ Section 33, T.18N., R.23E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, T.18N., R.23E., M.D.B.&M.¹

A field investigation was conducted on September 24, 1982, to examine the sources of the applications. The points of diversion were found to be excavated areas to expose possible seeps in the hillside. Stage Coach Spring No. 1 site showed no water while Stage Coach Spring site No. 2 had a small depression at the base of a cut filled with a small amount of water, the source of which was not evident.¹

A subsequent field investigation conducted on January 13, 1986, revealed the same conditions.¹

FINDINGS OF FACT

I.

The proposed source of water for Application 45291 is located at a small excavation into a hillside that is void of any indication of free-flowing surface water.

¹ Public record in the office of the State Engineer under applications to appropriate 45291 and 45292.

II.

The proposed source of water for Application 45292 is located at the base of an excavated cut into a hillside that has a small depression filled with water, the source of which is questionable as to free-flowing surface water.

III.

NRS 533.367 provides the requirement to ensure access of wildlife to water it customarily uses. Before a person may obtain a right to the use of the water from a spring or water which has seeped to the surface of the ground, he must ensure that wildlife which customarily uses the water will have access to it. Evidence and information available to the State Engineer indicates that the source under Application 45292 is minimally sufficient to provide water for wildlife that frequent the area.

CONCLUSIONS

I.

The state Engineer has jurisdiction of the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

- 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 welfare.

III.

The evidence and information available does not indicate there is sufficient surface water available at the source to provide for irrigation as proposed under Applications 45291 and 45292 and wildlife use under the provisions of NRS 533.367.

²NRS 533.325.

³NRS 533.370, subsection 3.

RULING

Applications 45291 and 45292 are hereby denied on the grounds that there is insufficient water for the proposed use and, further, to grant the applications would adversely effect wildlife who frequent the sources.

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/bc

Dated this 10th day of
February, 1986.