

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 44665)
FILED TO APPROPRIATE WATER FROM)
NORTH FORK COTTONWOOD CREEK AKA)
COTTONWOOD CREEK IN GARDEN VALLEY,)
NYE COUNTY, NEVADA.)

RULING

GENERAL

Application 44665¹ was filed on October 20, 1981, by Glen A. Davis and LeMoine Davis to appropriate 1.0 c.f.s. of water from North Fork Cottonwood Creek for irrigation of 16.53 acres of land located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T.2N., R.56E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3, T.2N., R.56E., M.D.B.&M.

FINDINGS OF FACT

I.

North Fork Cottonwood Creek is a small perennial stream which originates in the Quinn Canyon Range of mountains in Nye County and flows east joining the South Fork thus becoming Cottonwood Creek as it flows into Garden Valley in Lincoln County, Nevada.

II.

Existing certificated water rights and claims of vested rights of record for Cottonwood Creek and its tributaries are as follows:²

1. Permit 1703, Certificate 447 was issued for 0.522 c.f.s. of water from the North Fork of Cottonwood Creek to irrigate 52.176 acres of land. The owner of record is Albert Welch.

¹ Public record in the office of the State Engineer under 44665.

² Public record in the office of the State Engineer under Permit 1703, Certificate 447, Permit 6679, Certificate 2234, Permit 8379, Certificate 1906, Permit 10167, Certificate 2697, Claim of Vested Right 01156.

2. Permit 6679, Certificate 2234 was issued for 0.0188 c.f.s. of water from Cottonwood Creek for stockwater purposes. The owner of record is Sharp Land and Cattle Company.
3. Permit 8379, Certificate 1906 was issued for .003 c.f.s. of water from Cottonwood Creek for stockwater purposes. The owner of record is Albert Welch.
4. Permit 10167, Certificate 2697 was issued for 1.0 c.f.s. of water to irrigate 100 acres of land. The owner of record is A. Roy Nesbit.
5. Claim of Vested Right 01156 was filed on November 26, 1912 for sufficient water to irrigate 4.28 acres of land. The owner of record is One-Armed Indian Bob.

III.

There are four certificated water rights below the proposed point of diversion of the subject application³ on Cottonwood Creek with a combined diversion rate of 1.5438 c.f.s.

IV.

The State Engineer finds that in view of the existing certificated rights of water below the proposed point of diversion of the subject application on the source, the effect of granting Application 44665 would interfere with and impair existing rights and would not be in the public interest.⁴

³ See Footnote 2.

⁴ See report of field investigation dated November 3, 1989, public record under Application 44665, State Engineer's office.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁵

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁶

- 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 44665 would interfere with and impair existing rights and therefore would not be in the public interest.

IV.

The State Engineer concludes there is no unappropriated water in the source.

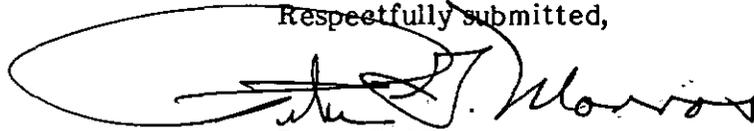
⁵ NRS 533.325.

⁶ NRS 533.370 subsection 3.

RULING

Application 44665 is hereby denied on the grounds that there is no unappropriated water in the source and the granting thereof would interfere with and impair existing rights and would therefore be detrimental to the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a large, hand-drawn oval. The signature is fluid and cursive.

Peter G. Morros
State Engineer

PGM/GC/bk

Dated this 7th day of
November, 1989.