

IN THE OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBERS)
44015, 44016, 44018, 44019, 44020,)
44021, 44024, 44027, 44028, 44029,)
44030, 44032, 44034, 44043, 44045,)
44048 AND 44049 FILED TO APPROPRIATE)
WATER FROM QUAKEY SPRING, AN UNNAMED)
SPRING, NO NAME CREEK SPRING #2, NO NAME)
CREEK SPRING #3, AN UNNAMED SPRING, NO)
NAME CREEK RESERVOIR AND SPRING, CURRENT)
CREEK SPRING, DRY CREEK SPRING #1, DRY)
CREEK SPRING #2, AN UNNAMED SPRING, AN)
UNNAMED SPRING, WILLOW SPRING, SPRING)
CREEK SPRING, COLD SPRING #1, AN UNNAMED)
SPRING, AN UNNAMED SPRING AND PARK)
CREEK SPRING ALL LOCATED IN THE SALMON)
FALLS CREEK AREA, ELKO COUNTY, STATE OF)
NEVADA.)

RULING

GENERAL

I.

Application 44015 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Quakey Spring for stockwatering of 200 head of cattle within the SE1/4 SW1/4 of Section 7, T.44N., R.62E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 7, T.44N., R.62E., M.D.B.&M.¹

Application 44016 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from an Unnamed Spring for stockwatering of 100 head of cattle within the SE1/4 SE1/4 of Section 32, T.45N., R.62E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 32, T.45N., R.62E., M.D.B.&M.¹

Application 44018 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from No Name Creek Spring #2 for stockwatering of 200 head of cattle within the NE1/4 SW1/4 of Section 4, T.44N., R.62E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 4, T.44N., R.62E., M.D.B.&M.¹

¹ Public Record in the office of the State Engineer

Application 44019 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from No Name Creek Spring #3 for stockwatering of 200 head of cattle within the SW1/4 SE1/4 of Section 4, T.44N., R.62E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 4, T.44N., R.62E., M.D.B.&M.¹

Application 44020 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from an Unnamed Spring for stockwatering of 200 head of cattle within the NE1/4 SW1/4 of Section 3, T.44N., R.62E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 3, T.44N., R.62E., M.D.B.&M.¹

Application 44021 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from No Name Creek Reservoir and Spring for stockwatering of 200 head of cattle within the SE1/4 SW1/4 of Section 34, T.45N., R.62E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 34, T.45N., R.62E., M.D.B.&M.¹

Application 44024 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Currant Creek Spring for stockwatering of 200 head of cattle within the SE1/4 NE1/4 of Section 14, T.43N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 14, T.43N., R.60E., M.D.B.&M.¹

Application 44027 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Dry Creek Spring #1 for stockwatering of 300 head of cattle within the NE1/4 SW1/4 of Section 6, T.44N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 6, T.44N., R.60E., M.D.B.&M.¹

Application 44028 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Dry Creek Spring #2 for stockwatering of 300 head of cattle within the

SW1/4 NW1/4 of Section 6, T.44N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 6, T.44N., R.60E., M.D.B.&M.¹

Application 44029 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from an Unnamed Spring for stockwatering of 500 head of cattle within the SW1/4 NE1/4 of Section 21, T.44N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 21, T.44N., R.60E., M.D.B.&M.¹

Application 44030 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from an Unnamed Spring for stockwatering of 500 head of cattle within the SW1/4 SE1/4 of Section 16, T.44N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 16, T.44N., R.60E., M.D.B.&M.¹

Application 44032 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Willow Spring for stockwatering of 300 head of cattle within the SW1/4 SW1/4 of Section 18 and NW1/4 NW1/4 of Section 19, T.44N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 18, T.44N., R.60E., M.D.B.&M.¹

Application 44034 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Spring Creek Spring for stockwatering of 500 head of cattle within the SW/14 NW1/4 of Section 29, T.44N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW/14 NW1/4 Section 29, T.44N., R.60E., M.D.B.&M.¹

Application 44043 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Cold Spring #1 for stockwatering of 200 head of cattle within the SE1/4 NE1/4 of Section 36, T.44N., R.61E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 36, T.44N., R.61E., M.D.B.&M.¹

Application 44045 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from an Unnamed Spring for stockwatering of 500 head of cattle within the NW1/4 NW1/4 of Section 33, T.43N., R.61E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 33, T.43N., R.61E., M.D.B.&M.¹

Application 44048 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from an Unnamed Spring for stockwatering of 500 head of cattle within the SW1/4 NE1/4 of Section 8, T.44N., R.62E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 8, T.44N., R.62E., M.D.B.&M.¹

Application 44049 was filed on June 29, 1981 by Ronald M. Florance to appropriate 0.10 c.f.s. of water from Park Creek Spring for stockwatering of 500 head of cattle within the NE1/4 SE1/4 of Section 28, T.43N., R.61E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 28, T.43N., R.61E., M.D.B.&M.¹

The subject applications were timely protested on February 5, 1982 by the United States Bureau of Land Management generally on the grounds that the water is required for multiple use management of the public land and the source is a public water reserve which was reserved for public use under the authority of Executive Order 107 on April 17, 1926 and as identified in 43 CFR 2311. The water is therefore, not available for appropriation under Nevada State Law.

FINDINGS OF FACT

I.

The grounds for the United States Bureau of Land Management protest has been extensively and fully considered and ruled upon in prior proceedings.²

² See State Engineers Ruling No. 3219 on Application 37061 et. al; issued on July 26, 1985. Public record in the office of the State Engineer.

II.

The United States has not filed any claims with the State of Nevada to establish a claim of a reserved right by executive order on the sources described under the subject application.

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 where⁴:

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that if in fact this source of water meets the criteria of a Public Water Reserve, it shall be recognized as such and any permits granted would be subject to the prior reserved right. Conversely if the source does not qualify for reserved status, any permit granted on the source would only be later in priority to any other vested rights that may exist. Only after a general adjudication of all rights would there be a determination made of the extent of any other vested claims and the validity of any claimed or unclaimed reserved rights.

³ NRS Chapter 533.

⁴ NRS Chapter 533.370

RULING

The protest to applications 44015, 44016, 44018, 44019, 44020, 44021, 44024, 44027, 44028, 44029, 44030, 44032, 44034, 44043, 44045, 44048 and 44049 are hereby overruled and said applications are hereby approved subject to:

1. Payment of the statutory permit fees.
2. The prior reserved rights of the United States if in fact these rights exist and the sources meet the proper criteria.
3. All other existing rights.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SW/pm

Date this 30th day of
July, 1990