

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

IN THE MATTER OF APPLICATIONS 41388, )  
41581, 41582, 41583, 41584, 41585, )  
41586 AND 41873 FILED TO APPROPRIATE )  
THE WATERS OF RODEO CREEK LOCATED IN )  
PYRAMID LAKE VALLEY, WASHOE COUNTY, )  
NEVADA. )

RULING  
# 4015

GENERAL

I.

Application 41388 was filed on May 19, 1980, by Dave and Donna Wendland to appropriate 0.10 c.f.s. of water from Rodero (Rodeo) Creek for stockwater and domestic purposes for 50 head of cattle within a portion of the NW $\frac{1}{4}$  Section 2, a portion of the S $\frac{1}{2}$ , NE $\frac{1}{4}$  and SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 3, a portion of the SE $\frac{1}{4}$  Section 4, a portion of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 9 and a portion of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 10 all located within T.22N., R.22E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 4, T.22N., R.22E., M.D.B.&M.<sup>1</sup>

Application 41581 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 2.5 c.f.s of water from Rodeo Creek for irrigation of 630 acres within Lots 1, 4, 7 and portions of Lots 2, 5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within Lot 2 Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

Application 41582 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 2.4 c.f.s of water from Rodeo Creek for irrigation of 630 acres within Lots 1, 4, 7 and portions of Lots 2, 5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within Lot 2 Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

<sup>1</sup> Public record in the Office of the State Engineer.

Application 41583 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 1.0 c.f.s of water from Spring No. 1 for irrigation of 630 acres within Lots 1, 4, 7 and portions of Lots 2, 5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within Lot 4 Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

Application 41584 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 1.0 c.f.s of water from Spring No. 2 for irrigation of 630 acres within Lots 1, 4, 7 and portions of Lots 2, 5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

Application 41585 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 1.3 c.f.s of water from Rodeo Creek for irrigation of 630 acres within Lots 1, 4, 7 and portions of Lots 2, 5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within Lot 7 Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

Application 41586 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 2.5 c.f.s of water from Rodeo Creek (Spring No. 3) for irrigation of 630 acres within Lots 1, 4, 7 and portions of Lots 2, 5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within Lot 4 Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

Application 41873 was filed on June 24, 1980, by Evelyn K. Fitch to appropriate 1.0 c.f.s of water from Rodeo Creek for stockwatering purposes within Lots 1, 4, 7 and portions of Lots 2,

5, 6 and 8, SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28; S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , portions of Lot 1, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 29, all located within T.23N., R.22E., M.D.B.&M. The point of diversion is described as being located within Lot 2 Section 28, T.23N., R.22E., M.D.B.&M.<sup>1</sup>

Proof No. 02336 was adjudicated on October 4, 1948. The decree states: "The waters of Rodeo Creek and tributaries are fully utilized for irrigation purposes and no person or persons other than Ira G. Blundell and his successors shall be entitled to receive any water from said Rodeo Creek for irrigation purposes."<sup>2</sup>

FINDINGS OF FACT

I.

By field investigation conducted by the Office of the State Engineer on May 26, 1988, the flow in Rodeo Creek plus the estimated flow from the various spring sources totaled less than 1.10 c.f.s. decreed for Rodeo Creek.

II.

The Rodeo Creek Decree states that only enough water exists to satisfy needs of Proof 02336 within the decree.

III.

Dave and Donna Wendland and Evelyn K. Fitch have not presented evidence that they are successors in interest to Ira G. Blundell.

CONCLUSIONS

I.

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 and NRS 533.435.

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<sup>2</sup> In the matter of the Determination of the Relative Rights in and to the Waters of Rodeo Creek and Its Tributaries in Washoe County, State of Nevada. Second Judicial District, State of Nevada, in and for the County of Washoe; No. 188, 190; Dept. No. 2.

II.

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

- 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.

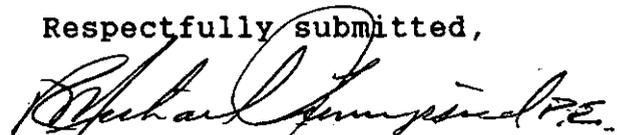
III.

The State Engineer determines that there is no additional water available from Rodeo Creek and that additional appropriations of water on the same land as existing rights would conflict with existing rights.

RULING

Applications 41388, 41581, 41582, 41583, 41584, 41585, 41586 and 41873 are herewith denied on the grounds that there is no unappropriated water at the proposed sources, it conflicts with existing rights and it would be detrimental to the public interest to grant additional rights on a stream and springs that have been declared fully appropriated.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SW/pm

Dated this 16th day of  
July, 1993.

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<sup>3</sup> NRS Chapter 533.370.