

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

IN THE MATTER OF APPLICATION 4447)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF MILLIGAN CREEK LOCATED)
WITHIN THE LITTLE HUMBOLDT VALLEY)
HYDROGRAPHIC BASIN (067), ELKO)
COUNTY, NEVADA.)

RULING

4987

GENERAL

I.

Application 4447 was filed on May 24, 1917, by John G. Taylor and Hugh W. Taylor to appropriate 2,500 acre-feet of water from Milligan Creek to irrigate 1,440 acres within Lot 4 and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1; Lots 1 and 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, all within T.42N., R.46E., M.D.B.&M.; S $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 21; W $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 27; NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ of Section 28; E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34; S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 35, all within T.43N., R.46E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T.42N., R.46E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The State Engineer finds that Milligan Creek (aka Milligans Creek) is tributary to the South Fork of the Little Humboldt River, which is subject to the claims decreed within the Little Humboldt River Decree, a fully appropriated stream.²

II.

The State Engineer finds that in the Final Decree on the Little Humboldt River and its tributaries Proof 01067 water rights were awarded to Lots 7, 8, 9, and 10, T.40N., R.46E., M.D.B.&M., from Milligan Creek.

¹ File No. 4447, official records in the office of the State Engineer.

² Findings of Fact, Conclusions of Law and Decree, In the Matter of the Determination of the Relative Rights in and to the Waters of the Little Humboldt River and Its Tributaries in Humboldt and Elko Counties, Case No. 3157, Sixth Judicial District Court of the State of Nevada, In and for the County of Humboldt, 1935, Finding of Fact XV.

III.

The State Engineer finds that the Final Decree on the Little Humboldt River and its tributaries adjudicated all claims to all the waters of Milligan Creek leaving no water available for appropriation pursuant to Application 4447.

CONCLUSIONS

I.

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

II.

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

The State Engineer concludes there is no water available for appropriation on this fully appropriated stream.

IV.

The State Engineer concludes that to approve this application would conflict with existing decreed rights in the Little Humboldt River.

³ NRS chapter 533.

⁴ NRS § 533.370(3).

RULING

Application 4447 is hereby denied on the grounds that no water is available for appropriation and the approval of said application would conflict with existing decreed water rights.

Respectfully submitted,

Hugh Ricci, P.E.
HUGH RICCI, P.E.

State Engineer

HR/TW/cl

Dated this 22nd day of
December, 2000.