

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

IN THE MATTER OF APPLICATIONS 55671,)
55772 AND 59212 FILED TO CHANGE THE)
PLACE OF USE OF THE WATERS OF THE TRUCKEE)
AND CARSON RIVERS, CARSON DESERT)
HYDROGRAPHIC BASIN (101), CHURCHILL,)
COUNTY, NEVADA)

RULING

4802

GENERAL

I.

Application 55671 was filed on January 24, 1991, by Lauren and Juanita Heinzen to change the place of use of a 4.95 acre-foot portion of the waters of the Truckee and Carson Rivers previously appropriated under Claim 3 Orr Ditch Decree, and Alpine Decree.¹ The proposed place of use is described as being a portion of the SE¼ SW¼ of Section 19, T.20N., R.25E., M.D.B.&M. The proposed point of diversion is described as being located at Lahontan Dam.²

Application 55671 was timely protested by the Pyramid Lake Paiute Tribe (PLPT) on February 25, 1991, on various grounds.

II.

Application 55772 was filed on February 6, 1991, by Marie Duncan to change the place of use of a 33.435 acre-foot portion of the waters of the Truckee and Carson Rivers previously appropriated under Claim 3 Orr Ditch Decree, and Alpine Decree.¹ The proposed place of use is described as being a portion of the NE¼ NE¼ of Section 18, T.19N., R.27E., M.D.B.&M. The proposed point of diversion is described as being located at Lahontan Dam.³

Application 55772 was timely protested by the Pyramid Lake Paiute Tribe (PLPT) on March 25, 1991, on various grounds.

¹ Final Decree, U.S. v. Orr Water Ditch Co., In Equity A-3 (D. Nev. 1944) ("Orr Ditch Decree"); and Final Decree, U.S. v. Alpine Land and Reservoir Co., Civil No. D-183 (D. Nev 1980) ("Alpine Decree")

² File No. 55671, official records in the office of the State Engineer.

³ File No. 55772, official records in the office of the State Engineer.

III.

Application 59212 was filed on September 2, 1993, by William E. Horky to change the place of use of a 16.31 acre-foot portion of the waters of the Truckee and Carson Rivers previously appropriated under Claim 3 Orr Ditch Decree, and Alpine Decree.¹ The proposed place of use is described as being a portion of the SW¼ NW¼ of Section 34, T.20N., R.26E., M.D.B.&M. The proposed point of diversion is described as being located at Lahontan Dam.⁴

Application 59212 was timely protested by the Pyramid Lake Paiute Tribe (PLPT) on November 2, 1993, and the protest was withdrawn on June 28, 1995.

FINDINGS OF FACT

I.

The State Engineer finds the proposed point of diversion described under Applications 55671, 55772 and 59212 is Lahontan Dam which is located within the SW¼ SE¼ of Section 33, T.19N., R.26E., M.D.B.&M.

II.

The proposed place of use under Application 55671 is a portion of the SE¼ SW¼ of Section 19, T.20N., R.25E., M.D.B.&M., which is in the Fernley area. The State Engineer finds that the Fernley area is serviced by the Truckee Canal with the point of diversion being Derby Dam located within the N¼ SW¼ of Section 19, T.20N., R.23E., M.D.B.&M.

III.

The proposed place of use under Application 55772 is a portion of the NE¼ NE¼ of Section 18, T.19N., R.27E., M.D.B.&M. which is in the Swingle Bench area. The State Engineer finds that the Swingle Bench area is serviced by the Truckee Canal with the

⁴ File No. 59212, official records in the office of the State Engineer.

point of diversion being Derby Dam located within the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 19, T.20N., R.23E., M.D.B.&M.

IV.

The proposed place of use under Application 59212 is a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T.20N., R.26E., M.D.B.&M. which is in the Hazen area. The State Engineer finds that the Hazen area is serviced by the Truckee Canal with the point of diversion being Derby Dam located within the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 19, T.20N., R.23E., M.D.B.&M.

V.

The proposed point of diversion that is described under Applications 55671, 55772 and 59212 as being Lahontan Dam, cannot service the proposed places of use described under the subject applications.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to change the public waters where:⁶

- A. the proposed use conflicts with existing rights; or
- B. the proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that to grant permits under Applications 55671, 55772 and 59212 with points of diversion

⁵ NRS Chapter 533.

⁶ NRS § 533.370(3).

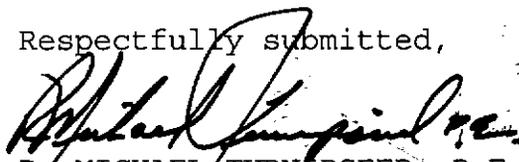
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described which cannot deliver water to the places of use described would threaten to prove detrimental to the public interest.

RULING

Applications 55671, 55772 and 59212 are hereby denied on the grounds that the granting of these applications would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJB/cl

Dated this 3rd day of
November, 1999.