

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

IN THE MATTER OF APPLICATION 64087 )  
FILED TO APROPRIATE THE PUBLIC )  
WATERS OF AN UNNAMED STREAM, )  
APPLICATIONS 64088 AND 64089 FILED TO )  
APPROPRIATE THE PUBLIC WATERS OF )  
BRUSH CREEK, WITHIN THE THOUSAND )  
SPRINGS VALLEY-BRUSH CREEK AREA )  
HYDROGRAPHIC BASIN (189A) AND )  
APPLICATION 66462 FILED TO APPROPRIATE )  
THE PUBLIC WATERS OF MEDICINE CREEK )  
AND APPLICATION 66562 FILED TO )  
APPROPRIATE THE PUBLIC WATERS OF NO )  
NAME SEEP, WITHIN THE THOUSAND SPRINGS )  
VALLEY TOANO-ROCK SPRINGS AREA )  
HYDROGRAPHIC BASIN (189B), ALL )  
WITHIN ELKO COUNTY, NEVADA. )

**RULING**

**# 4991**

**GENERAL**

**I.**

Application 64087 was filed on May 8, 1998, by High Hope Ranches, Inc. to appropriate 0.1 cubic feet per second of water from an unnamed stream for stockwater purposes within the NE¼, SE¼, and the SW¼ of Sections 9 and all of Section 15, T.40N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SW¼ Section 15, T.40N., R.64E., M.D.B.&M.<sup>1</sup>

**II.**

Application 64088 was filed on May 8, 1998, by High Hope Ranches, Inc. to appropriate 0.1 cubic feet per second of water from Brush Creek for stockwater purposes within the NE¼, SE¼, and the SW¼ of Section 9 and all of Section 15, T.40N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SW¼ Section 9, T.40N., R.64E., M.D.B.&M.<sup>2</sup>

<sup>1</sup> File No. 64087, official records in the office of the State Engineer.

<sup>2</sup> File No. 64088, official records in the office of the State Engineer.

### III.

Application 64089 was filed on May 8, 1998, by High Hope Ranches, Inc. to appropriate 5.5 cubic feet per second of water from Brush Creek for irrigation purposes within the NE¼, SE¼ and the SW¼ of Section 9, T.40N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SW¼, Section 9 T.40N., R.64E., M.D.B.&M.<sup>3</sup>

### IV.

Application 66462 was filed on June 14, 2000, by Gardner L. & Janelle E. Davis to appropriate 0.03 cubic feet per second of water from Medicine Creek for livestock, wildlife and domestic purposes within a portion of Section 6, T.39N., R.65E., MDB&M. The proposed point of diversion is described as being located within Lot 2, Section 6, T.39N., R.65E., M.D.B.&M.<sup>4</sup>

### V.

Application 66562 was filed on July 18, 2000 by Gardner & Janelle Davis to appropriate 0.002 cubic feet per second of water from No Name Seep for livestock and wildlife purposes within a portion of Section 6, T.39N., R.65E., MDB&M. The proposed point of diversion is described as being located within Lot 5, Section 6, T.39N., R.65E., M.D.B.&M.<sup>5</sup>

### VI.

Applications 64087, 64088, 64089, 66462 and 66562 were timely protested by Walker-Winecup-Gamble, Inc., generally on the grounds that the respective points of diversion of Applications 64087, 64088, 64089, 66462 and 66562 are tributary to Thousand Springs Creek and that "The Thousand Springs decree fully adjudicates, allocates and describes the use of the waters of Thousand Springs Creek and its tributaries"<sup>1, 2, 3, 4 & 5</sup>

## FINDINGS OF FACT

### I.

The unnamed stream, identified as the source of water under Application 64087, is tributary to Brush Creek, which in turn is tributary to Thousand Springs Creek.<sup>6</sup>

Brush Creek, identified as the source of water under Application 64088 and 64089, is tributary to Thousand Springs Creek.<sup>6</sup>

<sup>3</sup> File No. 64089, official records in the office of the State Engineer.

<sup>4</sup> File No. 66462, official records in the office of the State Engineer.

<sup>5</sup> File No. 66562, official records in the office of the State Engineer.

<sup>6</sup> Topographic map in File No. 64087, official records in the office of the State Engineer.

Medicine Creek, identified as the source of water under Application 66462, is tributary to Toano Draw, which in turn is tributary to Thousand Springs Creek.<sup>6</sup>

No Name Seep, identified as the source of water under Application 66562, is tributary to Medicine Creek, which in turn is tributary to Toano Draw, which in turn is tributary to Thousand Springs Creek.<sup>6</sup>

The State Engineer finds that the waters requested for appropriation under Applications 64087, 64088, 64089, 66462 and 66562 are tributary to Thousand Springs Creek and that the waters of Thousand Springs Creek are fully appropriated.<sup>7</sup>

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.<sup>8</sup>

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>9</sup>

- A. there is no unappropriated water at the proposed source;
- 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 that the Thousand Springs Creek Decree fully adjudicates, allocates, and describes the use of the waters of Thousand Springs Creek and its tributaries, and the waters requested for appropriation under applications 64087, 64088, 64089, 66462 and 66562 are already appropriated, and are thereby not available for appropriation.

---

<sup>7</sup> In the Matter of the Determination of Relative Rights in and to the Waters of Thousand Springs Creek and Its Tributaries, in Elko County, Nevada, Fourth Judicial District Court, State Engineer Ruling No. 3139, dated February 28, 1985, official records in the office of the State Engineer.

<sup>8</sup> NRS chapter 533.

<sup>9</sup> NRS § 533.370(3).

RULING

The protest by Walker-Winecup-Gamble, Inc. to Applications 64087, 64088, 64089, 66462 and 66562 is hereby upheld and Applications 64087, 64088, 64089, 66462 and 66562 are denied on the grounds that their approval would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,

*Hugh Ricci, P.E.*  
HUGH RICCI, P.E.  
State Engineer

HR/RAD/cl

Dated this 22nd day of  
December, 2000.