

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

IN THE MATTER OF APPLICATION 46260 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF BULL CREEK WITHIN THE )  
DESERT VALLEY HYDROGRAPHIC BASIN )  
(031), HUMBOLDT COUNTY, NEVADA. )

RULING

**#5336**

GENERAL

I.

Application 46260 was filed on October 21, 1982, by DeLong Ranches to appropriate 1.00 cubic foot per second of water from Bull Creek. The proposed manner of use and place of use is for irrigation and domestic purposes within approximately 800.00 acres of land located within the portions of Sections 16, 17, 20 and 21, T.38N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of Section 27, T.38N., R.31E., M.D.B.&M.<sup>1</sup>

II.

Application 46260 was timely protested by the Nevada Mining and Exploration Company on the grounds that will not be considered in this ruling.<sup>1</sup>

FINDINGS OF FACT

I.

Application 46260 seeks an appropriation of water from a surface source for irrigation and domestic purposes. Any evaluation of the merits of this application must include an

---

<sup>1</sup> File No. 46260, official records in the Office of the State Engineer.

analysis of the amount of available water from the source and its tributaries. In addition, it must be determined that the approval of Application 46260 would not conflict with existing water rights that appropriate water from the Bull Creek system. The records of the Office of the State Engineer are complete as to the number and status of water rights, which are currently permitted for appropriations from Bull Creek, however, there is no record of stream flow that could be used to determine if sufficient water is present on a frequent basis. In an effort to acquire current stream flow data specific to Bull Creek, the State Engineer finds that an informal field investigation to the proposed point of diversion is in order.

## II.

Accordingly, on July 3, 2003, personnel from the Office of the State Engineer conducted an informal site visit in the matter of Application 46260. The findings of this investigation are presented within Report of Filed Investigation No. 1040, which has been incorporated into the file maintained under the subject application.<sup>1</sup> Based upon field measurements and observations, a conclusion was reached that there was insufficient water available from this source to satisfy the manner of use proposed under the subject application. The State Engineer finds that the Report of Field Investigation specific to Application 46260, represent a valid assessment of the irrigation potential of Bull Creek at the subject point of diversion.

## III.

The federal government has established rules and regulations pertaining to lands classified as wilderness areas, which are intended to preserve the lands natural state. It is not the intention of this ruling to examine the specific federal regulations that apply to surface disturbance within wilderness areas, but it can be assumed that these limitations may create an environment that would preclude the applicant from constructing

and maintaining the required works of diversion, necessary to collect and convey Bull Creek water to the proposed place of use. The State Engineer finds that it would not be in the public interest to approve a water right permit whose works of diversion could not be constructed or improved upon.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

#### II.

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

#### III.

Application 46260 requests an appropriation of surface water, whose magnitude far exceeds the amount of water the stream is capable of producing on a regular basis. Under this scenario, the State Engineer concludes that the approval of Application 46260 would not be in the public interest.

---

<sup>2</sup> NRS chapter 533.

<sup>3</sup> NRS § 533.370(3).

RULING

Application 46260 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/MB/jm

Dated this 8th day  
of March, 2004.