

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

IN THE MATTER OF APPLICATION 66907)
FILED TO APPROPRIATE THE WATERS)
OF OPHIR CREEK AND ITS)
TRIBUTARIES LOCATED IN WASHOE)
VALLEY HYDROGRAPHIC BASIN (089),)
WASHOE COUNTY, NEVADA.)

RULING
#5408

GENERAL

Application 66907 was filed on October 26, 2000, by George W. Gillemot, Trustee of the Gillemot Family Trust to appropriate 0.0291 cubic feet per second of water from Ophir Creek and its tributaries for quasi-municipal, domestic and fish pond purposes. The proposed place of use is described as being located within portions of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3 and portions of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, T.16N., R.19E., M.D.B.&M. The place of use is also described as being Washoe County Assessor Parcel Nos. 055-42-26, 27 and 29. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T.17N., R.19E., M.D.B.&M.¹

FINDINGS

I.

Application 66907 proposes to appropriate the waters of Ophir Creek and its tributaries. Ophir Creek and its tributaries have been adjudicated in accordance with NRS §§ 533.090 through 533.320. Judge John W. Barrett of the Second Judicial District Court of the State of Nevada in and for the County of Washoe issued the final decree in "The Matter of the Determination of the Relative Rights in and to the Waters of Ophir Creek and its Tributaries in Washoe County", February 13, 1984.² The State Engineer finds that the final decree on the waters of Ophir Creek and its tributaries adjudicated all claims to all the waters of the Ophir Creek stream system leaving no water available for appropriation pursuant to Application 66907.

¹ File No. 66907, official records in the Office of the State Engineer.

² Findings of Fact, Conclusions of Law, Judgment and Decree, In the Matter of the Determination of the Relative Rights in and to the Waters of Ophir Creek and Its Tributaries in Washoe County, Nevada, Case No. 319562, Second Judicial District Court of Nevada, In and for the county of Washoe, Feb. 15, 1984.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to change the public waters where:⁴

- 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 the 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.

The State Engineer concludes that there is no unappropriated water available from Ophir Creek and its tributaries and that any additional appropriations of water would impair the value of and conflict with existing decreed rights.

RULING

Application 66907 is hereby denied on the grounds that there is no unappropriated water at the proposed source and it would conflict with existing rights.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/KH/jm

Dated this 20th day
of August, 2004.

² NRS chapter 533.
⁴ NRS § 533.370(4).