

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

IN THE MATTER OF APPLICATION )  
77051 FILED TO APPROPRIATE THE )  
PUBLIC WATERS FROM AN )  
UNDERGROUND SOURCE WITHIN )  
THE IVANPAH VALLEY - NORTHERN )  
PART HYDROGRAPHIC BASIN (164A), )  
CLARK COUNTY, NEVADA. )

**RULING**

**#5931**

**GENERAL**

**I.**

Application 77051 was filed on May 14, 2008, by Gil Steelhead, LLC, to appropriate 0.0223 cubic feet per second, not to exceed 1.0 acre-foot annually (afa) of water from an underground source for commercial purposes within a portion of the SE¼ NE¼ of Section 26, T.24S., R.58E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of said Section 26.<sup>1</sup>

**II.**

Application 77051 was timely protested by Las Vegas Valley Water District (LVVWD) on the following grounds:<sup>1</sup>

1. No unappropriated water exists. Basin No. 164A (Ivanpah Valley – North Part) is already over-appropriated.
2. Given the water quality issues in and around the area of Jean, Clark County, Nevada, granting this application would lead to further degradation of water quality.
3. Granting this application would adversely affect the existing water rights of the Las Vegas Valley Water District
4. Given that Basin No. 164A is already overappropriated, granting this application would threaten to prove detrimental to the public interest.

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<sup>1</sup> File No. 77051, official records in the Office of the State Engineer.

## FINDINGS OF FACT

### I.

Nevada Revised Statute § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State Engineer finds that a hearing is not necessary to consider the merits of the protest.

### II.

By letter dated December 18, 2008, the Protestant was requested to provide supporting information for protest items No. 2 and No. 3. The Protestant responded by letter dated January 8, 2009, indicating that:

LVVWD would like to withdraw these two issues from its protest. However, LVVWD affirms the remaining protest grounds, and in support of its protest, cites the reasoning articulated by the State Engineer in Ruling 4324 regarding the over appropriation in the Goodsprings area.<sup>1</sup>

This ruling was for new appropriations of ground water of approximately 66.5 acre-feet for a new motel, which the State Engineer concluded:

...that any new appropriation of underground water in the Goodsprings area would impose an additional demand upon an already burdened water resource and would adversely effect both the domestic wells and existing permitted rights...<sup>2</sup>

Although Application 77051 is filed as a new appropriation, water has been used at this locality since as early as 1913 for the Pioneer Bar and Hotel and would not be a new or additional demand on the water resource. In October 1989, a claim of vested right, V04953<sup>3</sup>, was made for this location for 1.0 acre-foot. The State Engineer finds that the quantity of water requested under Application 77051 is minimal and the use has historically existed, and approval of such a small quantity will not impair existing water rights.

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<sup>2</sup> State Engineer's Ruling No. 4324, dated April 18, 1996, official records in the Office of the State Engineer.

<sup>3</sup> File No. V04953, official records in the Office of the State Engineer.

### III.

Application 77051 requests the appropriation of 1.0 afa, which would equate to a maximum duty of approximately 893 gallons per day annually. This total annual duty is half of the amount allowed for the development and use of a domestic well for which no permit is required.<sup>4</sup> The State Engineer finds that the quantity of water requested by Application 77051 is minimal and approval of such a small quantity will not impair existing water rights.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>6</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 77051 requests the appropriation of 1.0 afa for commercial use. The State Engineer concludes that commercial use is a preferred use of water and has a high public benefit when considering the minimal amount being sought, and that the effects of pumping approximately 893 gallons per day would have insignificant effects on existing rights or the overall health of the ground-water basin; therefore, the approval of Application 77051 will not conflict, interfere with, or impair existing rights.

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<sup>4</sup> NRS § 534.180.

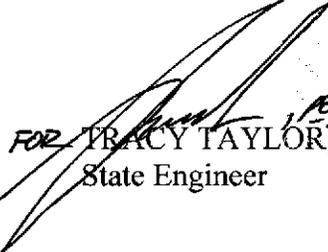
<sup>5</sup> NRS chapters 533 and 534.

<sup>6</sup> NRS § 533.370(5).

**RULING**

The protest to Application 77051 is hereby overruled and Application 77051 is hereby approved subject to existing rights and payment of the statutory permit fee.

Respectfully submitted,

  
FOR TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 9th day of  
February, 2009.