

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

IN THE MATTER OF APPLICATION 77424)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE CARSON VALLEY)
HYDROGRAPHIC BASIN (105), DOUGLAS)
COUNTY, NEVADA.)

RULING

5999

GENERAL

I.

On September 26, 2008, the Lund Family Limited Partnership filed Application 77424 to change the point of diversion and place of use of 0.201 cubic feet per second, a portion of the water previously appropriated under Permit 61771. The existing point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.12N., R.19E., M.D.B.&M.¹ The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.12N., R.20E., M.D.B.&M., or at a point from which the W $\frac{1}{4}$ corner of Section 31, T.12N., R.20E., M.D.B.&M. bears S.07° 17' 58" W. a distance of 2,755.87 feet. The existing place of use is described as being 110.90 acres located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.12N., R.19E., M.D.B.&M. and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.12N., R.20E., M.D.B.&M. The proposed place of use is described as being 32.7 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.12N., R.20E. and 5.3 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.12N., R.19E., M.D.B.&M. The remarks section of the application indicates that the application was filed to relocate the point of diversion for the Applicant's portion of Permit 61771 to the well on the Applicant's property and that the water is supplemental to Carson River Decreed water rights as well as pending Application 77180.

FINDINGS OF FACT

I.

Application 77424 was timely protested by Sunshine Ranch Nevada LLC on the grounds that the map supporting the proposed point of diversion was originally filed under Application

¹ File No. 77424, official records in the Office of the State Engineer.

77180, which shows two points of diversion and it is not clearly noted on the map which one is the proposed point of diversion under Application 77424. The Protestant asserts that the map does not provide a definitive location for the one and only proposed point of diversion under Application 77424. The Protestant indicated that it wants the Applicant to redo the map removing the point of diversion that was proposed under withdrawn Application 77181. Information in the file for Application 77424 indicates that the Applicant did not wish to incur the additional costs for the preparation of a new map.

The State Engineer finds the specific description of the point of diversion proposed under Application 77424, which is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.12N., R.20E., M.D.B.&M., or at a point from which the W $\frac{1}{4}$ corner of Section 31, T.12N., R.20E., M.D.B.&M. bears S.07° 17' 58" W. a distance of 2,755.87 feet is readily found on the map by using the tie and bearing. This is the same well as described by tie and bearing under Application 77180. The State Engineer finds it is irrelevant that the well proposed as the point of diversion under withdrawn Application 77181 is also found on the map as that well is readily distinguishable by the tie and bearing provided under Application 77181. The State Engineer finds there is absolutely no reason for the Applicant to incur the expense of having a new map drawn and the grounds of the protest are without merit.

CONCLUSIONS

I.

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

II.

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

- 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.

² NRS chapters 533 and 534.

³ NRS § 533.370(5).

III.

The State Engineer concludes the point of diversion proposed under Application 77424 is very clearly found on the supporting map by the tic and bearing and it does not threaten to prove detrimental to the public interest to grant the application using the supporting map.

RULING

The protest to Application 77424 is hereby overruled and the Application granted subject to existing rights and the payment of statutory permit fees;

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

Dated this 3rd day of
August, 2009.