

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

IN THE MATTER OF APPLICATIONS)
32024 AND 37644 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE)
WITHIN THE WHITE RIVER VALLEY)
HYDROGRAPHIC BASIN (207), NYE)
COUNTY, NEVADA.)

RULING
#6084

GENERAL

I.

Application 32024 was filed on June 13, 1977, by Marcia L. Gardner to appropriate 2.7 cubic feet per second (cfs) of the public waters of an underground source for irrigation and domestic purposes. The proposed place of use is described as being located within the E½ SE¼ of Section 26, and the E½ NE¼ of Section 35, T.10N., R.61E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of Section 35, T.10N., R.61E., M.D.B.&M.¹

II.

Application 37644 was filed on April 3, 1979, by Marcia L. Gardner to appropriate 2.7 cfs of the public waters from an underground source for irrigation and domestic purposes. The proposed place of use is described as being located within the SE¼ of Section 35, T.10N., R.61E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of Section 35, T.10N., R.61E., M.D.B.&M.²

FINDINGS OF FACT

I.

On February 14, 2006, the Office of the State Engineer requested from the Applicant information whether she was still interested in pursuing Applications 32024 and 37644 and

¹ File No. 32024, official records in the Office of the State Engineer.

² File No. 37644, official records in the Office of the State Engineer.

information as to the current status of her Desert Land Entry (DLE) applications related to these water right applications.¹

By telephone conversation with staff of the Office of the State Engineer, the Applicant expressed continued interest in 2007. To confirm the telephone conversation, by letter dated February 7, 2007, the Office of the State Engineer again requested from the Applicant information whether she was still interested in pursuing Applications 32024 and 37644 and information as to the current status of her DLE applications related to these water right applications.¹

The Applicant responded by letter received in the Office of the State Engineer on March 26, 2007. She stated that she indeed was still interested in her DLE applications and related water right applications and that she was currently waiting for status in writing from the Bureau of Land Management (BLM) on her DLE applications.¹

II.

On August 9, 2006, the Office of the State Engineer requested from the Ely Field Office of the BLM a review of the Master Title Plat, which showed that case file DLE-N-22936 (Application 32024) had been "closed" and case file DLE N-52689 (Application 37644) had been "rejected" by the Interior Board of Land Appeals.¹

The State Engineer, after a review of the BLM records found that the DLEs relating to the Applicant's water right Applications 32024 and 37644 were listed as "Case Closed" and "Rejected," respectively; therefore, the Applicant does not have right of entry to those public lands.

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 a permit under an application to appropriate the public water where:⁴

³ NRS Chapters 533 and 534.

⁴ NRS § 533.375(5).

- 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.

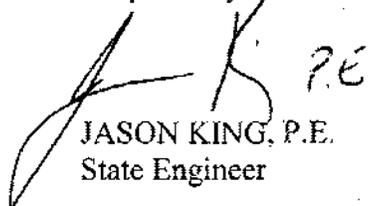
III.

The State Engineer concludes the Applicant does not have legal right of entry to the proposed points of diversion or places of use requested by the water right applications. The State Engineer concludes that without legal right of entry, the Applicants cannot place the water to beneficial use and to grant the applications under that circumstance would threaten to prove detrimental to the public interest.

RULING

Applications 32024 and 37644 are hereby denied on the grounds that granting of the applications would threaten to prove detrimental to the public interest.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 14th day of

December, 2010.