

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

IN THE MATTER OF APPLICATION 51631)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF WILDCAT SPRING WITHIN)
THE PAHRUMP VALLEY HYDROGRAPHIC)
BASIN (162), CLARK COUNTY, NEVADA.)

**RULING
5119**

GENERAL

I.

Application 51631 was filed on December 15, 1987, by William W. Morris to appropriate 1.0 cubic foot per second of water from Wildcat Spring for quasi-municipal and domestic purposes. Information contained within the application indicates that the water is to serve a 450 lot residential mountain subdivision, which is described as being located within the NE $\frac{1}{4}$ of Section 28, T.20S., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 28. Application 51631 became ready for the State Engineer's action on March 31, 1988.¹

II.

Application 51631 was filed to provide partial water service for the proposed Sky Mountain Estates subdivision. Additional water service was to be provided under Applications 51632 and 52034, which sought appropriations from an underground source.²

FINDINGS OF FACT

I.

The State Engineer has on two separate occasions reviewed the Sky Mountain Estates subdivision. Subdivision Reviews No. 3490T and 3750T issued on July 20, 1988, and May 5, 1989, respectively, both recommended disapproval of the proposed

¹ File No. 51631, official records in the Office of the State Engineer.

² Subdivision Reviews No. 3490T and 3750T, copies of official records in File No. 51631.

subdivision based upon insufficient water quantity. At the time of these disapprovals, the subdivision was to be supported by three separate water rights, two of which have since been denied.³

II.

The State Engineer denied Application 51632, which was filed to appropriate underground water for a proposed residential subdivision, by Ruling No. 3505, on March 25, 1988. The denial was appealed by the applicant to the Supreme Court of Nevada, which upheld the State Engineer's denial.⁴ Application 52034 was also denied by the State Engineer by Ruling No. 4936 on June 13, 2000, but the applicant did not appeal the State Engineer's decision.⁵

Before the State Engineer can approve a subdivision, the developer of the subdivision must obtain sufficient water rights to support the subdivision. The State Engineer finds that the denials of Applications 51632 and 52034 are final and that these two applications can no longer be considered as a source of water for the proposed subdivision.

III.

The State Engineer finds that if the original amount of water requested for appropriation was previously found to be insufficient to support the proposed subdivision, a reduction of this insufficient amount through the denial of two of the supporting water right applications, would also result in a disapproval of the subdivision.

IV.

The records in the State Engineer's office contain an accounting of water rights applications that have been submitted to his office, as well as their current status. A search of these records indicates that the only valid water rights within a one-mile radius of the proposed Sky Mountain Estates are held by the State of Nevada, with the exception of one that is permitted for a rural residential development in Section 34, T.20S., R.57E.,

³ State Engineer Rulings No. 3505 and 4936, official records in the Office of the State Engineer.

⁴ File No. 51632, official records in the Office of the State Engineer.

⁵ File No. 52034, official records in the Office of the State Engineer.

M.D.B.&M.⁶ The State Engineer finds that Application 51631 is the only active application held by the applicant that could provide water service to the applicant's proposed Sky Mountain Estates subdivision.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁸

- 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 51631 was one of three applications filed to appropriate water to support a proposed subdivision. The State Engineer concluded in two subdivision reviews that there was insufficient water quantity and after each review disapproved the subdivision. Two of the three supporting applications were later denied. The State Engineer concludes that to approve the proposed subdivision with a lesser amount of water to serve the subdivision would threaten to prove detrimental to the public interest.

⁶ Nevada division of Water Resources water right database, March 28, 2002, official records in the Office of the State Engineer.

⁷ NRS chapters 533 and 534.

⁸ NRS § 533.370 (3).

RULING

Application 51631 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/CAB/jm

Dated this 23rd day of
April, 2002.