

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

IN THE MATTER OF APPLICATION 72644)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNNAMED SPRING)
WITHIN THE MARY'S RIVER AREA)
HYDROGRAPHIC BASIN (42), ELKO)
COUNTY, NEVADA.)

RULING

#5799

GENERAL

I.

Application 72644 was filed on April 26, 2005, by Clinton Wayne Parker to appropriate 0.03 cfs of water from an unnamed spring for stockwater purposes within the N½ of Section 17, T.39N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 17, T.39N., R.64E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The State Engineer finds that the unnamed spring that is the subject of Application 72644 is tributary to Willow Creek, which is tributary to Bishop Creek, which is subject to the claims decreed within the Humboldt River Decree,² a fully appropriated stream.

II.

The State Engineer finds that Application 44361, filed to appropriate the waters of Willow Creek, was denied on the grounds that the stream system is fully appropriated.³

III.

The State Engineer finds that the Final Decree on the Humboldt River and its tributaries adjudicated all claims to all the waters of the Humboldt River and its tributaries leaving no water available for appropriation pursuant to Application 72644.

¹ File No. 72644, official records in the Office of the State Engineer.

² In the Matter of the Determination of the Relative Rights of the Waters of the Humboldt River Stream System and Tributaries, Case No. 2804, Sixth Judicial District Court of Nevada, In and for the County of Humboldt, 1923-1938.

³ State Engineer's Ruling No. 4253, dated December 7, 1995, official records in the Office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where: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 there is no water available for appropriation on this unnamed spring.

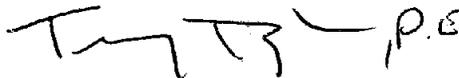
IV.

The State Engineer concludes that to approve this application would impair the value of and conflict with existing decreed rights in the Humboldt River and tributaries and thereby threaten to prove detrimental to the public interest.

RULING

Application 72644 is hereby denied on the grounds that no water is available for appropriation and the approval of said application would conflict with existing decreed water rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/KE/jm

Dated this 27th day of

November, 2007.

⁴ NRS chapter 533

⁵ NRS § 533.370(5).