

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

IN THE MATTER OF APPLICATION)
53440 FILED TO CHANGE THE PLACE)
OF USE OF A PORTION OF THE PUBLIC)
WATERS OF THE TRUCKEE RIVER)
PREVIOUSLY APPROPRIATED UNDER)
TRUCKEE RIVER CLAIM NO. 64, (DTR-)
64), WITHIN THE TRUCKEE CANYON)
SEGMENT HYDROGRAPHIC BASIN (91),)
WASHOE COUNTY, NEVADA.)

RULING
5835

GENERAL

I.

Application 53440 was filed on June 27, 1989, by Edward I. Price to change the place of use of a 1 acre-foot portion of water previously appropriated under Truckee River Claim No. 64 (DTR-64). The source of water is the Truckee River (Steamboat Ditch) and the proposed manner of use is for irrigation and domestic purposes, as decreed. The proposed place of use is described as being located within portions of the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 18, T.18N., R.20E., M.D.B.&M. The existing place of use is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, T.19N., R.19E., M.D.B.&M., Lot 37 of the Green Acre Heights Subdivision. The proposed point of diversion is unchanged and described as being located within the SW $\frac{1}{4}$ of Section 31, T.19N., R.18E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 53440 seeks to change the place of use of a portion of DTR-64. When evaluating an application filed to change an existing water right, one part of the review process is to determine if, in fact there is existing water available. In this case, the Applicant has stated on the application and the supporting map the exact location of the existing water rights sought for change.

The water is described as being appurtenant to 1.198 acres of land located within a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, T.19N., R.19E., M.D.B.&M., Lot 37 of the Green Acre Heights Subdivision.¹

¹ File No. 53440, official records in the Office of the State Engineer.

The Office of the State Engineer has mapped the locations of water under Truckee River claims including DTR-64. By comparing the map showing DTR-64 to Application 53440, it is clearly shown that the described existing place of use is within an area already stripped by Permit 12330, Certificate 3643. In other words, there is no water under DTR-64 or any other Truckee River claim number appurtenant to the described existing place of use.²

The State Engineer finds that Application 53440 is attempting to change water from an existing place of use where no appurtenant water exists under the described Truckee River Claim.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- 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 that there is no water available to change as described by Application 53440. The State Engineer further concludes that it is not in the public interest to approve a change application when the source of water does not exist; therefore, Application 53440 is subject to denial.

² See, Truckee River Map TR-115, May 21, 2003, official records in the Office of the State Engineer.

³ NRS chapter 533.

⁴ NRS § 533.370 (5).

RULING

Application 53440 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/MM/jm

Dated this 11th day of
April, 2008.