

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

IN THE MATTER OF APPLICATION 85286)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE DIXIE CREEK – TENMILE)
CREEK AREA HYDROGRAPHIC BASIN (48),)
ELKO COUNTY, NEVADA.)

RULING

#6328

GENERAL

I.

Application 85286 was filed on July 9, 2015, by First Capital Trust, LLC, to appropriate 125 acre-feet annually (afa) of the groundwater within the Dixie Creek – Tenmile Creek Area Hydrographic Basin for irrigation purposes from January 1st through December 31st of each year. The proposed point of diversion is described as being located within the NW¼ NW¼ of Section 17, T.32N., R.56E., M.D.B.&M. The proposed place of use is described as being located within all of Sections 16 and 17, and portions of Sections 8, 9 and 18, T.32N., R.56E., M.D.M.&M.¹

FINDINGS OF FACT

I.

The State Engineer finds that the Applicant proposes to appropriate 125 afa of groundwater in the Dixie Creek – Tenmile Creek Area Hydrographic Basin, which is a designated basin, from January 1st through December 31st of each year.

II.

State Engineer’s Order No. 848, dated September 6, 1984, designated and described the Dixie Creek – Tenmile Creek Area Hydrographic Basin as a groundwater basin in need of additional administration.²

State Engineer’s Order No. 1120, dated April 2, 1996, added additional regulation for the designated Dixie Creek – Tenmile Creek Area Hydrographic Basin. Order No. 1120 stated that

¹ File No. 85286, official records in the Office of the State Engineer.

² State Engineer’s Order No. 848, dated September 6, 1984, official records in the Office of the State Engineer.

all applications to appropriate groundwater pursuant to Chapter 534 would be denied within a portion of the area described under Order No. 848. The only exceptions were:

- (1) Those applications for any purpose except irrigation, which seek to appropriate 4000 gallons per day or less.
- (2) Those applications for environmental permits filed pursuant to NRS § 533.437.
- (3) Those applications filed for water from the geothermal aquifer.³

The State Engineer finds that Application 85286 was filed to appropriate water for irrigation purposes within the area described under Order 1120.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and 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 waters 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 protectable 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 Application 85286 seeks to appropriate 125 afa of groundwater within Dixie Creek – Tenmile Creek Area Hydrographic Basin for irrigation purposes; therefore, the approval of Application 85286 is prohibited by Order No. 1120, and approval of the application would threaten to prove detrimental to the public interest.

³ State Engineer's Order No. 1120, dated April 2, 1996, official records in the Office of the State Engineer.

⁴ NRS 533 and 534.

⁵ NRS § 533.370(2).

RULING

Application 85286 is hereby denied on the grounds that its approval is prohibited by State Engineer's Order No. 1120 and approval of the application would threaten to prove detrimental to the public interest.

Sincerely,



JASON KING, P.E.
State Engineer

Dated this 2nd day of
December, 2015.