

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

IN THE MATTER OF APPLICATION)
67903-T FILED TO TEMPORARILY)
CHANGE THE POINT OF DIVERSION)
AND PLACE OF USE OF THE)
UNDERGROUND WATERS OF THE)
QUINN RIVER VALLEY – OROVADA)
SUBAREA HYDROGRAPHIC BASIN)
(33A), HUMBOLDT COUNTY, NEVADA.)

RULING

#5279

GENERAL

I.

Application 67903-T was filed on August 13, 2001, by Home Ranch LLC, to temporarily change the point of diversion and place of use of 1.37 cubic feet per second, a portion of the underground waters previously appropriated under Permit 28037, Certificate 8543, for irrigation purposes. The proposed place of use is described as being 220 acres located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, and SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T.43N., R.37E., M.D.B.&M. The existing place of use is described as being 220 acres located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, and W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30, and NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T.44N., R.37E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T.43N., R.37E., M.D.B.&M. The existing point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29, T.44N., R.37E., M.D.B.&M.¹

II.

Permit 67904 was issued on April 4, 2002, to Home Ranch LLC, and abrogated a portion of the underground waters previously appropriated under Permit 28037, Certificate 8543. The point of diversion, place of use, and manner of use of Permit 67904 is identical to Application 67903-T.²

¹ File No. 67903-T, official records in the Office of the State Engineer.

² File No. 67904, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

A review of the records in the Office of the State Engineer shows that Application 67903-T is a temporary application filed in conjunction with permanent Application 67904. Application 67903-T was filed to change the same water as Permit 67904 and the proposed point of diversion, place of use, and manner of use are identical. It is not uncommon to have a temporary application filed at the same time as a permanent application when the manner of use is irrigation. The applicant often files the temporary application to ensure that a permit is in place prior to the start of the next irrigation season. Since Permit 67904 was issued on April 4, 2002, prior to the next irrigation season, no action was taken on temporary Application 67903-T. Due to the issuance of Permit 67904, the State Engineer finds that water no longer exists under Permit 28037, Certificate 8543, to support temporary change Application 67903-T. The State Engineer further finds that once Permit 67904 was issued temporary Application 67903-T became unnecessary.

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 a change 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.

³ NRS chapters 533 and 534.

⁴ NRS § 533.370(3).

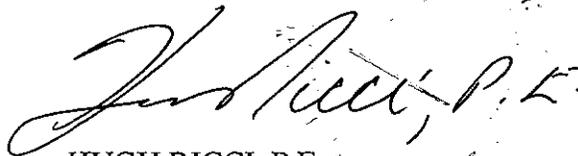
III.

With the issuance of Permit 67904, the water Application 67903-T sought to change is no longer available and the reason for the temporary application no longer exists. The State Engineer concludes that Application 67903-T is subject to denial.

RULING

Application 67903-T is hereby denied on the grounds that to grant a permit no longer needed by the applicant would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 10th day of
September, 2003.