

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

IN THE MATTER OF APPLICATIONS)
46255, 46256, 46257, 46258,)
46259, 46261, AND 46262 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF)
VARIOUS SURFACE SOURCES WITHIN)
THE DESERT VALLEY HYDROGRAPHIC)
BASIN (31) HUMBOLDT COUNTY,)
NEVADA.

RULING
#5937

GENERAL

I.

Application 46255 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 1.0 cubic foot per second (cfs) of water from Seven Springs Creek for domestic purposes and to irrigate 800 acres of land more or less, located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ of Section 20, and the W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 21 T.38N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T.39N., R31E., M.D.B.&M.¹

II.

Application 46256 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 2.45 cfs of water from Clover Creek for domestic purposes and to irrigate the same 800 acres of land identified under Application 46255. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36 T.39N., R31E., M.D.B.&M.²

¹ File No. 46255, official records in the Office of the State Engineer.

² File No. 46256, official records in the Office of the State Engineer.

III.

Application 46257 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 1.0 cfs of water from Louse Creek for domestic purposes and to irrigate the same 800 acres of land identified under Application 46255. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, T.39N., R31E., M.D.B.&M.³

IV.

Application 46258 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 1.0 cfs of water from the North Branch of Big Cedar Creek for domestic purposes and to irrigate the same 800 acres of land identified under Application 46255. The proposed point of diversion is described as being located within the Lot 3 of Section 4 T.38N., R31E., M.D.B.&M.⁴

V.

Application 46259 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 2.0 cfs of water from the South Branch of Big Cedar Creek for domestic purposes and to irrigate the same 800 acres of land identified under Application 46255. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, T.38N., R31E., M.D.B.&M.⁵

³ File No. 46257, official records in the Office of the State Engineer.

⁴ File No. 46258, official records in the Office of the State Engineer.

⁵ File No. 46259, official records in the Office of the State Engineer.

VI.

Application 46261 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 2.0 cfs of water from Shawnee Creek for domestic purposes and to irrigate the same 800 acres of land identified under Application 46255. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T.38N., R31E., M.D.B.&M.⁶

VII.

Application 46262 was filed by DeLong Ranches, Inc., on October 21, 1982, to appropriate 3.0 cfs of water from Little Cedar Creek to irrigate for domestic purposes and to irrigate the same 800 acres of land identified under Application 46255. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T.38N., R31E., M.D.B.&M.⁷

VIII.

Application 46255 was timely protested by Laura McKernan on the following grounds:¹

This application should be granted only on the basis that no improvement work shall, or will, be done to the springs or creek channel, known as Seven Springs, above the proposed point of diversion. Any improvement work done on the springs or creek channel that will affect, divert, or dry up the existing springs, and creek channel will cause undue hardships on livestock grazing and watering on prior, vested rights, on BLM Grazing Allotment [sic] of Willow Creek Ranch.¹

⁶ File No. 46261, official records in the Office of the State Engineer.

⁷ File No. 46262, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Two informal field investigations were conducted by Division of Water Resources personnel on April 3, and April 21, 2008, for the purpose of measuring stream flows of all seven subject applications.⁸ The results of the field investigations are summarized in Table One as follows:

CREEK	Application	CFS REQUESTED	CFS MEASURED	RECOMMENDATION	REMARKS
Seven Springs	46255	1.00	DRY	DENY	No water at source
Clover	46256	2.45	DRY	DENY	No water at source
Louse	46257	1.00	0.799	APPROVE	No existing rights
No. Branch Big Cedar	46258	1.00	0.382	DENY	No water over and above existing rights
So. Branch Big Cedar	46259	2.00	0.289	DENY	No water over and above existing rights
Shawnee	46261	2.00	DRY	DENY	No water at source
Little Cedar	46262	3.00	0.26	DENY	No water over and above existing rights

Table One

⁸ File Nos. 46255, 46256, 46257, 46258, 46259, 46261, and 46262, Field Investigation Report No. 1095, official records in the Office of the State Engineer.

There was no water flowing at the proposed points of diversion for Applications 46255, 46256, and 46261. Water measurements at the proposed points of diversion for Applications 46258, 46259, and 46262 were not sufficient to satisfy additional appropriations above and beyond existing permits and certificates on the subject streams. The measured water flow at the proposed point of diversion of Application 46257 is sufficient to satisfy the requested diversion.

II.

There are no existing water rights on Louse Creek; therefore, the State Engineer finds that the flow of Louse Creek is available for appropriation by Application 46257.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁹

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:¹⁰

- 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.

⁹ NRS chapter 533.

¹⁰ NRS § 533.370(5).

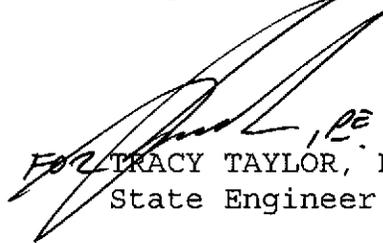
III.

The State Engineer finds there is insufficient water at the source to satisfy the requested appropriations for Applications 46255, 46256, 46258, 46259, 46261, and 46262. In addition, the State Engineer finds there is sufficient water to approve Application 46257.

RULING

Applications 46255, 46256, 46258, 46259, 46261, and 46262 are hereby denied on the grounds that no water is available at the source. No ruling is made on the merits of the Protest to Application 46255. Application 46257 is hereby approved subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/SEM/jm

Dated this 10th day of
February, 2009.