

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

IN THE MATTER OF APPLICATION 63360)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE PAHRANAGAT)
VALLEY HYDROGRAPHIC BASIN (209),)
LINCOLN COUNTY, NEVADA.)

RULING
5984

GENERAL

I.

Application 63360 was filed on August 27, 1997, by the Blue Nugget Water Company, and later assigned to Silver State Land Company, LLC, to appropriate 5.40 cubic feet per second of underground water from the Pahrnagat Valley Hydrographic Basin for the irrigation of 4,080 acres of land. The proposed place of use is described as being located within the W $\frac{1}{2}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, E $\frac{1}{2}$ of Section 2, E $\frac{1}{2}$ of Section 11, W $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ and W $\frac{1}{2}$ of Section 12, all of Sections 13, 14, 23, 24, T.6S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T.6S., R.60E., M.D.B.&M.¹

II.

Application 63360 was timely protested by the United States Department of the Interior, National Park Service, the Alamo Sewer and Water District, and the United States Fish and Wildlife Service on grounds that are not to be considered in this ruling.

FINDINGS OF FACT

I.

Application 63360 was filed to appropriate underground water for use upon federal land managed by the United States Department of Interior, Bureau of Land Management (BLM). The State Engineer finds that the Applicant does not own or control the land at the proposed point of diversion and place of use under Application 63360.

¹ File No. 63360, official records in the Office of the State Engineer.

II.

Application 63360 was filed on August 27, 1997, and it was noted in the remarks section of the application that the use will be for a large scale agricultural operation pursuant to a pending land exchange with the BLM.¹ Concerns over the Applicant's ability to complete the land exchange was expressed by the Division of Water Resources through a series of correspondence with the Applicants over the last eleven years.²

The information provided by the Applicant in response to the certified letters cannot fully explain the failure to proceed with the land exchange and/or obtain entry to the land in a reasonably expedient and efficient manner under all the facts and circumstances. The State Engineer finds that there exists an unequal balance between the amount of time the Applicant has been given and the lack of results they have achieved.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application appropriate the public water 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 the applicant does not own or control the land at the proposed place of use or the proposed point of diversion under Application 63360. The State Engineer further concludes that to grant an application to appropriate the public waters where the applicant does not own or control the land would threaten to prove detrimental to the public interest.

² See, certified letters of March 27, 1998, August 20, 2001, December 29, 2001, January 22, 2004, February 21, 2007, and December 16, 2008, File No. 63360, official records in the Office of the State Engineer.

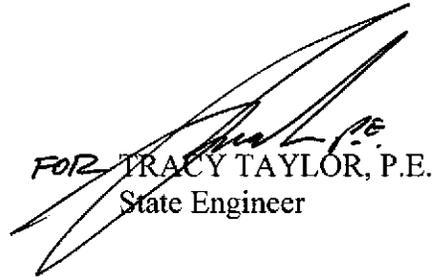
³ NRS chapters 533 and 534.

⁴ NRS § 533.370(5).

RULING

Application 63360 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,


FOIR TRACY TAYLOR, P.E.
State Engineer

TT/KWC/jm

Dated this 20th day of
April 2009