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

IN THE MATTER OF APPLICATION) 77703 FILED TO APPROPRIATE THE) PUBLIC WATERS OF A SURFACE) SOURCE WITHIN THE LONG VALLEY) HYDROGRAPHIC BASIN (9) WASHOE) COUNTY, NEVADA.)	**RULING** **#6039**

GENERAL

I.

Application 77703 was filed on December 19, 2008, by Walters Family Trust, to appropriate 0.06 cubic feet per second (cfs), or approximately 27 gallons per minute (gpm) of water from Town Spring for quasi-municipal and domestic purposes. The proposed place of use is described as being located within the S½ SW¼ SW¼ of Section 33, T.43N., R.19E., all of Lot 3, and the N½ of Lot 4 of Section 4, T.42N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 4, T.42N., R.19E., M.D.B.&M.[1]

FINDINGS OF FACT

I.

As provided in Nevada Revised Statutes (NRS) §§ 533.025 and 533.030, all waters of the state belong to the public and may be appropriated for beneficial use only as provided by law and not otherwise. The State Engineer can only approve an application to appropriate water if there is unappropriated water at the source, the proposed use does not tend to conflict with existing rights and does not threaten to prove detrimental to the public interest.[2]

A review of records on file in the Office of the State Engineer shows an existing water right permit on Town Spring, Permit 9810, Certificate 2090. The duty of water associated with this water right is described on the certificate of appropriation as 0.06 cfs (~27 gpm) or 25.4 acre-feet for the season. In addition, water for domestic purposes is

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[1] File No. 77703, official records in the Office of the State Engineer.
[2] NRS § 533.370(5).

allowed to the extent of 0.025 cfs (~11.2 gpm) in continuous flow from January 1 to December 31 of each year. Application 77703 seeks to appropriate an additional 27 gpm from Town Spring for quasi-municipal and domestic purposes and, if approved would create a total demand on the source of about 54 gpm with existing Permit 9810, Certificate 2090. On November 19, 2009, personnel from the Nevada Division of Water Resources measured the flow from Town Spring at 14 gpm.[3]

The State Engineer finds there is an existing water right on Town Spring and there is no additional water to appropriate over and above the water that must be used to satisfy Permit 9810, Certificate 2090.

CONCLUSIONS

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 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 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 unappropriated water at the source sufficient to satisfy the requirements of the requested appropriation; therefore, Application 77703 must be considered for denial.

IV.

The State Engineer concludes that the granting of Application 77703 would conflict with the existing water rights on Town Spring, Permit 9810, Certificate 2090.

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[3] *See,* letter dated November 24, 2009, File No. 77703, official records in the Office of the State Engineer.
[4] NRS Chapter 533.
[5] NRS § 533.370(5)

RULING

Application 77703 is hereby denied on the grounds that there is no unappropriated water at the source sufficient to satisfy the requirements of the requested appropriation and granting of the application would conflict with existing water rights.

Respectfully submitted,

JASON KING, P.E.
State Engineer

Dated this 24th day of May, 2010.