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

IN THE MATTER OF APPLICATION 65534 FILED TO APPROPRIATE THE PUBLIC WATERS OF AN UNDERGROUND SOURCE WITHIN THE RAILROAD VALLEY - SOUTHERN PART HYDROGRAPHIC BASIN (173A), NYE COUNTY, NEVADA.	)	**RULING** **#6078**

GENERAL

I.

Application 65534 was filed on September 22, 1999, by CSS Company to appropriate 5.4 cubic feet per second of underground water from the Railroad Valley - Southern Part Hydrographic Basin (173A) for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S½ of Section 4, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of said Section 4.[1]

II.

Application 65534 was timely protested by Great Basin Land Co., Great Basin Holding Co., Joe and Susan Fallini, the United States Bureau of Land Management, and the Las Vegas Valley Water District on grounds not to be considered in this ruling.[1]

FINDINGS OF FACT

I.

Application 65534 was filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of the Applicant's federal Desert Land Entry application (DLE). On July 15, 2010, the U.S. Bureau of Land Management (BLM), website LR-2000 Reports was queried by the Office of the State Engineer to determine the status of the Applicant's Desert Land Entry Application. The BLM LR-2000 report indicated that no Desert Land

---

[1] File No. 65534, official records in the Office of the State Engineer.

Entry application has been filed in support of 65534.[1] The State Engineer finds that no Desert Land Entry has been filed for Application 65534.

II.

On October 10, 2006, the State Engineer signed Ruling No. 5670[2] that denied 15 other water right applications submitted by CSS Company for Desert Land Entry. Application 65534 was inadvertently omitted from this ruling as the circumstances are identical. The State Engineer finds that Application 65534 should have been included in Ruling No. 5670 and hereby incorporates the Findings of Fact and Conclusions of Law from Ruling No. 5670 into this ruling.

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 an 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.

III.

The purpose for which Application 65534 was filed does not exist because no records exist indicating the Applicant ever made a Desert Land Entry application with the BLM.[2] The State Engineer concludes that to approve a water right permit

---

[2] State Engineer's Ruling No. 5670, dated October 10, 2006, official records in the Office of the State Engineer.
[3] NRS Chapters 533 and 534.
[4] NRS § 533.370(5).

for a project that does not exist would threaten to prove detrimental to the public interest.

RULING

Application 65534 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,

P.E.

JASON KING, P.E.
State Engineer

Dated this 6th day of

December, 2010.