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

IN THE MATTER OF APPLICATIONS 63470 AND 63471 FILED TO APPROPRIATE THE PUBLIC WATERS OF SURFACE WATER SOURCES WITHIN THE CARSON VALLEY HYDROGRAPHIC BASIN (105) DOUGLAS COUNTY, NEVADA.	**RULING** **#6080**

GENERAL

I.

Application 63470 was filed on October 2, 1997, by David Michael Semas, later to be assigned to Five Creek LLC, to appropriate 1.0 cubic foot per second (cfs) of water from an un-named stream within the Carson Valley Hydrographic Basin for irrigation and domestic use within portions of the NW1/4 NW1/4, SW1/4 NW1/4 of Section 15, T.12N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the SW1/4 NW1/4 of said Section 15.[1]

II.

Application 63471 was filed on October 2, 1997, by David Michael Semas, later to be assigned to Five Creek LLC, to appropriate 1.0 cfs of water from Stutler Creek within the Carson Valley Hydrographic Basin for irrigation and domestic use within portions of the NW1/4 NW1/4, SW1/4 NW1/4 of Section 15, T.12N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the SW1/4 NW1/4 of said Section 15.[2]

Application 63471 is nearly a duplicate filing as Application 63470, and as depicted on the application map is from a sub-parallel drainage with a proposed point of diversion also in the SW1/4 NW1/4 of Section 15, T.12N., R.19E., M.D.B.&M., approximately 130 feet south-southeast of the proposed point of diversion for Application

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[1] File No. 63470, official records in the Office of the State Engineer.
[2] File No. 63471, official records in the Office of the State Engineer.

63470. The diversion rate, proposed place of use, manner use, and ownership are the same as for Application 63470.

FINDINGS OF FACT

I.

A field investigation was conducted by Division of Water Resources personnel on July 23, 2010, for the purpose of measuring stream flows and inspecting the proposed place of use.[3] There was no water flowing at either of the two proposed points of diversion for Applications 63470 and 63471. In addition, the drainage morphology and phreatophyte growth indicate that surface water does not routinely reach the proposed points of diversion.

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 unappropiated 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 there is no water at the source to satisfy the requested appropriations under Applications 63470 and 63471.

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[3] File Nos. 63470 and 63471, Report of Field Investigation No. 1133, August 5, 2010, official records in the Office of the State Engineer.
[4] NRS Chapter 533.
[5] NRS § 533.370(5).

RULING

Applications 63470 and 63471 are hereby denied on the grounds that no water is available at the source.

Respectfully submitted,

JASON KING, P.E.
State Engineer

Dated this 6th day of

December, 2010.