

IN THE OFFICE OF THE STATE ENGINEER
STATE OF NEVADA

IN THE MATTER OF APPLICATION 63150)
FILED TO CHANGE THE POINT OF)
DIVERSION OF AN UNDERGROUND SOURCE)
OF WATER LOCATED WITHIN THE LAKE)
TAHOE GROUNDWATER BASIN (90), DOUGLAS)
COUNTY, NEVADA.)

RULING

4666

GENERAL

I.

Application 63150 was filed on May 29, 1997, by Logan Creek General Improvement District (G.I.D.) to change the point of diversion of 2.00 million gallons annually (mga) of a portion of underground water previously appropriated under Permit 60320 for quasi-municipal purposes within the NE¼ NE¼, SE¼ NE¼, NW¼ NE¼ of Section 22, T.14N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 22.¹

II.

Application 63150 was timely protested on August 7, 1997, by the State of Nevada, Division of State Lands "State Lands" on the grounds that "Logan Creek GID placed a well on a -Tahoe Bond Act-State parcel, without the State's permission. The well was drilled in a stream environment zone (SEZ) and the State will not grant an ingress/egress easement to the well."¹

FINDINGS OF FACT

I.

The State Engineer finds that the point of diversion proposed under Application 63150 is on land owned by the State of Nevada obtained through the Tahoe Bond Act.

¹ File No. 63150, official records in the office of the State Engineer.

II.

On January 14, 1997, the office of the State Engineer received a well driller's report for a well drilled in the NE¼ NE¼ Section 22, T.14N., R.18E., M.D.B.&M. The well was drilled for Logan Creek G.I.D. between September 3, 1996, and October 3, 1996.

III.

By letter dated May 1, 1998, the State Engineer requested that Logan Creek General Improvement District inform his office as to what steps had been taken to resolve the protest. By letter dated May 5, 1998, Logan Creek General Improvement District informed the office of the State Engineer that they were in contact with State Lands and that approval for an easement was forthcoming.¹ By letter dated July 7, 1998, the Administrator of the Division of State Lands informed the State Engineer that her office has not nor do they plan to issue an easement or a lease for the use of the parcel where the point of diversion is located.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit under a change application to appropriate the public waters where:³

- A. the proposed use conflicts with existing rights;
- or

² NRS § Chapters 533 and 534.

³ NRS § Chapter 533.370.

- B. the proposed use threatens to prove detrimental to the public interest.

III.

The applicant does not own or control the land where the point of diversion is located. The State Engineer concludes that to grant an application for a point of diversion on land the applicant does not own or control is not in the public interest.

RULING

The protest to Application 63150 is hereby affirmed and Application 63150 is hereby denied on the grounds that the approval of an application which has a point of diversion on land to which no easement has been granted would not be in the public interest.

The well drilled at the point of diversion is hereby ordered to be plugged and abandoned within sixty (60) days of this ruling. The plugging and abandonment of this well must be in accordance with Chapter 534.420 of the Nevada Administrative Code.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MJR/cl

Dated this 2nd day of
October, 1998.