

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

IN THE MATTER OF APPLICATIONS 64458)
AND 64459 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF SPRINGS LOCATED WITHIN))
THE SMITH VALLEY HYDROGRAPHIC BASIN)
(107), DOUGLAS COUNTY, NEVADA.)

RULING

4764

GENERAL

I.

Application 64458 was filed on September 17, 1998, by Gary Dykes to appropriate 0.1 cubic feet per second (cfs) of water from a spring for domestic purposes and to irrigate 4 acres of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, T.13N., R.23E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, T.13N., R.23E., M.D.B.&M.¹

II.

Application 64459 was filed on September 17, 1998, by Gary Dykes to appropriate 0.1 cfs of water from a spring for domestic purposes and to irrigate 4 acres of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, T.13N., R.23E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, T.13N., R.23E., M.D.B.&M.²

FINDINGS OF FACT

I.

An Informal field investigation was conducted on June 24, 1999. Office personnel were not able to measure the water during their visit because the springs were not running. The applicant

¹ File No. 64458, official records in the office of the State Engineer.

² File No. 64459, official records in the office of the State Engineer.

informed the office personnel the springs had been measured at approximately 1 gpm with a bucket and stopwatch.

II.

The State Engineer finds that access by wildlife to water from a spring or water source that has seeped to the surface of the ground is required by statute.³

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 conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

An adequate flow does not exist at the source to support irrigation of 4 acres of land.

³ See NRS 533.367

⁴ NRS Chapter 533.

⁵ NRS § 533.370(3).

RULING

Applications 64458 and 64459 are hereby denied on the grounds that there is insufficient unappropriated water at the source and it would threaten to prove detrimental to the public interest to grant a permit on a source of water where there would not be sufficient flow to ensure the customary use by wildlife as required under NRS 533.367.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MJR/cl

Dated this 11th day of
August, 1999.