

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

IN THE MATTER OF APPLICATION 6169)
WITHIN THE MUDDY RIVER SPRINGS AREA)
(UPPER MOAPA VALLEY) HYDROGRAPHIC)
BASIN (219), FILED TO CHANGE THE)
POINT OF DIVERSION AND PLACE OF USE)
OF A PORTION OF SURFACE WATER)
PREVIOUSLY APPROPRIATED UNDER)
PERMIT 1611, CERTIFICATE 1199,)
WITHIN THE LOWER MOAPA VALLEY)
HYDROGRAPHIC BASIN (220), NYE)
COUNTY, NEVADA)

RULING

#5212

GENERAL

Application 6169 was filed on June 14, 1920, by the Moapa & Salt Lake Produce Company to change the place of use of 1.0 cubic foot per second (cfs), a portion of Muddy River water previously appropriated under Permit 1611, Certificate 1199 for irrigation purposes within the S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 15, T.14S., R.65E., M.D.B. & M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 16.¹

II.

Certificate 1199 was issued on April 22, 1926, under Permit 1611 for 9.7 cfs for irrigation and domestic purposes. The owner of record is the Muddy Valley Irrigation Company.²

III.

Application 6169 was timely protested by the Muddy Valley Irrigation Company on the following grounds:¹

1st, Any one hundred shares of the common stock of the Muddy Valley Irrigation Company, whether owned by the Moapa & Salt Lake Produce Company, or otherwise, is not entitled to draw a constant flow of one cubic foot per second of water from the Muddy River during the period of time from Oct. 1st to May 1st of each year, Nor does

¹ File No. 6169, official records in the Office of the State Engineer.

² File No. 1611, official records in the Office of the State Engineer.

any one hundred shares of the common stock of said Muddy Valley Irrigation Company, whether owned by the said Moapa & Salt Lake Produce Company, or [sic] anyone else, represent a right to a constant flow of one cubic foot per second of water for the period of time [sic] from October 1st to May 1st of each year.

2nd, change of the point of diversion and the place of use of one cubic foot per second of water from the Muddy River, heretofore appropriated and beneficially used on lands under the Muddy Valley Irrigation Company's ditch system [sic], whether the same be a constant flow, or a cumulated flow each year, would materially damage and injure the protestant, Muddy Valley Irrigation Company, and its rights to the use of water in the said Muddy River.

FINDINGS OF FACT

I.

Records in the State Engineer's office show that a permit has been granted for an application to change the 9.7 cfs under Permit 1611, Certificate 1199.³ The State Engineer finds that the total amount of water removed under the change permit leaves no water remaining under Permit 1611, Certificate 1199, to support change Application 6169.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this determination.⁴

II.

The State Engineer is prohibited by law from granting a change 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.

³ File No. 21873, official records in the Office of the State Engineer.

⁴ NRS chapter 533.

⁵ NRS § 533.370(3).

III.

The State Engineer concludes that Permit 1611, Certificate 1199 is abrogated and there is no water right remaining under Certificate 1199, to support the change proposed by Application 6169.

IV.

The State Engineer concludes that to grant a permit for Application 6169 when no water right exists under the certificate to support the application would conflict with existing rights and threaten to prove detrimental to the public interest.

RULING

Application 6169 is hereby denied on the grounds that to grant a permit to change an abrogated water right would conflict with existing rights and threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P. E.

State Engineer

HR/TW/dl

Dated this 10th day of
February, 2003.