

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

IN THE MATTER OF APPLICATION)
43224 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN DIXIE VALLEY)
HYDROGRAPHIC BASIN (128),)
CHURCHILL COUNTY, NEVADA.)

RULING

#5244

GENERAL

I.

Application 43224 was filed on February 18, 1981, by Sheldon W. and Isabel Lamb to appropriate 1.5 cubic feet per second of water from an underground source for irrigation purposes on 320 acres of land located within SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, T.24N., R.36E.; Lot 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 7; Lot 1 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, T.24N., R.37E., M.D.B.&M. The proposed point of diversion is described as being located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, T.25N., R.36E., M.D.B.&M.¹

II.

Pursuant to a deed dated December 24, 1986, Application 43224 was assigned in the records of the Office of the State Engineer to the United States of America¹.

FINDINGS OF FACT

I.

On August 22, 1988, D.S. Pursel, Engineering Director of Department of the Navy, sent to the State Engineer a letter expressing the Navy's intention to utilize the lands and associated water rights pertaining to several applications, including Application 43224.

¹ File No. 43224, official records in the Office of the State Engineer.

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By certified mail, on December 21, 1995, the State Engineer's Office requested from the applicant additional information before taking action on Application 43224. The applicant was asked to provide clarification on the point of diversion, place and manner of use.

By letter dated January 31, 1996, D.S. Pursel, Engineering Director of the Department of the Navy, responded to the State Engineer's request for additional information. Mr. Pursel indicated that the Navy has not acted on this application due to a property boundary dispute with the Bureau of Land Management. Mr. Pursel also indicated that it was the intention of the Navy to change the point of diversion and place of use of Application 43224 and requested information on how to proceed. The State Engineer finds that on November 4, 1998, the State Engineer's Office responded to D.S. Pursel's request for information on how to proceed with changing the point of diversion, place and manner of use of Application 43224.

II.

In the mid 1980's, the United States government (U.S. Navy) began acquiring lands and the appurtenant water rights within the Dixie Valley groundwater basin. From 1992 to the present, the government has been filing extensions to prevent the working of a forfeiture on at least sixteen certificated irrigation underground water rights for a total of 6,372 acre-feet. The purpose of the extensions has been to allow more time to find lessees to work the land and to make improvements to said lands, or to allow more time to find a potential buyer of the waters.

The State Engineer finds that a new appropriation of water is not necessary to irrigate the place of use of Application 43224.

Given that the applicant under Application 43224 has 6,372 acre-feet of available water under other certificated rights that are not currently used, it is the opinion of the State Engineer that the applicant has the ability to file an application (or applications) to change the point of diversion and place of use of a portion of this appropriated water, and to use a portion of the water already appropriated on the place of use under Application 43224.

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 an application to appropriate the public waters where:³

- 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 State Engineer concludes that to grant a new appropriation of water when the applicant has an available source of water to use would threaten to prove detrimental to the public interest.

² NRS chapters 533 and 534.

³ NRS § 533.370(3).

RULING

Application 43224 is hereby denied on the grounds that granting the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/BM/dl

Dated this 13th day of
May, 2003.