

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

IN THE MATTER OF APPLICATION )  
71064 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF NORTH SPRING )  
WITHIN THE WHITE RIVER VALLEY )  
HYDROGRAPHIC BASIN (207), WHITE )  
PINE COUNTY, NEVADA. )

RULING

**# 5810**

GENERAL

I.

Application 71064 was filed on April 16, 2004, by Blue Diamond Oil Corp., to appropriate 0.0528 cubic feet per second (cfs) of water from North Spring within the White River Valley Hydrographic Basin, White Pine County, Nevada, for stockwatering purposes to serve 500 head of cattle and 6,000 sheep within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  and NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 16, the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17, and the SW $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 18, all in T.15N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 23, T.15N., R.62E., M.D.B.&M.<sup>1</sup>

II.

The McGill-Ruth Consolidated Sewer & Water GID timely protested Application 71064 on the grounds that they have existing water rights on the source that supplies water to the town of Ruth and due to drought conditions are unable to divert the full amount allowed under their water rights. They allege that another permit on the source will endanger the primary water source for Ruth, thereby threatening to prove detrimental to the public interest.<sup>1</sup>

FINDINGS OF FACT

I.

Permit 43453, Certificate 13027, allows for the diversion of 0.45 cfs, but not to exceed 106.16 million

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<sup>1</sup> File No. 71064, official records in the Office of the State Engineer.

gallons annually for industrial and domestic purposes from Holt Creek Springs (a.k.a. North Springs).<sup>2</sup>

On August 29 and August 30, 2006, the Elko Field Office of the Office of the State Engineer conducted an informal field investigation of North Springs. Flow from the spring was measured at 0.083 cfs. The State Engineer finds there is no unappropriated water available to support Application 71064 on the source and to grant Application 71064 would conflict with existing rights.<sup>1</sup>

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

##### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>4</sup>

- 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 the approval of the subject application would conflict with existing rights and threaten the water source for the Town of Ruth thereby threatening to prove detrimental to the public interest.

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<sup>2</sup> File No. 43453, official records in the Office of the State Engineer.

<sup>3</sup> NRS chapter 533.

<sup>4</sup> NRS § 533.370(5).

RULING

The protest to Application 71064 is hereby upheld and the application is denied on the grounds that there is no unappropriated water at the source, the use of water under the application would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,

  
TRACY TAYLOR, P.E.  
State Engineer

TT/MJW/jm

Dated this 4th day of  
January, 2008.