

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

IN THE MATTER OF APPLICATION)
63963 FILED TO APPROPRIATE)
PUBLIC WATERS OF TULEDAD CREEK)
A SURFACE SOURCE WITHIN THE)
DUCK LAKE VALLEY HYDROGRAPHIC)
BASIN (16) WASHOE COUNTY,)
NEVADA.)

RULING
#5953

GENERAL

I.

Application 63963 was filed on March 17, 1998, by Sam S. Jaksick, Jr., later assigned to Duck Lake Ranch, LLC to appropriate 10.0 cubic feet per second (cfs) of surface water from Tuledad Creek for irrigation purposes. The proposed place of use is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 13, the NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14, all of Sections 23, 24, 25, the N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 26, the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, the N $\frac{1}{2}$ of Section 36, T.37N., R.18E., M.D.B.&M. and the W $\frac{1}{2}$ of Section 19 and the W $\frac{1}{2}$ of Section 30, T.37N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T.37N., R.18E., M.D.B.&M.¹

II.

Application 63963 was timely protested by Terry R. Crawforth, Deputy Administrator of the Nevada Division of Wildlife, on the following grounds:¹

The appropriation of 10 cfs of water from Tuledad Creek will have serious negative impacts on the wetlands associated with Duck Flat, including significant wetland acres on BLM lands. This is

¹ File No. 63963, official records in the Office of the State Engineer.

a very productive area for breeding waterfowl, supporting some 2-300 breeding pairs, and a migratory population of 41,000 ducks and geese. The potential loss of waterfowl breeding and migration stop-over habitat would be very detrimental.

FINDINGS OF FACT

I.

Tuledad Creek is an adjudicated stream. Proof 02660 is a stock-water right for 56.56 acre-feet annually (afa). Proof 02661 is an irrigation and stock-water right for 12.85 cfs (2,060 afa). Additional creek flows from Tuledad Creek are used in Nevada via a California water right. An informal field investigation was conducted on April 30, 2008. Based on the field investigation, the State Engineer finds that there is insufficient water at the source to satisfy the requested additional diversion.

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.

² NRS chapter 533.

³ NRS § 533.370 (5).

III.

The State Engineer concludes there is insufficient water at the source to satisfy the requested additional appropriation.

RULING

Application 63963 is denied based on no additional water at the source. No ruling is made on the merits of the Protest.

Respectfully submitted,



TRACY TAYLOR, P.E.
~~FOR~~ State Engineer

TT/SEM/jm

Dated this 12th day of
February, 2009.