

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

IN THE MATTER OF APPLICATION)
78434 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNNAMED)
CREEK, WITHIN THE PLEASANT)
VALLEY HYDROGRAPHIC BASIN)
(88), WASHOE COUNTY, NEVADA.)

RULING

#6062

GENERAL

I.

Application 78434 was filed on May 1, 2009, by D and R Property Holdings, LLC, to appropriate 0.2 cubic feet per second of water from an unnamed creek (identified as Hardin Creek) for the irrigation of 20 acres of land described as being located within the SE¼ NE¼ of Section 3, T.17N., R.20E., M.D.B.&M., and being further described as Washoe County Assessor's Parcel No. 017-410-05. The proposed point of diversion is described as being located within the SE¼ NE¼ of said Section 3.¹

II.

Application 78434 was timely protested by Jack and Delia Greenhalgh on the following grounds:¹

Moving water wrights [sic] from one location to the other, would stop us from using the springs water and run off [sic] water from irrigating or using it for stock water.

FINDINGS OF FACT

I.

Hardin Creek, the proposed source under Application 78434, is tributary to Steamboat Creek, which is in turn tributary to the Truckee River.² Permits 48061 and 48494 were issued to the Pyramid Lake Paiute Tribe for "all the unappropriated water of the Truckee River and its tributaries" on March 3, 2009. These permits pertain to all unappropriated surface water within the Truckee River watershed, which includes any flood flows that occur within the stream

¹ File No. 78434, official records in the Office of the State Engineer.

² Addendum to Report of Field Investigation No. 1110, May 14, 2009, File No. 78434, official records in the Office of the State Engineer.

channel that runs through the Applicant's property, Washoe County Assessor's Parcel No. 017-410-05.

The State Engineer finds that Hardin Creek is tributary to the Truckee River and that the waters of the Truckee River and its tributaries are fully appropriated.

II.

The State Engineer finds that a review of records on file in the Office of the State Engineer show that there are existing water rights on Hardin Creek or on springs tributary to Hardin Creek.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 a permit 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.

III.

The State Engineer concludes that all remaining surface water within the Truckee River watershed are appropriated under Permits 48061 and 48494 and there is no remaining water at the source.

IV.

Permit 11531, Certificate 4699; Permit 26390, Certificate 8864; and Permit 55952, Certificate 14825, are existing water rights on Hardin Creek. The State Engineer concludes that

³ Permit No. 11531, Certificate 4699; Permit 26390, Certificate 8864; and Permit 5595, Certificate 14825, official records in the Office of the State Engineer.

⁴ NRS Chapter 533.

⁵ NRS § 533.370(5).

the issuance of any new permits on this source would conflict with these existing rights, and that approval of Application 78434 would threaten to prove detrimental to the public interest.

RULING

Application 78434 is hereby denied on the grounds that insufficient water exists at the source; it would impair the value of existing water rights and would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 18th day of
October, 2010.