

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

IN THE MATTER OF APPLICATION 72004 )  
FILED TO CHANGE THE MANNER AND )  
PLACE OF USE OF THE PUBLIC WATERS OF )  
AN UNDERGROUND SOURCE PREVIOUSLY )  
APPROPRIATED UNDER PERMIT 61931, AND )  
APPLICATION 72005 FILED TO CHANGE THE )  
MANNER AND PLACE OF USE OF THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE PREVIOUSLY APPROPRIATED )  
UNDER PERMIT 62584, BOTH LOCATED )  
WITHIN THE DODGE FLAT HYDROGRAPHIC )  
BASIN (82), WASHOE COUNTY, NEVADA. )

**RULING**  
**#6101**

**GENERAL**

**I.**

Application 72004 was filed on December 10, 2004, by Robert I. Cowles to change the manner and place of use of 2.0 cubic feet per second (cfs) of water heretofore appropriated under Permit 61931. The existing manner and place of use is described as mining, milling and domestic purposes located within Sections 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 T.21N., R.23E., M.D.B.&M., Sections 19 and 30 T.21N., R.24E., M.D.B.&M., and Section 5, T.20N., R.23E., M.D.B.&M. The existing and proposed point of diversion is described as being located within the SE¼ SE¼ of Section 24, T.21N., R.23E., M.D.B.&M. The proposed manner and place of use is described as municipal and domestic purposes located within all of Sections 1-36, T.19N., R.22E., M.D.B.&M., all of Sections 1-36, T.19N., R.23E., M.D.B.&M., all of Sections 19-36, T.20N., R.22E., M.D.B.&M., all of Sections 1-36, T.20N., R.23E., M.D.B.&M., all of Sections 1-36, T.20N., R.24E., M.D.B.&M., all of Sections 1-36, T.20N., R.25E., M.D.B.&M., all of Sections 19-36, T.21N., R.23E., M.D.B.&M., and all of Sections 19-36, T.21N., R.24E., M.D.B.&M.<sup>1</sup>

**II.**

Application 72005 was filed on December 10, 2004, by Robert I. Cowles to change the manner and place of use of 2.0 cfs of water heretofore appropriated under Permit 62584. The

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<sup>1</sup> File No. 72004, official records in the Office of the State Engineer.

existing manner and place of use is described as mining, milling and domestic purposes located within Sections 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 T.21N., R.23E., M.D.B.&M., Sections 19 and 30 T.21N., R.24E., M.D.B.&M., and Section 5, T.20N., R.23E., M.D.B.&M. The existing and proposed point of diversion is described as being located within the SE¼ SE¼ of Section 24, T.21N., R.23E., M.D.B.&M. The proposed manner and place of use is described as municipal and domestic purposes located within all of Sections 1-36, T.19N., R.22E., M.D.B.&M., all of Sections 1-36, T.19N., R.23E., M.D.B.&M., all of Sections 19-36, T.20N., R.22E., M.D.B.&M., all of Sections 1-36, T.20N., R.23E., M.D.B.&M., all of Sections 1-36, T.20N., R.24E., M.D.B.&M., all of Sections 1-36, T.20N., R.25E., M.D.B.&M., all of Sections 19-36, T.21N., R.23E., M.D.B.&M., and all of Sections 19-36, T.21N., R.24E., M.D.B.&M.<sup>2</sup>

### III.

Applications 72004 and 72005 were timely protested by Washoe County and the Pyramid Lake Paiute Tribe on grounds not to be considered in this ruling.<sup>1,2</sup>

### FINDINGS OF FACT

#### I.

Application 72004 is seeking to change water under Permit 61931. Application 72005 is seeking to change water under Permit 62584. In reviewing a change application, one of the first steps is to determine if there is water available under the permit that forms the basis for the change application. A review of records on file in the Office of the State Engineer shows that permits 61931 and 62584 were cancelled on March 16, 2006.<sup>3</sup>

The State Engineer finds that change Applications 72004 and 72005 cannot be approved because the permits they seek to change have been cancelled.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.<sup>4</sup>

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<sup>2</sup> File No. 72005, official records in the Office of the State Engineer.

<sup>3</sup> Ruling No. 5598, March 16, 2006, official records in the Office of the State Engineer.

<sup>4</sup> NRS Chapters 533 and 534.

**II.**

The State Engineer is prohibited by law from granting a permit for an application to change the public waters where:<sup>5</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 protectable 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.**

An application may be filed to change the point of diversion, manner or place of use of water already appropriated.<sup>6</sup> Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing.<sup>7</sup> A review of the records on file in the Office of the State Engineer has found that Permits 61931 and 62584 were cancelled and are not valid; therefore, they are not in good standing and they cannot be used as the basis for change applications. The State Engineer concludes that Permit 61931 cannot be used as the basis for change Application 72004 and Permit 62584 cannot be used as the basis for change Application 72005; therefore, change Applications 72004 and 72005 are subject to denial.

**RULING**

Applications 72004 and 72005 are hereby denied on the grounds that there is no water available under the water rights that form the basis for the change applications, and therefore their issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,

  
JASON KING, P.E.  
State Engineer

Dated this 18th day of  
February, 2011.

<sup>5</sup> NRS § 533.370(5).

<sup>6</sup> NRS § 533.325.

<sup>7</sup> NRS § 533.324.