

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

IN THE MATTER OF APPLICATION)
79790 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF LAKE TAHOE VIA)
LOGAN SHOALS CREEK #2 WITHIN)
THE LAKE TAHOE HYDROGRAPHIC)
BASIN (90), DOUGLAS COUNTY,)
NEVADA.)

RULING

#6148

GENERAL

I.

Application 79790 was filed on April 16, 2010, by Paul Flynn to appropriate 0.006 cubic feet per second (cfs) of water from Lake Tahoe via Logan Shoals Creek #2 for quasi-municipal and domestic purposes within a portion of the SE¼ NW¼ of Section 27, T.14N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NW¼ of said Section 27.¹ The remarks section on Application 79790 states that the water will supplement existing water service to the residence at 1466 Pittman Terrace. The water being applied for was previously appropriated under Permit 22786 and on May 2, 2003, a change application was filed with the Division of Water Resources under Permit 69950. Permit 69950 was subsequently cancelled.¹

FINDINGS OF FACT

I.

The State Engineer finds the water being applied for was previously appropriated under Permit 69950, which was an application filed on May 2, 2003, to change the place of use and the point of diversion of a portion of the water previously appropriated under Permit 22786. Permit 69950 was approved on January 26, 2004, but cancelled on July 25, 2008, because of failure to comply with the provisions of the permit terms.

II.

The California-Nevada Interstate Compact set forth provisions for the equitable apportionment of the waters of the Lake Tahoe Hydrographic Basin between the States of

¹ File No. 79790, official records in the Office of the State Engineer.

California and Nevada. By 1971 the California-Nevada Interstate Compact was ratified by both Nevada and California. However, the compact never obtained the necessary ratification by Congress. Under the Compact, the annual allocation of water from the Lake Tahoe Hydrographic Basin for the State of Nevada is 11,000 acre-feet.² However, Public Law 101-618, which was passed on November 16, 1990, reaffirmed, in Section 204(b)(1), the above allocation.

The State Engineer finds that permits and certificates have been issued in excess of the State of Nevada's allocation under the Public Law 101-618 in the Lake Tahoe Hydrographic Basin.

III.

The State Engineer finds that there are several applications to appropriate water within the Lake Tahoe Hydrographic Basin, that are senior in time to Application 79790, that request a total duty of approximately 2,340 afa.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 under an application 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.

² NRS § 538.600, Article V.

³ Official records in the Office of the State Engineer.

⁴ NRS Chapter 533.

⁵ NRS § 533.370(5).

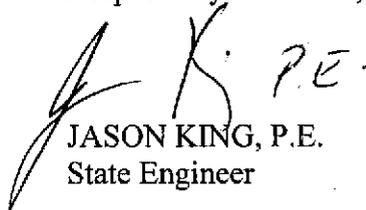
III.

The State Engineer concludes that water commitments within the Nevada portion of the Lake Tahoe Hydrographic Basin are in excess of the amount of water allowed to the State of Nevada under Public Law 101-618: therefore, no water is available for appropriation.

RULING

Application 79790 is hereby denied on the grounds that there is no available water to appropriate at the source and use of water as proposed under Application 79790 would conflict with existing rights and thereby threaten to prove detrimental to the public interest.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 24th day of

August, 2011.