

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

IN THE MATTER OF APPLICATIONS 43434, 43435,)
43436, 43437, 43438, 43439, 45798, 45799, 45800,)
45801, 45802, 45803, 45804, 45805, 45806, 45807,)
45808, 45809, 45810, 45811, 45812, 45813, 45814,)
45815, 45816, 45817, 45818, 45819, 45820, 45821,)
45822, 45823, 45824, 45825, 45826, 45827, 45828,)
45829, 45830, 45831, 45832 AND 45833, FILED TO)
APPROPRIATE OR CHANGE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE SPRING VALLEY HYDROGRAPHIC)
BASIN (184), WHITE PINE COUNTY, NEVADA.)

RULING

5615

GENERAL

I.

Application 43434 was filed on March 30, 1981, by White Pine County to appropriate 6.0 cubic feet per second (cfs) of underground water from the Spring Valley Hydrographic Basin for industrial purposes, i.e., a power plant. The proposed place of use is described as being located within Sections 1, 2, 11, 12, 13, 14, N½ of Section 23, N½ of Section 24, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 1.¹

II.

Application 43435 was filed on March 30, 1981, by White Pine County to appropriate 6.0 cfs of underground water from the Spring Valley Hydrographic Basin for industrial purposes, i.e., a power plant. The proposed place of use is described as being located within Sections 1, 2, 11, 12, 13, 14, N½ of Section 23, N½ of Section 24, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 2.²

III.

Application 43436 was filed on March 30, 1981, by White Pine County to appropriate 6.0 cfs of underground water from the Spring Valley Hydrographic Basin for industrial purposes,

¹ File No. 43434, official records in the Office of the State Engineer.

² File No. 43435, official records in the Office of the State Engineer.

i.e., a power plant. The proposed place of use is described as being located within Sections 1, 2, 11, 12, 13, 14, N½ of Section 23, N½ of Section 24, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 11.³

IV.

Application 43437 was filed on March 30, 1981, by White Pine County to appropriate 6.0 cfs of underground water from the Spring Valley Hydrographic Basin for industrial purposes, i.e., a power plant. The proposed place of use is described as being located within Sections 1, 2, 11, 12, 13, 14, N½ of Section 23, N½ of Section 24, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 12.⁴

V.

Application 43438 was filed on March 30, 1981, by White Pine County to appropriate 6.0 cfs of underground water from the Spring Valley Hydrographic Basin for industrial purposes, i.e., a power plant. The proposed place of use is described as being located within Sections 1, 2, 11, 12, 13, 14, N½ of Section 23, N½ of Section 24, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 13.⁵

VI.

Application 43439 was filed on March 30, 1981, by White Pine County to appropriate 6.0 cfs of underground water from the Spring Valley Hydrographic Basin for industrial purposes, i.e., a power plant. The proposed place of use is described as being located within Sections 1, 2, 11, 12, 13, 14, N½ of Section 23, N½ of Section 24, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 14.⁶

VII.

Application 45798 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43434. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N.,

³ File No. 43436, official records in the Office of the State Engineer.

⁴ File No. 43437, official records in the Office of the State Engineer.

⁵ File No. 43438, official records in the Office of the State Engineer.

⁶ File No. 43439, official records in the Office of the State Engineer.

R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, T.17N., R.67E., M.D.B.&M.⁷

VIII.

Application 45799 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43434. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within Lot 3 of Section 1, T.16N., R.67E., M.D.B.&M.⁸

IX.

Application 45800 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43434. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T.16N., R.67E., M.D.B.&M.⁹

X.

Application 45801 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43434. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T.16N., R.67E., M.D.B.&M.¹⁰

⁷ File No. 45798, official records in the Office of the State Engineer.

⁸ File No. 45799, official records in the Office of the State Engineer.

⁹ File No. 45800, official records in the Office of the State Engineer.

¹⁰ File No. 45801, official records in the Office of the State Engineer.

XI.

Application 45802 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43434. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of Section 14, T.16N., R.67E., M.D.B.&M.¹¹

XII.

Application 45803 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43434. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 23, T.16N., R.67E., M.D.B.&M.¹²

XIII.

Application 45804 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43435. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 34, T.16N., R.67E., M.D.B.&M.¹³

XIV.

Application 45805 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43435. The proposed place of use is described as being located within

¹¹ File No. 45802, official records in the Office of the State Engineer.

¹² File No. 45803, official records in the Office of the State Engineer.

¹³ File No. 45804, official records in the Office of the State Engineer.

Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T.15N., R.67E., M.D.B.&M.¹⁴

XV.

Application 45806 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43435. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T.15N., R.67E., M.D.B.&M.¹⁵

XVI.

Application 45807 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43435. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T.15N., R.67E., M.D.B.&M.¹⁶

XVII.

Application 45808 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43435. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N.,

¹⁴ File No. 45805, official records in the Office of the State Engineer.

¹⁵ File No. 45806, official records in the Office of the State Engineer.

¹⁶ File No. 45807, official records in the Office of the State Engineer.

R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 35, T.16N., R.66E., M.D.B.&M.¹⁷

XVIII.

Application 45809 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43435. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 35, T.16N., R.66E., M.D.B.&M.¹⁸

XIX.

Application 45810 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43436. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 35, T.15N., R.66E., M.D.B.&M.¹⁹

XX.

Application 45811 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43436. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 2, T.14N., R.66E., M.D.B.&M.²⁰

¹⁷ File No. 45808, official records in the Office of the State Engineer.

¹⁸ File No. 45809, official records in the Office of the State Engineer.

¹⁹ File No. 45810, official records in the Office of the State Engineer.

²⁰ File No. 45811, official records in the Office of the State Engineer.

XXI.

Application 45812 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43436. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T.14N., R.66E., M.D.B.&M.²¹

XXII.

Application 45813 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43436. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T.14N., R.66E., M.D.B.&M.²²

XXIII.

Application 45814 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43436. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, T.14N., R.66E., M.D.B.&M.²³

XXIV.

Application 45815 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43436. The proposed place of use is described as being located within

²¹ File No. 45812, official records in the Office of the State Engineer.

²² File No. 45813, official records in the Office of the State Engineer.

²³ File No. 45814, official records in the Office of the State Engineer.

Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SW¼ of Section 26, T.14N., R.66E., M.D.B.&M.²⁴

XXV.

Application 45816 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43437. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SW¼ of Section 1, T.15N., R.66E., M.D.B.&M.²⁵

XXVI.

Application 45817 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43437. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SW¼ of Section 12, T.15N., R.66E., M.D.B.&M.²⁶

XXVII.

Application 45818 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43437. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N.,

²⁴ File No. 45815, official records in the Office of the State Engineer.

²⁵ File No. 45816, official records in the Office of the State Engineer.

²⁶ File No. 45817, official records in the Office of the State Engineer.

R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 13, T.15N., R.66E., M.D.B.&M.²⁷

XXVIII.

Application 45819 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43437. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of Section 23, T.15N., R.66E., M.D.B.&M.²⁸

XXIX.

Application 45820 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43437. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 26, T.15N., R.66E., M.D.B.&M.²⁹

XXX.

Application 45821 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43437. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 25, T.15N., R.66E., M.D.B.&M.³⁰

²⁷ File No. 45818, official records in the Office of the State Engineer.

²⁸ File No. 45819, official records in the Office of the State Engineer.

²⁹ File No. 45820, official records in the Office of the State Engineer.

³⁰ File No. 45821, official records in the Office of the State Engineer.

XXXI.

Application 45822 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43438. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 34, T.14N., R.66E., M.D.B.&M.³¹

XXXII.

Application 45823 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43438. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NW¼ of Section 11, T.13N., R.66E., M.D.B.&M.³²

XXXIII.

Application 45824 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43438. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SW¼ of Section 11, T.13N., R.66E., M.D.B.&M.³³

XXXIV.

Application 45825 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43438. The proposed place of use is described as being located within

³¹ File No. 45822, official records in the Office of the State Engineer.

³² File No. 45823, official records in the Office of the State Engineer.

³³ File No. 45824, official records in the Office of the State Engineer.

Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T.13N., R.66E., M.D.B.&M.³⁴

XXXV.

Application 45826 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43438. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., 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 24, T.13N., R.66E., M.D.B.&M.³⁵

XXXVI.

Application 45827 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43438. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N., R.67E., 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 25, T.13N., R.66E., M.D.B.&M.³⁶

XXXVII.

Application 45828 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43439. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 29 and all of Section 30, T.13N.,

³⁴ File No. 45825, official records in the Office of the State Engineer.

³⁵ File No. 45826, official records in the Office of the State Engineer.

³⁶ File No. 45827, official records in the Office of the State Engineer.

R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 12, T.12N., R.66E., M.D.B.&M.³⁷

XXXVIII.

Application 45829 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43439. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ NW¼ of Section 13, T.12N., R.66E., M.D.B.&M.³⁸

XXXIX.

Application 45830 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43439. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 24, T.12N., R.66E., M.D.B.&M.³⁹

XL.

Application 45831 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43439. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 4, T.13N., R.67E., M.D.B.&M.⁴⁰

³⁷ File No. 45828, official records in the Office of the State Engineer.

³⁸ File No. 45829, official records in the Office of the State Engineer.

³⁹ File No. 45830, official records in the Office of the State Engineer.

⁴⁰ File No. 45831, official records in the Office of the State Engineer.

XLI.

Application 45832 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43439. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 9, T.13N., R.67E., M.D.B.&M.⁴¹

XLII.

Application 45833 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 1.0 cfs, a portion of water requested for appropriation under Application 43439. The proposed place of use is described as being located within Sections 13, 24 and 25, T.13N., R.66E., M.D.B.&M., and Sections 17, 18, 19, N½, N½ S½, SE¼ SE¼, SW¼ SW¼ of Section 20, W½ W½ of Section 29 and all of Section 30, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 9, T.13N., R.67E., M.D.B.&M.⁴²

XLIII.

The original six applications filed for the power plant project were 43434, 43435, 43436, 43437, 43438 and 43439, which requested a total combined duty of 26,063 acre-feet annually (afa). Numerous change applications were filed on the original applications as follows; 45798 through 45833 and 70373 through 70376.

Of the above applications, only change Applications 70373, 70374, 70375 and 70376 were protested. By notice dated September 23, 2005, an administrative hearing was scheduled to receive evidence and testimony for the purpose of resolving the protests and providing the Applicant an opportunity to present its case. At the request of the Applicant, the hearing was postponed and ultimately, the Applicant choose to withdraw protested Applications 70373, 70374, 70375 and 70376, prior to the administrative hearing. Since the

⁴¹ File No. 45832, official records in the Office of the State Engineer.

⁴² File No. 45833, official records in the Office of the State Engineer.

protested applications were withdrawn, the Protestants were no longer a part of the administrative hearing. However, the Office of the State Engineer requested the Applicant to continue with its case at the scheduled administrative hearing on January 24, 2006, and to provide evidence and testimony regarding the Applicant's power plant project. As such, an administrative hearing was held on January 24, 2006, in Ely, Nevada.⁴³

FINDINGS OF FACT

I.

On March 30, 1981, the Applicant filed Applications 43434, 43435, 43436, 43437, 43438 and 43439 to appropriate a total combined duty of water of 26,063 afa. Change Applications 45798 through 45833, inclusive, were filed on June 16, 1982, to change the points of diversion and place of use of the original six applications. The proposed manner of use is described on all the applications as industrial purposes. Additionally, the remarks section of the applications specifically states that the industrial purpose is an electric power generating facility.

Nevada Revised Statutes § 533.370 supplies guidance in approving or rejecting an application and subsection 1.c. of this section requires that "The applicant provides proof satisfactory to the State Engineer of: (1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and (2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence."

Nevada Revised Statutes § 533.375(1) allows for the State Engineer to require the Applicant to submit additional information to enable him to properly guard the public interest. Also, in the case of a single project whose cumulative diversions total more than 10 cfs, the State Engineer may require a statement as to the name of the person proposing to construct the work, and a showing of facts necessary to enable him to determine whether he has the financial ability to carry out the proposed work, and whether the application has been made in good faith.

⁴³ Transcript and Exhibits, public administrative hearing before the State Engineer, January 24, 2006. Hereinafter the transcript will be referred to by page number and the exhibits by exhibit number.

The State Engineer finds that Applications 43434 through 43439 and Applications 45798 through 45833, were filed in support of a power generating facility in Spring Valley and it is within the State Engineer's authority to require additional information from the Applicant to properly guard the public interest. The State Engineer further finds that additional information must be obtained from the Applicant to gain a full understanding of the water right applications and the project they support.

II.

A review of the application files provides a history from the time of their filing to the present day, although there are significant gaps of inactivity. The original applications were filed in March of 1981 and timely passed through the statutory time periods required for public notice and protest. The applications became "ready-for-action" in October of 1981. About 8 months after the ready for action date, change Applications 45798 through 45833 were filed and also passed the statutory time periods required for public notice and protest. Applications 45798 through 45833 became ready-for-action in December of 1982. From this point, there is a long period of inactivity where there is no indication in any of the files that the Office of the State Engineer or the Applicant sought to move the project forward. In 1996, then State Engineer R. Michael Turnipseed, requested information on the proposed power project noting that, "[a] sufficient amount of time has passed to solidify your plans and studies."⁴⁴

A timely response was received from the Applicant on June 3, 1996, but it did not provide the requested information. Instead, the Applicant asked for a 2-year extension to complete a water resources inventory and county wide planning process. The Applicant also noted, "...because of the changes in the electrical power marketing structure and the Clean Air Act Amendments, we will probably not see the construction of a 1,500 megawatt coal fired plant as originally planned."⁴⁵

⁴⁴ Exhibit No. 16.

⁴⁵ Exhibit No. 15.

The Applicant was given an extension of 180 days, to October 15, 1996, to respond to the request for additional information with the State Engineer also warning the Applicant that the Nevada Legislature has become increasingly concerned about applications filed for speculative purposes.⁴⁶ On October 14, 1996, the Applicant again requested additional time to submit the additional information to October 31, 1996.⁴⁷ The request was approved to November 30, 1996, to allow the State Engineer time to meet with the County Commissioners on this matter.⁴⁸ The State Engineer met with the White Pine County Commissioners on October 24, 1996, and memorialized the meeting via a letter to the Applicant. The letter states that the Office of the State Engineer will make no further requests for additional information until at least January of 1998.⁴⁹

From October 29, 1996, to July 19, 2005, there is no correspondence in the application files. However, on August 28, 2003, the Applicant did file change Applications 70373, 70374, 70375 and 70376 requesting to change the point of diversion, place of use and manner of use of the water applied for under Applications 43434, 43435, 43436 and 43437. The new proposed manner of use was identified as being irrigation and domestic purposes. These new change applications were protested and an administrative hearing was scheduled to resolve the matter.⁵⁰ As noted earlier in this ruling, the Applicant ultimately withdrew Applications 70373, 70374, 70375 and 70376 on January 5, 2006.⁵¹

The State Engineer finds that there have been concerns about the applications being filed for speculative purposes, over the lack of an actual power generation project and of a lack of additional information from the Applicant, since at least 1996.

III.

On January 24, 2006, almost 10 years after the first request for additional information was sent, the Applicant came forth to provide testimony and evidence regarding the proposed

⁴⁶ Exhibit No. 14.

⁴⁷ Exhibit No. 13.

⁴⁸ Exhibit No. 12.

⁴⁹ Exhibit No. 11.

⁵⁰ Exhibit No. 5.

⁵¹ Exhibit No. 17.

power project.⁵² The Applicant indicated that it would try to show evidence of a project and that the applications were not filed for speculative purposes.⁵³

The Applicant provided a number of exhibits from the White Pine Power Project (WPPP) Final Environmental Impact Statement (EIS), released on August 20, 1984. The Applicant later provided the Record of Decision, signed March 26, 1985, showing that the WPPP Final EIS was accepted.⁵⁴

The WPPP consists of a White Pine County, Nevada Power Company, and Sierra Pacific Power Company proposal to construct a 1,500 megawatt coal-fueled, steam-electric generating facility in White Pine County, Nevada. Three sites were selected for full analysis in the EIS, North Steptoe Valley, Spring Valley and Butte Valley.⁵⁵ North Steptoe Valley was selected as the preferred site with Spring Valley and Butte Valleys as alternates to the preferred site.⁵⁶ According to the Record of Decision on the EIS, the Spring Valley Site is unacceptable because pumping of the associated well fields would jeopardize habitat for the Pahrump Killifish, an endangered species, in the Shoshone Ponds.⁵⁷ In regards to a current power generating project in Spring Valley, it was noted that an additional EIS would have to be done because of the length of time that has passed since the original EIS and changes in the environmental laws.⁵⁸

A review of records in the Office of the State Engineer shows that on October 15, 1984, Permits 45834 through 45855 were issued for 25,000 afa to White Pine County for a power generating facility in Steptoe Valley, the preferred site identified in the WPPP Final EIS. Some testimony was provided that power companies might look to Spring Valley for wind power generation as an alternative to two current power plant projects proposed for Steptoe Valley.⁵⁹ However, further testimony stated that there are no power companies actively looking at Spring Valley at this time.⁶⁰

⁵² Transcript and Exhibits.

⁵³ Transcript, p. 10.

⁵⁴ Exhibit No. 28.

⁵⁵ Transcript, p. 25.

⁵⁶ Transcript, p. 27.

⁵⁷ Exhibit No. 28.

⁵⁸ Transcript, p. 45.

⁵⁹ Transcript, pp. 37-41 and 45-47.

⁶⁰ Transcript, p. 47.

The State Engineer finds that there are no currently proposed power projects in the Spring Valley Hydrographic Basin that could be supported by Applications 43434 through 43439 and 45798 through 45833, inclusive.

IV.

Applications 43434 through 43439, inclusive, were filed on March 30, 1981. Change Applications 45798 through 45833, inclusive, were filed on June 16, 1982. Over 25 years have passed since the original applications were filed and over 23 years have passed since the change applications were filed. In addition, over 9 years has passed since the State Engineer's first request for additional information. The State Engineer finds that the Applicant has had ample time to formulate and solidify any plans for developing the water and placing it to beneficial use for the proposed power project and has failed to do so.

V.

The Office of the State Engineer first requested additional information on the proposed power project in 1996. At that time, the Applicant was asked, in general, to provide information regarding the need for electrical power, the financial feasibility of a power generation facility and how the power project will be financed, the time necessary to develop a well field, a list of any companies involved in the project, the work that has been completed to determine water availability and the progress on obtaining any rights-of-way across federally managed lands.⁶¹ The Applicant was ultimately given until at least January 1998 to provide the information. A review of the application files and the evidence and testimony provided by the Applicant at the administrative hearing, failed to provide any of the information requested in 1996 regarding the proposed power project. A review of the transcript shows that there is no current power generation project and no significant work has been done to develop a power generation project in Spring Valley. The only information provided was excerpts from an old Final EIS and a Record of Decision, which found Steptoe Valley was the preferred site and Spring Valley was an unsuitable location for a proposed 1,500 megawatt coal-fueled, steam-electric generating facility.⁶²

⁶¹ Exhibit No. 16.

⁶² Exhibit No. 28.

The State Engineer finds that the project for which the original applications were filed no longer exists and there is no longer a reasonable expectation that the water applied for will ever achieve its intended beneficial use.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁶⁴

- 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 Applicant has failed to provide any evidence of a power project as originally contemplated by the applications and has presented testimony confirming that no power companies are currently considering a coal-fired power generation project in Spring Valley. The State Engineer concludes that the approval of water right applications for a project that no longer exists would prove detrimental to the public interest.

IV.

Upon careful review of the record, including information contained within the application files and information provided by the Applicant at the administrative hearing, the State Engineer concludes that he can find no justification for the issuance of the applications.

⁶³ NRS chapters 533 and 534.

⁶⁴ NRS § 533.370(5).

RULING

Applications 43434, 43435, 43436, 43437, 43438, 43439, 45798, 45799, 45800, 45801, 45802, 45803, 45804, 45805, 45806, 45807, 45808, 45809, 45810, 45811, 45812, 45813, 45814, 45815, 45816, 45817, 45818, 45819, 45820, 45821, 45822, 45823, 45824, 45825, 45826, 45827, 45828, 45829, 45830, 45831, 45832 and 45833 are hereby denied on the grounds that their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 9th day of
May, 2006.