

IN THE MATTER OF APPLICATION NO. 13745)
 IN NAME OF W. L. PETERSON TO APPROPRIATE : RULING
 UNDERGROUND WATER FOR IRRIGATION PURPOSES, :
 LANDER COUNTY, NEVADA.)

Application No. 13745 was filed June 11, 1951 by W. L. Peterson to appropriate 5.0 c.f.s. of underground water at points within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 9, T. 18 N., R. 43 E., M.D.M. for the irrigation of 320 acres of land located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 4, and NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 9, T. 18 N., R. 43 E., M.D.M.

Notice of said application was published in the Reese River Reveille, a newspaper published in Lander County. Within the statutory period of time, as required by law for the filing of protests, a protest was filed September 20, 1951 by Roy Visbeek to the granting of a permit under Application No. 13745.

On June 24, 1952 a field investigation was conducted by E. J. DeRicco, Deputy Field Engineer of the Office of State Engineer. This investigation also covered Application No. 13746 filed by D. L. Gondolfo for the same purpose and within the same general area. In addition to the representative of the State Engineer's office, others in attendance at the field investigation were:

- W. L. Peterson - Applicant;
- D. L. Gondolfo - Applicant under Application No. 13746;
- Fred Stiverson - with Mr. Peterson;
- Nick Schmidt - representing Protestant Roy Visbeek.

The report of the field investigation is of record in the office of State Engineer.

The protest of Roy Visbeek is as follows:

"That the granting of said application would invade and impair existing vested water rights of protestant. That protestant has a subsisting vested stockwatering right to water livestock at a spring in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 9, T. 18 N., R. 43 E., M.D.B.&M. near the location of said proposed wells. That protestant owns and holds all of Section 8 except the SE $\frac{1}{4}$ of SW $\frac{1}{4}$; the S $\frac{1}{2}$ of S $\frac{1}{2}$ of Sec. 5, the N $\frac{1}{2}$ of Sec. 17, the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 17, and the NE $\frac{1}{4}$ of Sec. 7, all in T. 18 N., R. 43 E., M.D.B.&M. That protestant's lands adjoint the area sought to be irrigated; that protestant has developed three artesian wells upon his said lands which will be impaired and the water flow depleted by the granting of said additional application; that ground waters as such are relied upon by protestant to seep through into said sections 5, 7 and 8 lying to the west of said proposed wells to keep a reasonably high water table so as to require less water for surface irrigation, and that said proposed wells as applied for would deplete the waters to which protestant has a valid and subsisting

vested right; that it will destroy the stockwatering rights of the spring of protestant; that said application includes more than one point of diversion, contrary to the regulations of the State Engineer."

The area within which the proposed ground water development is to be made is located on the easterly side of Reese River Valley, about ten miles southwest of Austin. Applicant Peterson has been granted Desert Land Entry No. CCo25137 covering 320 acres on which he proposes to irrigate from ground water applied for under Application No. 13745.

Protestant Visbeek stated in his protest that he was the owner of three artesian wells. One of these wells flows about 10 g.p.m. and is used for stockwatering and domestic purposes and is located about one mile westerly of the proposed point of diversion under Application No. 13745. Another artesian well on the Visbeek ranch is located about one-quarter of a mile easterly of the artesian well described above. The stockwatering spring referred to in the protest is located about one-half mile southwesterly of the proposed point of diversion under Application No. 13745.

In 1916 the U. S. Geological Survey made a study of ground water in Reese River and the report of this study is documented in Water Supply Paper No. 425-D. The survey found the source of the ground water to be precipitation within the watershed and that the bed-rock constitutes a relatively water-tight basin which is deeply filled with unconsolidated deposits in which ground water is stored. No estimate was made as to the total amount of ground water stored in the valley fill, although the valley fill was found to be several hundred feet deep and therefore has large storage capacity.

In commenting on the Ahler's well which is located in the same vicinity as the proposed point of diversion under Application No. 13745, the report states: "the wells drilled in this part of the valley encountered only clay and very fine sand, the flow being obtained from a fine black sand. None of the wells encountered coarse material that might readily yield water."

From information available to us, it appears that at one period during the geological history of this valley there was a large lake above the Reese River Narrows. The valley, for a considerable depth, is filled with lake deposits containing mostly fine material which, while perhaps containing large amounts of water in storage, would not yield such water readily due to the low permeability of the water bearing material. The formations encountered by drilling in this area bears out this assumption. It would therefore appear that there would be a poor hydraulic connection between the proposed well and the wells and springs of Protestant Visbeek.

The question then arises as to what protection other water users have under their rights of usage as against other developments in the area where such developments may affect the static water levels of existing wells. We think this is covered by the language in Section 10 of the ground water act (Chapter 178, Stats. 1939 as amended Stats. 1949). The interpretation of the State Engineer on the language

therein pertinent is as follows:

The State Engineer shall determine if there is any unappropriated water in the area and shall issue permits only if he finds that there is unappropriated water available.

That each appropriation of ground water shall relate to a specific quantity and that such right must allow for a reasonable lowering of the static water level at the appropriator's well. The state engineer is to determine the extent of reasonable lowering and in such determination shall consider the economics of pumping water for the general type of crops produced and may consider the effect of such water use on the economy of the area in general. It is the policy of the State Engineer to restrict further diversions when (1) The safe yield has been reached, and (2) when the water table has been lowered to a level from which the pumping lift approaches the maximum economical limit, and (3) when further diversion will adversely affect the economy of the area in general, whichever occurs first.

It further provides that a right to appropriate ground water does not guarantee the permittee the right to have the water level in his well maintained at any level higher than is necessary for a reasonable pumping lift. This means that such permittee has no regress if other permits are granted in the area, although further appropriations under such permits cause the water level to drop or affect free-flow conditions. The State assumes, as a matter of public policy, the right to insure the largest beneficial use of the natural supply and that when the water level declines the burden is upon owners of existing wells, ultimately, to obtain their legal yield by increased pumping if necessary.

In a great number of our desert valleys a limited amount of land can be developed for agricultural purposes. The economy of the State demands as full a use of our water resources as is possible without causing undue interference with existing rights. It will be the policy of this office to encourage such development to the reasonable limit of available water and land.

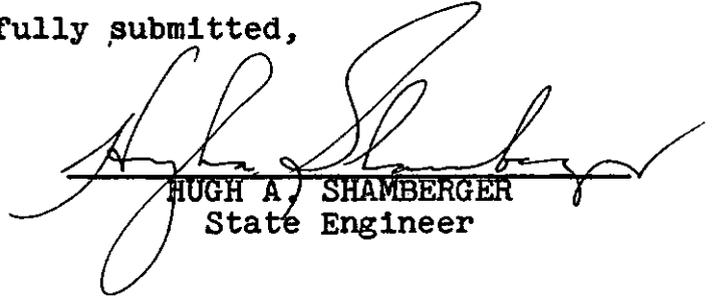
FINDINGS

It is the findings of this office that, (1) there is unappropriated ground water in the area contemplated to be developed under Application No. 13745; (2) that the development and use of water applied for under Application No. 13745 should not adversely affect existing water rights in the area; (3) the Nevada Land and Survey office found the land to be irrigated under said application satisfactory for such purpose; and (4) the development and use of water under said application would further the development of our agricultural economy.

RULING

The protest to the granting of a permit under Application No. 13745 is, for the foregoing reasons, overruled and a permit will be granted, subject to existing rights, in the amount of 2.0 c.f.s.

Respectfully submitted,



HUGH A. SHAMBERGER
State Engineer

Dated this 24th day of
September, 1952.