

IN THE MATTER OF APPLICATION 30264)
BY RICHARD N. SCOTT TO APPROPRIATE)
WATER FROM AN UNDERGROUND SOURCE)
IN EAGLE VALLEY, CARSON CITY,)
NEVADA.)

R U L I N G

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GENERAL:

On May 20, 1976, Richard N. Scott filed Application 30264 to appropriate 0.5 c.f.s. of underground water to be used for quasi-municipal purposes to serve a residential subdivision of approximately 150 dwelling units. The proposed point of diversion and the place of use are within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T. 15 N., R. 20 E., M.D.B.&M. (Hearing Item No. 2)

Application 30264 was protested on August 9, 1976 by Carson City, A Consolidated Municipality, on the following grounds:

"1. That there is no unappropriated water at the source of supply. That Eagle Valley was designated by the State Engineer, pursuant to NRS Chapter 534. That this designation reflects the fact that the water usages in Eagle Valley are at such a level, given recharge, that applications such as that herein must be weighed carefully in view of the amount of certificated rights in Eagle Valley."

"Carson City presently utilizes approximately 4,000 acre-feet of water per year and has approved applications for approximately 20,000 acre-feet per year. That all of the available water in Eagle Valley has been committed to prior commercial, industrial and residential development in Eagle Valley."

"2. That the granting of the proposed application would tend to impair the value of existing rights."

"3. That the proposed application, if granted, would threaten to prove detrimental to the public interest in that it would constitute a separate water system in an area that would, other than for a shortage of water, more economically and efficiently better be served by the Carson City municipal system. Furthermore, said application if granted could tend to set precedent for a proliferation of such private water systems. The herein application represents nothing more than an indirect way of circumventing the moratorium placed on subdivision development in Carson City by the Carson City Board of Supervisors in 1975. Said moratorium was enacted in the best interests of the public health, safety and welfare of the citizens of Carson City, Nevada." (Hearing Item No. 4)

FINDINGS:

I. After due notice to all parties by letter dated August 18, 1976, a hearing in the matter of Application 30264 and the protest thereto was held before the State Engineer on September 3, 1976. (Hearing Item No. 1) Evidence, testimony and information were presented at the hearing. The transcript of the proceedings had upon the hearing is on file in the office of the State Engineer.

II. The proposed point of diversion and place of use are located within the Eagle Valley Groundwater Basin. (Hearing Item No. 3)

III. The Eagle Valley Groundwater Basin was Designated and Described by Order of the State Engineer dated February 23, 1972. (Hearing Item No. 6)

IV. The system yield for the Eagle Valley Hydrologic area has been estimated by the United States Geological Survey in cooperation with the Division of Water Resources to be 10,000 acre-feet of water per year. Of the 10,000 acre-feet per year available, the United States Geological Survey has estimated that 3,000 acre-feet may be developed from surface water sources and 7,000 acre-feet per year may be developed and used perennially from ground water sources. (Hearing Items No. 5 and No. 7)

V. A portion of water diverted from the ground water basin and applied to use within the boundaries of that basin will return to the ground water reservoir. This has resulted in an allowable withdrawal of 8,000 acre-feet per year. (Transcript, P. 13, lines 19 through 26 and P. 14, lines 1 through 4) (Transcript, P. 34, lines 8 through 17)

VI. The Division of Water Resources has estimated that 4,651 acre-feet of ground water were pumped from the Eagle Valley ground water reservoir in 1975. Carson City pumped 3,162 acre-feet in 1975. (Hearing Item No. 8)

VII. Carson City pumped 4,151 acre-feet in the 12 months ending July 31, 1976 which indicates that municipal pumpage is increasing rapidly. (Transcript, P. 21, lines 24 through 26)

VIII. Records in the Office of the State Engineer indicate that Certificates of Appropriation for ground water from the Eagle Valley Ground Water Basin have been issued for approximately 9,200 acre-feet per year and that permits have been issued for approximately 20,600 acre-feet per year. (Hearing Item No. 9)

IX. The City of Carson has been issued rights in an amount of approximately 22,000 acre-feet per year from the underground source. (Hearing Item No. 8)

X. There are areas within the Eagle Valley Ground Water Basin where there have been significant declines in the static water level. (Public records located within State Engineer's Office) (Transcript, P. 45, lines 16 through 23)

XI. There have been complaints from individuals in Carson City regarding the declining water table including "losing wells, being required to deepen wells." (Transcript, P. 23, lines 2 through 10)

XII. Carson City water lines are available to serve the subdivision described within the place of use under Application 30264. (Transcript, P. 38, lines 7 through 26 and P. 39, lines 1 through 8) (Transcript, P. 47, lines 21 through 26 and P. 48, lines 1 through 4)

CONCLUSIONS:

1. The State Engineer has jurisdiction of the parties and the subject matter of this action.
2. The State Engineer is prohibited by law from granting a permit where:
 - a. There is no unappropriated water at the proposed source, or
 - b. The proposed use conflicts with existing rights, or
 - c. The proposed use threatens to prove detrimental to public welfare.
3. The City of Carson has the potential requirement and demand and capability of placing up to 8,000 acre-feet of water per year to beneficial use under existing water rights within prescribed time limits. (Protestants Exhibit No. 1) (Transcript, P. 36, lines 24 through 26 and P. 42, lines 25 through 26 and P. 43, line 1)
4. The State Engineer has the authority to deny applications to appropriate ground water for any purpose within a designated basin when water can be furnished by an entity such as a municipality presently engaged in furnishing water to the inhabitants thereof. (N.R.S. 534.120)
5. Existing approved appropriations of underground water exceed estimates of ground water system yield available.

6. Approval of the proposed appropriation for subdivision purposes would result in significant additional withdrawal of water from the Eagle Valley Ground Water Basin which would further deplete that source and thus adversely affect and conflict with existing water rights.

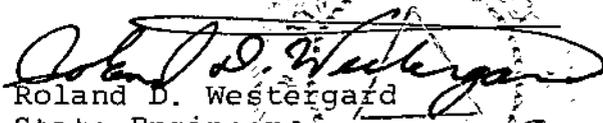
7. Approval of the proposed appropriation to a separate water supplier in an area where water service would be available from a municipality, if in fact adequate water sources were available, would be detrimental to the public welfare.

8. The prerogative of the municipal supplier, in this case the City of Carson, as the holder of existing water rights must be recognized in its execution and application of those water rights.

RULING:

The protest to Application 30264 is upheld and the Application is hereby denied on the grounds that the allowance of additional appropriations for the proposed residential subdivision use from the Eagle Valley ground water reservoir where approved appropriations exceed estimates of ground water system yield available would adversely affect existing water rights and would be detrimental to the public welfare.

Respectfully,


Roland D. Westergard
State Engineer



RDW:gs

Dated this 3rd

day of November, 1976.