

IN THE MATTER OF APPLICATION 31940)
FILED IN FISH LAKE VALLEY FOR)
WATER FROM AN UNDERGROUND SOURCE)

R U L I N G

GENERAL:

117
Application 31940 was filed by Arthur O. Johnson on June 6, 1977. A supporting map prepared by J. V. Caselli, State Water Right Surveyor, was received on July 15, 1977. On August 24, 1977, a return for correction notice was sent to the applicant (and Ruth M. Johnson under Application 31941) with a due date of October 23, 1977.

On September 15, 1977, Mr. Arthur O. Johnson (the applicant) telephoned John Lane (Division of Water Resources) and requested (conversation assumed) that since all that either application needed was the bearing and distance tie, would Mr. Lane add this to the application.

Mr. Lane added the bearing and distance tie to Application 31941 only, but not to Application 31940. Application 31940 was cancelled for failure to refile the corrected application within the statutory time on November 2, 1977.

RULING:

The cancellation of Application 31940 is hereby rescinded with the date of filing remaining June 6, 1977. The amended application and supporting map are required within 60 days from the date of this Ruling.

Respectfully submitted,



Roland D. Westergard
State Engineer

RDW/JLL/dc

Dated this 2nd day

of December 1977.

IN THE MATTER OF APPLICATION 31273)
TO APPROPRIATE WATER FROM AN UNDER-)
GROUND SOURCE IN THE MAGGIE CREEK)
AREA, ELKO COUNTY, NEVADA.)

R U L I N G

FINDINGS OF FACT

I

Application 31273 was filed on April 5, 1977 in the name of Orval L. and June Hoffsette to appropriate 1.0 c.f.s. of water from an underground source located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, T.33N., R.52E., M.D.B. & M. for irrigation and domestic use on 40.51 acres located within the same 40-acre subdivision as the proposed point of diversion.

II

A timely protest to the granting of Application 31273 was filed on June 15, 1977 in the name of the City of Carlin. The protest was filed on the grounds that: "The water sought for appropriation may contribute to the underground water supply of the City of Carlin, Nevada, namely Arthur Spring. The protestant has water rights on said spring (Application 10111, Certificate of Appropriation of Water dated March 1, 1944; and Application 16880, Certificate of Appropriation of Water dated September 27, 1961). The protestant reserves the right to present any additional facts and arguments which become known to her prior to the hearing of this protest". This protest seeks that the application be "denied or issued subject to all prior rights on said Arthur Spring".

III

Application 31273 became ready for action by the State Engineer's office on June 30, 1977.

IV

A field investigation into the matter of protested Application 31273 was conducted on Tuesday, August 30, 1977 at 10:00 a.m. Results of that field investigation are described under Field Investigation No. 638 dated October 27, 1977 and filed under Application 31273 in the State Engineer's office. Field Investigation Report No. 638 is made a part of this Ruling by reference.

V

The point of diversion under Application 31273 is an existing well originally drilled in July, 1961 and later deepened in May, 1972. Application 19763 had been filed on April 24, 1961 to appropriate 1.0 c.f.s. of water at that point of diversion for irrigation and domestic purposes on the same acreage as described under Application 31273. Application 19763 was also timely protested by the Town of Carlin and a field investigation of this protest was conducted on November 4, 1965 by Jack Cardinalli and Bud Danner of the State Engineer's office (see Field Investigation Report 209 filed in the State Engineer's office). The grounds for the filing of a protest under Application 19763 were basically the same as the grounds of the protest filed under Application 31273. The protest under Application 19763 was overruled by State Engineer's Ruling No. 828 and a permit issued on January 24, 1966. Permit 19763 was subsequently cancelled on September 28, 1970 for failure to submit the Proof of Beneficial Use and Cultural Map.

VI

The records of the Division of Water Resources indicate that there are two certified water rights of record on Arthur Spring (aka Carlin Spring) in name of the City of Carlin, those being Certificate 2772 issued under Permit 10111 in the amount of 1.0 c.f.s. and Certificate 5215 issued under Permit 16880, in the amount of 3.0 c.f.s., both for municipal service to the Town of Carlin. There are no other water rights of record on Arthur Spring.

VII

The well under Application 31273 is located approximately four miles north of Arthur Spring, and furthermore is located within a separate hydrologic basin from Arthur Spring. The well is located within the Maggie Creek Area Hydrologic Basin (Basin No. 4-51) while the spring is located within the Mary's Creek Area (Basin No. 4-52). In addition, the springs are separated from the Maggie Creek Area by a hill with approximately 120 feet of topographic relief.

VIII

The proposed point of diversion under Application 31273 is located approximately two miles north of the nearest existing ground water permit, that being Permit 18551 in the amount of 5.0 c.f.s. from a well located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, T.33N., R.52E., M.D.B. & M.

IX

Nevada Resources Planning Report No. 3 indicates the total combined perennial yield for the Suzie Creek Area and Maggie Creek Area to be 6,000 acre-feet per year (page 17). This report further describes the two hydrologic basins as having approximately the same average annual precipitation characteristics and further shows the Maggie Creek Area to comprise 64% of the total combined square mile area of the two basins and to receive 65% of the total combined average annual precipitation in the two basins.

X

There are currently 1,812.79 acre-feet per year of water appropriated within the Maggie Creek Area ground water basin.

XI

There is no recording or measuring device presently installed on the outflow from the Arthur Spring area, and there are no records of past annual flows from Arthur Spring.

XII

The well under Application 31273 is located approximately 1/8 of a mile from the Maggie Creek channel. The drillers logs for this well indicates that the casing was perforated over an interval of from 30 feet to 100 feet. The log further indicates the existance of a clay formation between 20 feet and 32 feet below ground level, which may constitute a confining layer.

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action in accordance with NRS 533.025 and NRS 533.030, Subsection 1.

II

Since ground water flow generally parallels the flow of surface water from topographic divides toward the valley floor, and because of the fact that the well under Application 31273 and Arthur Springs are located within different hydrographic basins, it is the conclusion of the State Engineer that the withdrawal of ground water from the Maggie Creek Area under Application 31273 would not affect the ground water situation within the Mary's Creek Area, and would therefore not adversely affect Arthur Springs.

III

The annual duty of water allowed by permit from ground water sources for irrigation in the Maggie Creek area is 4.0 acre-feet per acre per annum. Therefore, a total annual duty of 162.04 acre-feet would be allowed for the irrigation of the 40.51 acres as applied for under Application 31273.

IV

The 1.0 c.f.s. of water applied for under Application 31273 as a diversion rate is considered by the State Engineer to be adequate for the irrigation of 40.51 acres.

V

Based upon the fact that the Maggie Creek area comprises approximately 2/3 of the total combined acreage included within the Maggie Creek and Suzie Creek hydrographic areas and receives 2/3 of the total combined precipitation of the two areas, it is the opinion of the State Engineer that the perennial yield of the Maggie Creek area is approximately 4,000 acre-feet, which is 2/3 of the total combined perennial yield of the two areas.

VI

Because the current total ground water appropriations from the Maggie Creek area is 1812.79 acre-feet per year, and because the amount of ground water available for appropriation within this area is concluded to be approximately 4,000 acre-feet per year, it is the opinion of the State Engineer that there is water available for appropriation from the ground water system within the Maggie Creek Area.

VII

It is the opinion of the State Engineer that the total ground water withdrawal of 162.04 acre-feet and the total diversion rate of 1.0 c.f.s., considered adequate under Application 31273, would not tend to interfere with other existing rights nor be detrimental to the public interest.

VIII

The strata of clay, described by the driller's log to be located between the depths of 20 feet and 32 feet, is considered adequate to prevent the interference from the well under Application 31273 with the flow of water in Maggie Creek.

IX

In accordance with NRS 533.370, Subsection 1, the State Engineer shall approve all applications where the proposed use does not tend to impair the value of other existing rights or to be otherwise detrimental to the public welfare.

RULING

The protest to the granting of Application 31273 is herewith overruled on the grounds that there is water available for appropriation within the Maggie Creek Area hydrographic basin and on the grounds that the granting of a permit will not tend to impair the value of other existing rights or be otherwise detrimental to the public welfare. Upon the receipt of the statutory permit fee, a permit will be granted under Application 31273, subject to existing rights, in the amount of 1.0 c.f.s., not to exceed 4.0 acre-feet per acre per annum.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW/BAR/bl

Dated this 2nd day
of December, 1977.