

IN THE MATTER OF APPLICATION 46964 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE IN )  
CLOVERS AREA GROUNDWATER BASIN, )  
LANDER COUNTY, NEVADA. )

RULING

INTRODUCTION

Application 46964 was filed on June 1, 1983, by Charles J. Allen to appropriate 1.56 c.f.s. of underground water for mining and milling purposes. The point of diversion is within Lot 12, Section 10, T.32N., R.44E., M.D.B.&M.

A protest to the granting of Application 46964 was timely filed by William R. Allen, which prayed the subject application be denied on the following pertinent grounds:

"Protestant and his wife are the owners of permits numbered 31145 and 34883 for the irrigation of land adjoining the applicants proposed point of diversion. Protestant's point of diversion and applicant's point of diversion are approximately 500 yards apart. Both of the points of diversions are within the same basin, which has been designated by the State Engineer as a closed basin...

Finally, Application 46964 violates the State Engineer's order closing the basin because it is for an amount of water in excess of Permit 13378,..."

The remainder of Protestant's grounds for denial of Application 46964 is incorporated herein by reference.<sup>1</sup>

FINDINGS OF FACT

I.

By letter dated September 9, 1983, notice was given by the Division of Water Resources, as required under NRS 533.363, to the county commissioners of both Humboldt County and Lander County, that the proposed point of diversion of the subject application is in Lander County and the proposed place of use is in Humboldt County. The Humboldt County Clerk, in a letter dated October 25, 1983, to the Division of Water Resources, indicated the Board of Commissioners voted on October 24, 1983, not to take any action on the subject application nor would they file any comments on said application. No correspondence was received by the Division of Water Resources from the Lander County Board of Commissioners, to this date.<sup>2</sup>

-----  
<sup>1</sup> File No. 46964 - a public record in the office of the State Engineer.

<sup>2</sup> See footnote 1.

II.

A letter dated January 23, 1984 from Charles J. Allen was received by the Division of Water Resources on January 31, 1984, and stated, in part, that "Mr. William Allen's protest is untimely and contains objections which are not valid and without merit". The remainder of this letter is incorporated herein by reference.<sup>3</sup>

III.

By letter dated February 24, 1984, notice was given by certified mail by the Division of Water Resources to the Applicant under Application 46964 and to the Protestant, that a field investigation would be conducted on March 21, 1984, in the matter of the protest against Application 46964.<sup>4</sup>

IV.

A field investigation was held on March 21, 1984, at the proposed well site under Application 46964. In attendance were:

<u>NAME</u>	<u>REPRESENTING</u>
Tom Gallagher	Div. of Water Resources, Carson City, NV
Ralph Gamboa	Div. of Water Resources, Elko, NV
Bob Ohm	Amer. Continental Energy of California
Robert J. Mawson	Stellar International Dev., Vancouver, B.C.
Richard Trumble	Stellar International Dev., Fallon, NV
Stewart R. Wilson	Attorney for Protestant, Elko, NV
William R. Allen	Protestant
Charles J. Allen	Applicant
George Holden	Attorney for Applicant
Michael W. Smith	Interested party
Don E. Smith	Interested party
Don Wade	Interested party
Charles Straw	Interested party

At the field investigation, it was revealed that the well had been drilled and test-pumped in June 1983. The new well was actually constructed to replace a certificated well nearby, now plugged. Permit 13378, Certificate 5182, is for 1.10 c.f.s. and the irrigation of 10.0 acres of land and stands in the name of Charles J. Allen. It was further revealed that the proposed point of diversion under Application 46964 is for the same well (site) as the point of diversion under Permit 13378. Therefore, it was concluded Application 46964 is for an additional appropriation from the same well as Permit 13378.

-----  
<sup>3</sup> See footnote 1.

<sup>4</sup> See footnote 1.

Mr. Wilson, representing the Protestant, was asked by Mr. Gallagher during the field investigation, if there was anything else he wished to add to the protest, and Mr. Wilson indicated there was nothing additional at this time and that he had no data on the effect of pumpage from the well under 13378 and Application 46964 on the Protestant's well.<sup>5</sup>

V.

Well logs submitted to this office indicate the Protestant's well under Permits 31145 and 34883 was completed to a total depth of 245 feet with perforated casing from 96 feet to 240 feet. The lithologic log for this well indicates the major water bearing formation, consisting of mixed clay with gravel and clay with coarse sand, exists from a depth of 121 feet to total depth; a 10 foot thick layer of "coarse sand and pea rock" was penetrated between 105 and 115 feet. The Applicant's well was completed to a total depth of 150 feet, with perforations between 110 and 150 feet. The sand and gravel material was penetrated in this well from 97 feet to total depth.<sup>6</sup>

VI.

The Protestant's well under Permits 31145, Certificate 10399, and 34883, Certificate 10768, is situated more than 1610 feet northwest of the well under Permit 13378, Certificate 5182, and under Application 46964.<sup>7</sup>

VII.

By Order dated December 30, 1977, the State Engineer designated and described the Clovers Area Ground Water Basin as a ground water basin in need of additional administration under the provisions of NRS 534.<sup>8</sup>

---

<sup>5</sup> Report of Field Investigation - public record in the office of the State Engineer.

<sup>6</sup> Well Logs - public record in the office of the State Engineer.

<sup>7</sup> PBU Map under Permit 34883 - public record in the office of the State Engineer.

<sup>8</sup> Order No. 700 - public record in the office of the State Engineer.

VIII.

By Order dated March 20, 1984, the State Engineer designated and described specific areas within the Clovers Area Ground Water Basin within which the State Engineer will consider municipal, quasi-municipal and domestic use as preferred uses.<sup>9</sup>

IX.

The proposed point of diversion under Application 46964, as well as the point of diversion under Permits 13378, 31145 and 34883, are all outside the areas described in the State Engineer's Order of March 20, 1984.<sup>10</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>11</sup>

II.

The well under Application 46964 and the well under Permits 31145 and 34883 are over 1610 feet apart.

III.

To this date, no additional information has been received by the State Engineer from the Protestant, as to what drawdown effects the Applicant's additional diversion rate may have on the Protestant's well.

IV.

The evidence and data available indicate the additional diversion rate from the Applicant's well will not have a significant, adverse effect on the static or pumping levels in the Protestant's well and therefore will not adversely effect existing rights.

-----  
<sup>9</sup> Order No. 839 - public record in the office of the State Engineer.

<sup>10</sup> Order No. 839 and other public records in the office of the State Engineer.

<sup>11</sup> NRS 533.025 and NRS 533.030, subsection 1.

RULING

The protest to Application 46964 is overruled on the grounds that evidence and data available indicate there will be no adverse effects on existing rights. A permit will be issued, subject to existing rights, upon receipt of the statutory permit fees.

Respectfully submitted

  
Peter G. Morros  
State Engineer

PGM/TKG/bl

Dated this 19th day of  
APRIL, 1984.