

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 44392)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
DIAMOND VALLEY, EUREKA COUNTY,)
NEVADA.)

RULING

INTRODUCTION

Application 44392 was filed on September 3, 1981, by Ernest W. Petterson to appropriate 0.2 c.f.s. of water from an underground source to be diverted within Lot 16 (SE1/4 SE1/4) Section 29, T.20N., R.53E., M.D.B.&M., to be used for quasi-municipal purposes within the same legal subdivision as the proposed point of diversion.¹

FINDINGS

I.

Application 44392 was timely protested on April 26, 1982, by Chester and Colleen Hess on the following grounds:

"The waters Petterson seeks to appropriate are already appropriated under Permit No. 35418. There has not been an abandonment of said waters, and the application is totally without merit."

II.

A formal field investigation regarding this application was held on December 12, 1982.

III.

The protest was subsequently withdrawn on January 28, 1983.

IV.

A public hearing before the State Engineer regarding Application 44392 and other applications was held on September 27, 1983.

V.

The proposed point of diversion under Application 44392 is the same as the points of diversion of Permits 35418 and 44668. Permit 35418 is owned in part by Chester D. Hess and Colleen Hess. Permit 44668 is owned by Byron L. Harris and Uva Harris.

¹ Public records in the office of the State Engineer.

VI.

The granting of Application 44392 would interfere with existing rights.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.²

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public welfare.³

III.

There are existing domestic uses from the proposed point of diversion already being made by Hess, Harris, and Petterson.

RULING

Application 44392 is hereby denied on the grounds that the application will conflict with existing rights.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/bl

Dated this 12th day of

SEPTEMBER, 1984.

² NRS 533.025 and NrS 533.030, subsection 1.

³ NRS 533.370, subsection 3.