

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 46609)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
COLD SPRING VALLEY, WASHOE COUNTY,)
NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 46609 was filed on February 4, 1983, by B.A. and Mildred L. Jackson to appropriate 0.100 c.f.s. of water from an underground source for quasi-municipal purposes within the W1/2 NW1/4 Section 34, T.21N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 34, T.21N., R.18E., M.D.B.&M. This application became ready for action on April 29, 1983.¹

II.

A protest was timely filed by Reno Park Water Company against the granting of the subject application on March 30, 1983. The protest implored the State Engineer deny Application 46609 for the following reasons:

The State Engineer considers the basin over-appropriated. Reno Park Water Company had four permits - Numbers 26956, 26957, 26958 and 29459, which were permitted rights for approximately 2,100 acre feet of water.

During the process of obtaining Extensions of Time, the State Engineer and Reno Park Water Company entered into an agreement to reduce the amount of water to 500 acre feet because this was the projected amount of recharge into the Cold Springs Basin. This was accomplished when the State Engineer issued Permit No. 34587, which listed the combined duty of all permits not to exceed 500 acre feet.

Reno Park Water Company agreed with that, with the idea no other permits be granted in the basin which would jeopardize their existing rights.

If, for some reason, the State engineer's Office believes there is some additional water that is unappropriated, then that water should be allocated to those existing permits being, Nos. 26956, 26957, 26958 and 29459.

The reduction to the 500 acre feet has put a burden on Reno Park Water Company to the extent that it does not have enough water to serve all of the land that is owned by John Arden or the property acquisition he is going to get from B.L.M.²

¹ Public record in the office of the State Engineer filed under Application 46609.

² Public record in the office of the State Engineer filed under Application 46609.

III.

A notice of hearing, dated August 12, 1983, was sent certified mail, return receipt requested, to Reno Park Water Company, 4040 Mayberry Drive, Reno, Nevada, 89505. The notice was delivered and signed on August 13, 1983, and Certified Mail Receipt No. P369 806 601 was received in the office of the State Engineer on August 15, 1983. The notice referred to Application 46609 and stated that applicants and protestants should be prepared to submit evidence to support their respective positions.³

IV.

The scheduled date of the hearing described in the notice of August 12, 1983, was continued from Friday, August 26, 1983, to Monday, September 26, 1983, upon the request of B.A. Jackson, filed in a timely manner.⁴

V.

A second notice, dated August 22, 1983, was sent certified mail to all concerned parties. This notice described the continuance of the hearing date and made specific reference to the prior notice of August 12, 1983.⁵

VI.

A copy of the letter of notification, dated August 22, 1983, was sent by Certified Mail Receipt No. P369 806 623 to Reno Park Water Company, 4040 Mayberry Drive, Reno, Nevada, 89505, and was signed and delivered September 6, 1983. The subject receipt was later received September 7, 1983, in the office of the State Engineer.⁶

VII.

At the hearing of September 26, 1983, the State Engineer took administrative notice of all evidence and testimony presented at a prior hearing before the State Engineer dated April 16, 1982, in the matter of Application 38660 filed by B.A. or Mildred L. Jackson. The point of diversion under Application 46609 is the same as that described under Application 38660.⁷

³ Public record in the office of the State Engineer filed under Application 46609.

⁴ Public record in the office of the State Engineer filed under Application 46609.

⁵ Public record in the office of the State Engineer filed under Application 46609.

⁶ Public record in the office of the State Engineer filed under Application 46609.

⁷ Official transcript of hearing of September 26, 1983, pp. 3 and 4, inclusive.

VIII.

Expert testimony given at the hearing of April 16, 1982, indicated the proposed pumpage of the well under Application 38660 was not likely to have any effect on any other permitted uses of ground water in the area.⁸ Applicants' expert witness further testified that the source of ground water recharge to applicants' well site is from the south-southwest and from a higher elevation.⁹ Additional testimony, rendered by applicants' expert witness, indicated that the subject well, originally drilled for highway construction purposes, was in use and pumped heavily for two years with no known adverse effects on other wells within the area.¹⁰

IX.

At the hearing of September 26, 1983, Protestant Reno Park Water Company was requested to submit additional evidence in support of the protest to the granting of Application 46609. Neither the protestant nor their agent was in attendance at the hearing.

X.

In 1981, Open File Report 80-1287, Water Resources of Cold Spring Valley, a Growing Urban Area Northwest of Reno, Nevada, by A.S. Van Denburgh and Terry Katzer, was prepared cooperatively by the U.S. Geological Survey and the Nevada Division of Water Resources. This report is available from the office of the State Engineer.¹¹

XI.

The estimated average annual natural evapotranspiration supplied by ground water in Cold Spring Valley totals 500 acre-feet. This quantity is equivalent to the perennial yield of the ground water basin.¹² The estimated areal distribution of this evapotranspiration fed by ground water from the north, south and west of the playa is 200, 200 and 100 acre-feet per year, respectively. In order to capture this ground water lost to natural evapotranspiration, the withdrawals should be evenly distributed around the playa perimeter.¹³

⁸ Official transcript of hearing of April 16, 1982, pp. 40 through 42, inclusive.

⁹ Official transcript of hearing of April 16, 1982, pp. 40 through 42, inclusive.

¹⁰ Official transcript of hearing of April 16, 1982, pp. 17 and 18 and pp. 40 through 42, inclusive.

¹¹ U.S.G.S. Open File Report 80-1287 is a matter of public record in the office of the State Engineer.

¹² U.S.G.S. Open File Report 80-1287, p. 57.

¹³ U.S.G.S. Open File Report 80-1287, pp. 59 and 60, inclusive.

XII.

Permitted ground water rights to the south of the playa, in Sections 23, 33 and 34 of T.21N., R.18E., M.D.B.&M., total less than 10 acre-feet annually.¹⁴

XIII.

Application 46609, if granted, represents an additional appropriation of ground water south of the playa of 25.4 acre-feet annually for quasi-municipal and domestic purposes.¹⁵

XIV.

The proposed place of use of Application 46609 lies within the NW1/4 Section 34, T.21N., R.18E., M.D.B.&M., and is over 1.5 miles away from Reno Park Water Company's permitted service area.¹⁶

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.¹⁷

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 interest.¹⁸

III.

Ground water lost to natural evapotranspiration in Cold Spring Valley totals 500 acre-feet per year and is distributed proportionally north, south and west of the playa at 200, 200 and 100 acre-feet per year, respectively.

¹⁴ Abstract of ground water rights in Cold Spring Valley is a matter of public record on file in the office of the State Engineer.

¹⁵ Public record in the office of the State Engineer filed under Application 46609.

¹⁶ Public record in the office of the State Engineer filed under Application 46609 and Reno Park Water Company's maps filed to support their respective water right filings.

¹⁷ NRS Chapters 533 and 534, inclusive.

¹⁸ NRS 533.370, subsection 3.

IV.

Application 46609, if granted, represents an appropriation of ground water equal to 25.4 acre-feet annually and would bring the total ground water appropriations south of the playa area to 33.5 acre-feet per year.

V.

The subject well described in Application 46609 was in use and pumped heavily for highway construction purposes for two years. To date, the State Engineer has no evidence of adverse effects caused by this two year period of heavy pumpage.

VI.

Application 46609, if granted, would not adversely effect existing ground water rights in the Cold Spring Valley Basin nor threaten to prove detrimental to the public interest, provided that the withdrawal of ground water is south of the playa area in the Cold Spring Valley Basin.

VII.

The protestant, Reno Park Water Company, did not submit additional evidence or testimony as requested by the State Engineer at the hearing of September 26, 1983. Protestant's letter of October 28, 1983, does not represent evidence or documentation that the proposed withdrawal of ground water under Application 46609 would conflict with existing rights in the Cold Spring Valley Basin.

RULING

The protest to the granting of Application 46609 is herewith overruled and a permit will be granted subject to existing rights upon submission of the statutory permit fees.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/TKG/bl

Dated this 15th day of
November, 1984.