

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 49416,) 49417 AND 49418 FILED TO CHANGE THE POINT OF DIVERSION AND/OR PLACE OF USE OF A PORTION OF THE PUBLIC WATERS) OF AN UNDERGROUND SOURCE) HERETOFORE APPROPRIATED UNDER) PERMITS 36101, 36102 AND 36103,) RESPECTIVELY IN THE CARSON VALLEY) DESIGNATED GROUND WATER BASIN,) DOUGLAS COUNTY, NEVADA.)

RULING

GENERAL

Application 49416 was filed on October 2, 1985, by John S. Shahin to change the point of diversion and place of use of 2.065 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 36101. The existing and proposed use is for quasi-municipal and domestic purposes. The existing place of use is within the SE1/4 SW1/4, SW1/4 SE1/4 Section 12; N1/2 NW1/4 Section 13; N1/2 NE1/4, SW1/4 NE1/4, W1/2, S1/2 SE1/4 Section 14; SE1/4 Section 22; Section 23; W1/2, S1/2 SE1/4 Section 26; E1/2 E1/2, NW1/4 NE1/4 Section 27; E1/2 NE1/4 Section 34; W1/2, W1/2 E1/2 Section 35, T.13N., R.20E., M.D.B.&M. The proposed place of use is within the SE1/4 SW1/4 Section 12; SE1/4 NW1/4, portion of the NE1/4 NW1/4 Section 13; NE1/4 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4, SE1/4 SE1/4, W1/2 W1/2 Section 14; NW1/4, NE1/4 NE1/4, S1/2 NE1/4, SE1/4, portion of the E1/2 SW1/4 Section 23; NW1/4 Section 24; SW1/4 NE1/4, NW1/4 SE1/4, NW1/4 SW1/4, portions of the NE1/4 NW1/4, SW1/4 NW1/4, SE1/4 NW1/4 Section 26, T.13N., R.20E., M.D.B.&M. The existing point of diversion is described as being within the NE1/4 NE1/4 Section 14, T.13N., R.20E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 SE1/4 Section 23, T.13N., R.20E., M.D.B.&M.¹

Application 49417 was filed on October 2, 1985, by John S. Shahin to change the place of use of 2.065 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 36102. The existing and proposed use is for quasi-municipal and domestic purposes. The existing place of use is within the SE1/4 SW1/4, SW1/4 SE1/4 Section 12; N1/2 NW1/4 Section 13; N1/2 NE1/4, SW1/4 NE1/4, W1/2, S1/2 SE1/4 Section 14; SE1/4 Section 22; Section 23; W1/2, S1/2 SE1/4 Section 26; E1/2 E1/2, NW1/4 NE1/4 Section 27; E1/2 NE1/4 Section 34; W1/2, W1/2 E1/2 Section 35, T.13N., R.20E., M.D.B.&M. The proposed place of use is within the SE1/4 SW1/4 Section 12; SE1/4 NW1/4, portion of the NE1/4 NW1/4 Section 13; NE1/4 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4, SE1/4 SE1/4, W1/2 W1/2 Section 14; NW1/4, NE1/4 NE1/4, S1/2 NE1/4, SE1/4, portion of the E1/2 SW1/4 Section 23; NW1/4 Section 24; SW1/4 NE1/4, NW1/4 SE1/4, NW1/4 SW1/4, portions of the NE1/4 NW1/4, SW1/4 NW1/4, SE1/4 NW1/4 Section 26, T.13N., R.20E., M.D.B.&M. The point of diversion is described as being located within the SE1/4 SE1/4 Section 23, T.13N., R.20E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

Application 49418 was filed on October 2, 1985, by John S. Shahin to change the point of diversion and place of use of 1.897 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 36103. The existing and proposed use is for quasi-municipal and domestic purposes. The existing place of use is within the SE1/4 SW1/4, SW1/4 SE1/4 Section 12; N1/2 NW1/4 Section 13; N1/2 NE1/4, SW1/4 NE1/4, W1/2, S1/2 SE1/4 Section 14; SE1/4 Section 22; Section 23; W1/2, S1/2 SE1/4 Section 26; E1/2 E1/2, NW1/4 NE1/4 Section 27; E1/2 NE1/4 Section 34; W1/2, W1/2 E1/2 Section 35, T.13N., R.20E., M.D.B.&M. The proposed place of use is within the SE1/4 SW1/4 Section 12; SE1/4 NW1/4, portion of the NE1/4 NW1/4 Section 13; NE1/4 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4, SE1/4 SE1/4, W1/2 W1/2 Section 14; NW1/4, NE1/4 NE1/4, S1/2 NE1/4, SE1/4, portion of the E1/2 SW1/4 Section 23; NW1/4 Section 24; SW1/4 NE1/4, NW1/4 SE1/4, NW1/4 SW1/4, portions of the NE1/4 NW1/4, SW1/4 NW1/4, SE1/4 NW1/4 Section 26, T.13N., R.20E., M.D.B.&M. The existing point of diversion is described as being within the SW1/4 SE1/4 Section 12, T.13N., R.20E., M.D.B.&M. The proposed point of diversion is described as being within the SE1/4 SE1/4 Section 23, T.13N., R.20E., M.D.B.&M.¹

Applications 49416, 49417 and 49418 were timely protested by Joseph L. Nebe on January 2, 1986, on the following grounds:¹

"To honor Permit Number 17105 as having prior rights. The amount of water requested, the proximity to my well, and the amount of recharge available could cause a drastic lowering of the water table to uneconomical levels. There was a large drawdown this summer in my well, which indicates that the recharge is not that great to withstand heavy pumping. It is requested that withdrawals be restricted to conform to priority rights. Therefore the protestant requests that the applications be issued subject to prior rights."

FINDINGS OF FACT

I.

By an Order dated June 14, 1977, the State Engineer described and designated the Carson Valley Ground Water Basin under the provisions of NRS Chapter 534.²

II.

The point of diversion under Permit 17105, Certificate 5664, in the name of Joseph L. Nebe, is described as being within the SE1/4 SW1/4 Section 13, T.13N., R.20E., M.D.B.&M.

² See State Engineer's Order No. 684 dated June 14, 1977, public record in the office of the State Engineer.

III.

The existing points of diversion under Permits 36101 and 36103 are located approximately 5,000 and 6,000 feet, respectively, from Permit 17105. The proposed points of diversion under Applications 49416 (36101) and 49418 (36103) are located approximately 6,600 and 5,500 feet, respectively, from Permit 17105. The existing and proposed points of diversion under Application 49417 (36102) are located within the same well as proposed under Application 49418 which is located approximately 5,500 feet from Permit 17105.³

IV.

Scientific methods, developed by the United States Geological Survey based on known hydrologic principles and equations, were used by the staff of the Division of Water Resources to determine the effect on protestant's well under Permit 17105, Certificate 5664, by pumping the existing wells under Permits 36101, 36102 and 36103 compared with pumping the wells proposed under Applications 49416, 49417 and 49418. The analysis indicates that there would not be any significant difference in the effect on protestant's well by pumping under the proposed well sites when compared to pumping under the existing wells.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- 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 the public interest.

³ Determined by staff within the office of the State Engineer.

⁴ NRS Chapters 533 and 534.

⁵ NRS 533.370(3).

III.

NRS 534.100(1) declares that existing water rights to the use of underground water are hereby recognized and NRS 534.110(4) states that it shall be an express condition of each appropriation of ground water acquired under this chapter that the right of each appropriator must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. The State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of water use on the economy of the area in general in determining such reasonable lowering of the static water level in a particular area. Based on information available in the office of the State Engineer, there is no indication of an unreasonable lowering of the static water level in the vicinity of protestant's well.

IV.

Since the subject applications are, in fact, applications to change existing permitted rights and are not requests for additional appropriation, the question of unappropriated water at the proposed source is not an issue in this ruling. Based on information available in the office of the State Engineer and hydrologic analysis, there is no indication that the granting of Applications 49416, 49417 and 49418 would cause a significant adverse effect on protestant's well nor would the proposed use threaten to prove detrimental to the public welfare:

RULING

The protests to Applications 49416, 49417 and 49418 are hereby upheld and Applications 49416, 49417 and 49418 are herewith granted subject to existing rights on the source and on the grounds that the granting thereof will not conflict with existing rights nor be otherwise detrimental to the public welfare.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/SHF/bl

Dated this 10th day of
July, 1986.