

IN THE OFFICE OF THE STATE ENGINEER  
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 55899 )  
FILED TO CHANGE THE POINT OF DIVERSION )  
AND PLACE OF USE OF A PORTION OF WATER )  
OF AN UNDERGROUND SOURCE HERETOFORE )  
APPROPRIATED UNDER PERMIT 24696 )  
CERTIFICATE 8284 WITHIN THE CARSON )  
VALLEY GROUND WATER BASIN, DOUGLAS )  
COUNTY, NEVADA. )

RULING  
# 4003

GENERAL

I.

Application 55899 was filed February 28, 1991, by Raymond W. and Claudia C. Van Winkle to change the point of diversion and place of use of 0.322 c.f.s. a portion of waters heretofore appropriated under Permit 24696 Certificate 8284. The proposed point of diversion is in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 32, T.14N., R.20E., M.D.B.&M. The proposed place of use is 7.46 acres within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  and 12.54 acres within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  all within Section 32, T.14N., R.20E., M.D.B.&M. The manner of use is irrigation.

The existing point of diversion is in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 32, T.14N., R.20E., M.D.B.&M. The existing place of use is the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and SW $\frac{1}{4}$  of Section 32 and the S $\frac{1}{2}$  SE $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 31, T.14N., R.20E., M.D.B.&M.

The place of use of both the existing and proposed place's of use are supplemental to the Carson River Decree Claim No. 127.

Application 55899 became ready for action on June 22, 1991.

II.

Application 55899 was timely protested by Martin W. and Susan D. Johnson, Marvin Smith, Sr. and Lynn Smith, and Julian C. Smith.

On May 22, 1991 Martin W. and Susan D. Johnson protested Application 55899 on the following grounds:

That the proposed change would adversely affect existing rights, including but not limited to those of the Protestants and is inconsistent with and contrary to orders and directives of the State Engineer addressing the groundwater management in the Johnson Lane portion of the subject basin.

On June 20, 1991 Marvin Smith, Sr. and Lynn Smith protested

Application 55899 on the following grounds:

We are concerned that the change of point of diversion will have an adverse impact on our domestic well located in the Northwest corner of the NE $\frac{1}{4}$  SE $\frac{1}{4}$ .

On June 21, 1991 Julian C. Smith protested Application 55899 on the following grounds:

That the change of point of diversion will have an adverse impact on the well belonging to my law firm Defined Benefit Plan located in the Southeast corner of the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 31, T.14N., R.20E., M.D.B.&M.

FINDINGS OF FACT

I.

The State Engineer finds that 0.322 c.f.s. a portion of Permit 24696 Certificate 8284 was conveyed from Suzanne Schulz by Grant, Bargain, Sale Deed to Raymond W. and Claudia C. Van Winkle dated November 22, 1989.

II.

The proposed point of diversion and place of use of Application 55899 is located outside the area designated by Order 904 which curtails future appropriations.

III.

Application 55899 is an application to change water that has already been previously appropriated under Permit 24696 and subsequently placed to beneficial use and issued Certificate 8284 on May 13, 1974. The 7.46 acres within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  and 12.54 acres within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 32 in the name of Van Winkle is currently being irrigated by Permit 24696 Certificate 8284 and Application 55899 proposes to irrigate this same acreage.

IV.

The State Engineer finds that the proposed point of diversion of Application 55899 is located approximately 1350 feet north-northeast from the existing point of diversion of Permit 24696 Certificate 8284.

V.

The protestants Martin W. and Susan D. Johnson are owners of record of a portion of the existing point of diversion under Permit 24696 Certificate 8284 from which Application 55899 proposed to

change.

VI.

The protestants Marvin, Sr. and Lynn Smith have an existing domestic well approximately 3200 feet northwest from the proposed point of diversion of Application 55899 and is approximately 3500 feet north-northwest from the existing point of diversion under Permit 24696 Certificate 8284.

VII.

The protestant Julian C. Smith has a permitted well (28952) located approximately 1800 feet west from the proposed point of diversion under Application 55899 and is approximately 1900 feet north west from the existing point of diversion under Permit 24696 Certificate 8284.

VIII.

There is no reference to public interest in any of the protests of Application 55899.

CONCLUSIONS

I.

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

II.

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

- A. The proposed change of use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that there will be no significant decline in water levels in any of the protestants wells as a result of approving Application 55899 since the amount of water pumped from the proposed well would decrease the same amount being pumped from the existing well. The distance from the proposed well and existing well to that of the protestants with the exception of the Johnson's is not significantly changed. The change would reduce

the amount being pumped from the Johnson's well.

IV.

The State Engineer concludes that issuance of a permit for Application 55899 to change the point of diversion and place of use of a portion of Permit 24696 Certificate 8284, does not conflict with existing rights and would not prove to be detrimental to the public interest.

V.

The State Engineer concludes that since both the proposed and existing points of diversion and places of use are outside the area described by Order 904 that it is not applicable.

RULING

The protests to Application 55899 are hereby overruled and Application 55899 will be issued upon receipt of the required statutory fees.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SB/pm

Dated this 14th day of

June, 1993.