

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

IN THE MATTER OF APPLICATION )  
66043 FILED TO CHANGE THE POINT )  
OF DIVERSION OF WATERS )  
PREVIOUSLY APPROPRIATED FROM AN )  
UNDERGROUND SOURCE WITHIN THE )  
MUDDY RIVER SPRINGS AREA (UPPER )  
MOAPA VALLEY) (219), CLARK )  
COUNTY, NEVADA. )

RULING

**# 5161**

GENERAL

I.

Application 66043 was filed on February 3, 2000, by the Moapa Valley Water District (MVWD) to change the point of diversion of 5.0 cubic feet per second of the water previously appropriated under Permit 58269 for municipal purposes within the Sections 5, 6, 8, 9, 13, 14, 15, 16, 24, 25, 26, 35, and 36, T.14S., R.65E., Sections 15, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T.14S., R.66E., Sections 1, 2, 3, 4, 5, 6, 9, and 12, T.15S., R.66E., Sections 6, 7, 8, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, and 36, T.15S., R.67E., Section 31, T.15S., R.68E., Sections 1, 2, 3, 10, 11, 12, 13, 14, 24, and 25, T.16S., R.67E., Sections 6, 7, 8, 17, 18, 19, 20, 30, and 31, T.16S., R.68E., M.D.B.& M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 7, T.14S., R.65E., M.D.B.&M. The existing point of diversion is located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 7, T.14S., R.65E., M.D.B.&M.<sup>1</sup>

II.

Application 66043 was timely protested by the Nevada Power Company on the following grounds:

Nevada Power Company expends considerable effort to monitor the effect of pumping water from our senior

<sup>1</sup> File No. 66043, official records of the Office of the State Engineer.

right wells as well as the collective effect of the withdrawals other users including the Moapa Valley Water District.

"Following two consecutive record-setting years for groundwater production from the Upper Muddy River Valley, hydrographs for wells completed in the carbonate aquifer indicate the increased production has slowing begun to negatively impact groundwater storage in the aquifer. Groundwater elevations measured in EH-4, EH5b and CSV-2 remained as much as one foot below their average maximum levels and were still recovering in March. Below average and delayed water level recoveries in these wells are likely due to increased production form [sic] not only the Lewis and LDS Well fields, but also the Arrow Canyon Well from which the Moapa Valley Water District acquired 70% of its water is 1999."<sup>2</sup>

According to the 1999 Annual Report - Muddy Springs Area Monitoring Plan filed by the Moapa Valley Water District June 8, 2000, the flow of the Pederson Spring is within 0.01 cfs of the Initial Trigger Level. Also the water Level [sic] at CE-VF-1 is within 3 feet of the Initial Trigger Level.

In addition, the water level in Lewis 1-Old, which is constructed in the alluvial aquifer, fell below the bottom of the well during both of the last two years.

#### RECOMMENDATIONS

Nevada Power Company was approached prior to the publication of this application to get our impute [sic] to avoid another protest. While we can support the rationale for adding a second well for reliability and to increase seasonal peaking rate of production we can not at this time support additional duty when Permit No.58269 has not been fully proven. Furthermore, we recommended that the Moapa Valley Water District locate any additional well as far away as possible to prevent the dewatering of the alluvial aquifer in the area of combined influence if and when both wells are operating.

Nevada Power Company therefore requests that a hearing

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<sup>2</sup> Groundwater Level Monitoring, March Quarterly Report, for NPC, Converse Consultants dated March 31, 2000.

for this application be scheduled to address our concerns. Furthermore, we request that any approval include a provision to firmly set a combined duty for the two wells contemplated by the District rather than allowing the District to ratchet its duty of the carbonate aquifer as its customers demand dictates.

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters. The State Engineer finds a hearing is not necessary to consider the merits of the protest filed by Nevada Power Company.

**II.**

The State Engineer finds that the MVWD filed Application 66043 upon recommendation to move ½ of the MVWD's permits from this source to a backup well.<sup>3</sup> The State Engineer finds this action will not affect the intent of Ruling No. 4243 issued by the State Engineer governing the referenced permits or net MVWD any additional water appropriation; however, it offers the MVWD an opportunity to build redundancy and additional capacity into this source while obtaining normal efficiencies in the well and pump designs.

The State Engineer finds the granting of the application changes none of the conditions established under Permit 55450.

**III.**

Protestant Nevada Power Company requested that any approval include the provision to firmly set a combined duty for the two wells contemplated by the District rather than allowing the District to ratchet its duty of the carbonate aquifer as its customers demand dictates. The State Engineer finds that State Engineer's Ruling No. 4243 established the duty under Permits

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<sup>3</sup> Letter dated December 7, 1999, File No. 55450, official records in the Office of the State Engineer.

55450 and 58269. The monitoring plan established mitigation measures that had to be considered if trigger levels were reached, which might require mitigation or reduction in pumping of the amounts permitted under Permits 55450 and 58269. The State Engineer finds if those triggers conditions are reached further action will be taken under the provisions of the monitoring plan established pursuant to State Engineer' Ruling No. 4243.<sup>4</sup>

**CONCLUSIONS OF LAW**

**I.**

The State Engineer has jurisdiction over the persons and subject matter of this action and determination.<sup>5</sup>

**II.**

The State Engineer is prohibited by law from granting a permit under a change application to appropriate the public waters where<sup>6</sup>:

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

**III.**

The State Engineer concludes because of the protections inherent in the monitoring plan established pursuant to State Engineer's Ruling No. 4243 the proposed change will not conflict with existing rights or threaten to prove detrimental to the

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<sup>4</sup> State Engineer's Ruling No. 4243, dated October 27, 1995, official records in the Office of the State Engineer.

<sup>5</sup> NRS chapters 533 and 534.

<sup>6</sup> NRS § 533.370(3).

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public interest.

**RULING**

The protest to Application 66043 is hereby overruled and Application 66043 approved subject to:

1. payment of the statutory permit fees;
2. all other existing rights;
3. and the conditions of State Engineer's Ruling No. 4243.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/SJT/jm

Dated this 3rd day of  
October, 2002.