

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

IN THE MATTER OF APPLICATION)
73566 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE LAS VEGAS)
VALLEY HYDROGRAPHIC BASIN (212),)
CLARK COUNTY, NEVADA.)

RULING

#5630

GENERAL

I.

Application 73566 was filed on December 9, 2005, by Ronald R. Erskine to appropriate 0.0028 cubic-feet per second but not to exceed 1.933 acre-feet annually (afa) of water from an underground source for commercial purposes within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T.22S., R.59E., M.D.B.&M. The proposed point of diversion is within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T.22S., R.59E., M.D.B.&M.¹

II.

Application 73566 was timely protested by D. Veronica Skuse on the following grounds:¹

Serious issues surround the ramifications of approving this application as it is presented. The applicant suggests drilling a well that will draw a considerable amount of water on a daily basis for a recreational facility. Water that will be used to supply and maintain a large commercial size swimming pool, many showers, and a beverage cafe. My well is the closest domestic well with a depth of 400 ft. The well was drilled through a fraction zone with 15ft. of gravel and the rest hard rocks with cracks or fractures. This is a request to have a thorough and complete study conducted of the ground water directly under these sites before approval is recommended and that if the drawing of water from this commercial well (suggested at 7,200 g/d) prevents me from drawing my domestic usage (1,800 g/d) - (which is not even close to what is actually drawn - much less,) than the applicant should

¹ File No. 73566 official records in the Office of the State Engineer.

be required to be liable for this and to do whatever is necessary to replace the depleted water intake.

FINDINGS OF FACT

I.

State Engineer's Order No. 1054 was issued on April 15, 1992, and requires in part that all new applications to appropriate water within the Las Vegas Artesian Basin be denied. An exception contained in this Order allows for the approval of applications for the appropriation of water for commercial and industrial purposes that seek to appropriate 1,800 gallons per day (2.02 afa) or less.²

Application 73566 originally requested the appropriation of 8.28 afa. Upon notification that State Engineer's Order No. 1054 limits all new appropriations for commercial purposes to 1,800 gallons per day, the Applicant amended Application 73566 to appropriate 1.933 afa.¹

The State Engineer finds that Application 73566 requests to appropriate 1.933 afa of underground water from the Las Vegas Artesian Basin for commercial purposes and therefore, Application 73556 can be considered for approval under the exception provided for in State Engineer's Order No. 1054.

II.

Nevada Revised Statute § 534.120(3)(b) gives the State Engineer the authority to deny an application to appropriate ground water for any use in an area that can be served by an entity such as a water district or municipality presently engaged in furnishing water to its inhabitants.³

On April 24, 2006, staff personnel from the Office of the State Engineer conducted an informal field investigation of the proposed place of use of Application 73566. A utility line capable

² State Engineer's Order No. 1054, official records in the Office of the State Engineer.

³ NRS § 534.120(3)(b).

of supplying water service to this parcel was found to be approximately 2.4 miles to the southeast.⁴

The State Engineer finds that the proposed place of use of Application 73566 cannot currently be served by the local municipality.

III.

The protestant's claim is based in part on the request in the original application to appropriate 8.28 afa. The applicant has amended Application 73566 to appropriate a reduced amount of 1.933 afa. This amount is less than the quantity of water allowed for one domestic well (2.02 afa) for which no permit is required.⁵

Nevada water law does not prevent the granting of permits to applicants later in time on the grounds that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectible interests in existing domestic wells and the rights of existing appropriators can be satisfied.⁶

It is the policy of this state to recognize the importance of domestic wells as appurtenances to private homes and to protect their supply of water from unreasonable adverse effects, which are caused by municipal, quasi-municipal or industrial uses.⁷

The State Engineer finds that the quantity of water requested for appropriation under Application 73566 is minimal and the approval of such a small quantity will not impair existing groundwater rights within the Las Vegas Artesian Basin and will not conflict with protectible interests in existing domestic wells.

⁴ See, Informal Field Investigation, April 25, 2006, official record in the Office of the State Engineer.

⁵ NRS § 534.180.

⁶ NRS § 534.110(5)

⁷ NRS § 533.024.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁸

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁹

- A. There is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights; or
- 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 that Application 73566, as amended, meets the criteria under State Engineer's Order No. 1054 and can be considered for approval.

IV.

The State Engineer concludes the quantity of water requested is minimal and will not impair existing ground water rights and will not conflict with protectible interests in existing domestic wells.

V.

Application 73566 was originally filed for 8.28 afa. The Protestant filed a protest to Application 73566 due to concerns about the affects of a large commercial well on the Protestant's domestic well. Subsequently, Application 73566 was amended and the quantity of water requested for appropriation was reduced by about 76% to just 1.933 afa. This amount is less than the amount

⁸ NRS chapters 533 and 534.

⁹ NRS § 533.370(5).

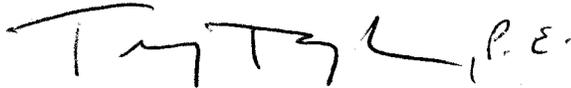
that would be allowed if a domestic well, which does not require a water right permit, was utilized on the same property.

The State Engineer concludes the concerns expressed by the protestant have been adequately addressed by the drastic reduction in the amount of water requested for appropriation.

RULING

The protest to Application 73566 is hereby overruled and Application 73566 is approved, subject to existing rights and the payment of the statutory permit fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Taylor, P.E.', with a stylized flourish at the end.

TRACY TAYLOR, P.E.
State Engineer

TT/BM/jm

Dated this 18th day of
July, 2006.