

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

IN THE MATTER OF APPLICATIONS )  
69454, 69455, 69456 AND 69457 FILED )  
TO APPROPRIATE THE WATERS OF )  
AN UNDERGROUND SOURCE WITHIN )  
THE UPPER REESE RIVER VALLEY )  
HYDROGRAPHIC BASIN (56), LANDER )  
COUNTY, NEVADA. )

**RULING**

**#5806**

**GENERAL**

**I.**

Application 69454 was filed on July 10, 2003, by James M. Champie, Jr., d.b.a. Reese River Cattle Company to appropriate 6.0 cubic feet per second (cfs), not to exceed 1,872 acre-feet annually (afa), of water from an underground source to be used for irrigation and domestic purposes within the Upper Reese River Valley Hydrographic Basin. The proposed place of use is described as 468 acres (the Home Ranch) located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  and E $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 32, N $\frac{1}{2}$ , SW $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 33, all of Section 34, W $\frac{1}{2}$  NW $\frac{1}{4}$  and SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 35, T.18N., R.42E., M.D.B.&M., W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 2, N $\frac{1}{2}$ , SE $\frac{1}{4}$  and E $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 3, N $\frac{1}{2}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$  and NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4, E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 5 T.17N., R.42E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 33, T.18N., R.42E., M.D.B.&M.<sup>1</sup>

**II.**

Application 69455 was filed on July 10, 2003, by James M. Champie, Jr., d.b.a. Reese River Cattle Company to appropriate 6.0 cfs, not to exceed 1,872 afa of water from an underground source to be used for irrigation and domestic purposes within the Upper Reese River Valley Hydrographic Basin. The proposed place of use is the same as described under Application 69454. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 3, T.17N., R.42E., M.D.B.&M.<sup>2</sup> The remarks section of the application indicates that the total combined duty under Applications 69454 and 69455 will not exceed 1,872 afa.

<sup>1</sup> File No. 69454, official records in the Office of the State Engineer.

<sup>2</sup> File No. 69455, official records in the Office of the State Engineer.

### III.

Application 69456 was filed on July 10, 2003, by James M. Champie, Jr., d.b.a. Reese River Cattle Company to appropriate 6.0 cfs, not to exceed 1,600 afa, of water from an underground source to be used for irrigation and domestic purposes within the Upper Reese River Valley Hydrographic Basin. The proposed place of use is described as 400 acres (the Hess Ranch) located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , W $\frac{1}{2}$  SE $\frac{1}{4}$  and SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 33, SW $\frac{1}{4}$  and S $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 34, T.17N., R.42E., M.D.B.&M., W $\frac{1}{2}$ , W $\frac{1}{2}$  E $\frac{1}{2}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$  and NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 3, E $\frac{1}{2}$ , E $\frac{1}{2}$  W $\frac{1}{2}$  and SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4, E $\frac{1}{2}$  SW $\frac{1}{4}$  and W $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 5, NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$  and SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 8, NW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$  and NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 9, NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 10, T.16N., R.42E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 34, T.17N., R.42E., M.D.B.&M.<sup>3</sup>

### IV.

Application 69457 was filed on July 10, 2003, by James M. Champie, Jr., d.b.a. Reese River Cattle Company to appropriate 6.0 cfs, not to exceed 1,600 afa, of water from an underground source to be used for irrigation and domestic purposes within the Upper Reese River Valley Hydrographic Basin. The proposed place of use is the same as that described under Application 69456. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, T.16N., R.42E., M.D.B.&M.<sup>4</sup> The remarks section of the application indicates that the total combined duty under Applications 69456 and 69457 will not exceed 1,600 afa.

### V.

Applications 69454 and 69456 were timely protested by Marie Jeanne Ansolabehere on the following grounds:

1. Protestant holds the earliest vested rights on Reese River at the Steiner Ranch (05895). If granted, the above Application will reduce the Reese River Water table and diminish the flow to the Steiner Ranch. This amount will not be quantifiable.
2. Upper Reese River is unadjudicated. No permit should be issued until the total vested demand is adjudicated.

### VI.

Applications 69454, 69455, 69456 and 69547 were timely protested by Silver Creek Ranch, Inc., on the following grounds:

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<sup>3</sup> File No. 69456, official records in the Office of the State Engineer.

<sup>4</sup> File No. 69457, official records in the Office of the State Engineer.

The underground water supply and hydrology of the sub-basin has not been determined with any certainty. The protestant is the claimant of vested water rights from various sources including springs and subsurface flows which will be adversely effected [*sic*] by additional developments of underground sources in the amount of the application

#### VII.

Applications 69454, 69455, 69456 and 69547 were timely protested by Grace A. Gandolfo on the following grounds:

- 1.) If granted, this appropriation will further diminish the already receding surface water and spring flows on our ranch.
- 2.) Currently, we do not have sufficient water to irrigate our existing land already in culture, any further appropriations will exaggerate the situation.
- 3.) Upper Reese River is unadjudicated. [*sic*] No permit should be issued until the total vested demand is adjudicated[*sic*].

#### VIII.

Answers to the protests were filed and alleged that Applications 69454 and 69456 seek to appropriate ground water within a basin where water is available for appropriation and with a point of diversion more than 35 miles south of Protestant Ansolabehere's ranch. The answer indicates that Protestant Grace Gandolfo has also filed to appropriate ground water asserting said application is in direct contradiction of the issues raised in her protest.

### 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 of the State of Nevada. The State Engineer finds that in the case of protested Applications 69454, 69455, 69456 and 69457 there is sufficient information contained within the records of the Office of the State Engineer to gain full understanding of the issues and a hearing on this matter is not required.

#### II.

Perennial yield of a ground-water reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the ground-water reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded, ground-water levels will decline.

Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increase in cost due to increased pumping lifts, land subsidence and possible reversal of ground-water gradients, which could result in significant changes in the recharge-discharge relationship.<sup>5</sup>

The United States Geological Survey estimates that the perennial yield of the Upper Reese River Valley Hydrographic Basin is approximately 37,000 acre-feet.<sup>6</sup> The committed ground-water resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Upper Reese River Valley Hydrographic Basin is currently 31,234 afa.<sup>7</sup>

The State Engineer finds that existing ground-water rights in the Upper Reese River Valley Hydrographic Basin have been issued for less than the estimated perennial yield from the ground-water system.

### III.

The State Engineer finds that it is a condition of each appropriation of ground water acquired under NRS chapter 534 that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion.<sup>8</sup>

### IV.

The State Engineer finds that there is no evidence in the Office of the State Engineer that the approval of Applications 69454, 69455, 69456 and 69457 would conflict with existing rights or threaten to prove detrimental to the public interest.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>9</sup>

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<sup>5</sup> State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

<sup>6</sup> Water Resources Reconnaissance Series Report 31, Water Resources Appraisal of the Upper Reese River Valley, Lander and Nye Counties, Nevada, USGS 1965.

<sup>7</sup> Special Hydrologic Basin Abstract, Water Rights Database, Basin 056, December 6, 2007, official records within the Office of the State Engineer.

<sup>8</sup> NRS § 534.110(4).

<sup>9</sup> NRS chapters 533 and 534.

**II.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>10</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.**

Applications 69454, 69455, 69456 and 69457 seek to appropriate 3,472 afa from the Upper Reese River Valley Hydrographic Basin. The State Engineer concludes that there is sufficient unappropriated water available within the Upper Reese River Valley Hydrographic Basin to satisfy the requirements of the applications.

**IV.**

The State Engineer concludes that the approval of Applications 69454, 69455, 69456 and 69457 will not conflict with existing rights or threaten to prove detrimental to the public interest.

**RULING**

The protests to Applications 69454, 69455, 69456 and 69457 are hereby overruled and said applications are hereby approved subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/JDT/jm

Dated this 4th day of

January, 2008.

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<sup>10</sup> NRS § chapter 533.370(5).