

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

IN THE MATTER OF APPLICATION 76909)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE CLOVERS AREA)
HYDROGRAPHIC BASIN (64), LANDER)
COUNTY, NEVADA.)

RULING

#5876

GENERAL

I.

Application 76909 was filed on April 4, 2008, by Erik M. Taylor and Kristine W. Taylor to appropriate 0.275 cubic feet per second, not to exceed 88.48 acre-feet annually (afa), of water from an underground source for irrigation purposes. The proposed place of use is described as being located within the W½ of Section 9, T.34N., R.45E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SW¼ of said Section 9.¹

II.

Application 76909 was timely protested by the Pershing County Water Conservation District on the following grounds:¹

That the granting of said application will affect the water table and drainage and adversely affect the decreed water of the Humboldt River. Basin #64, 65, and 66 is over appropriated.

FINDINGS OF FACT

II.

The combined perennial yield of Basins 64 (Clovers Area) 65 (Pumpnickel Valley) and 66 (Kelly Creek Area) is 72,000 afa.² The individual perennial yield of Basin 64, 65 and 66 are 40,000 afa, 16,000 afa and 16,000 afa respectively.³

¹ File No. 76909, official records in the Office of the State Engineer.

² Special Hydrologic Basin Abstract, Water Rights Database, Basin 64, 65 and 66, June 24, 2008, official records within the Office of the State Engineer.

³ Nowlin, Jon, Ground-water Quality in Nevada – A Proposed Monitoring Program, Open File Report 78-768, United States Geological Survey, Nevada Department of Conservation and Natural Resources, p.193, 1978.

The amount of water appropriated in Basins 64 (41,568.58 afa), 65 (14,336.92 afa) and 66 (23,026.08 afa) includes water used for mining and milling purposes.⁴ The State Engineers Office considers the water used in mining and milling to be a temporary use of water and as such is not considered in the amount of water appropriated in a basin. The State Engineer finds if the water used for mining and milling is removed from the amount of water appropriated for each basin, then in Basin 64 there is 32,595.08 afa of water appropriated, in Basin 65 there is 8,289.92 afa of water appropriated and in Basin 66 there is 6,490.77 afa of water appropriated and the basins are not over appropriated; and there is water available for appropriation. The State Engineer finds the perennial yield of the ground-water basin belongs to the basin and not to the Humboldt River.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁶

- 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 that the approval of Application 76909 to appropriate water from Hydrographic Basin 64 (Clovers Area) will not conflict with existing water rights or threaten to prove detrimental to the public interest.

⁴ Special Hydrologic Basin Abstract, Water Rights Database, Basin 64, 65 and 66, June 24, 2008, official records within the Office of the State Engineer.

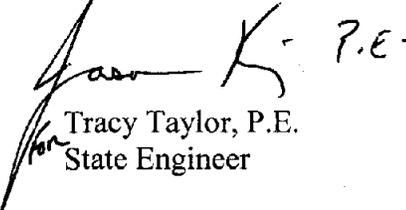
⁵ NRS chapters 533 and 534.

⁶ NRS § 533.370(5).

RULING

The protest to Application 76909 is hereby overruled and Application 76909 is hereby approved subject to existing rights and the payment of statutory permit fees.

Respectfully submitted,


Tracy Taylor, P.E.
State Engineer

TT/JED/jm

Dated this 23rd day of
July 2008