

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

IN THE MATTER OF PROTESTED)
APPLICATION 73048 FILED TO)
APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BEDELL)
FLAT HYDROGRAPHIC BASIN (94),)
WASHOE COUNTY, NEVADA.)

RULING
#6073

GENERAL

I.

Application 73048 was filed on July 14, 2005, by Intermountain Water Supply, Ltd., to appropriate 5 cubic feet per second (cfs), not to exceed 500 acre-feet annually (afa) of water from an underground source for municipal and domestic purposes. The proposed place of use is described as being located within all of T.21N., R.19E., M.D.B.&M., Section 36, T.21N., R.18E., M.D.B.&M., Sections 1 through 12, 15, 16 and 17, T.20N., R.19E., M.D.B.&M., and Sections 1 and 12, T.20N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 5, T.23N., R.19E., M.D.B.&M.¹

II.

Application 73048 was timely protested by Washoe County on the following grounds:¹

The above referenced applications propose to appropriate 1,000.00 acre-feet of ground water from the Bedell Flat hydrographic basin. State Engineer's ruling #5429 issued on October 14th, 2004 determined a total available duty of 144.20 acre-feet remains for appropriation by Application 66873. That ruling is currently under appeal and Washoe County is not aware of any new studies that could have affected the State Engineer's determination.

Therefore, based on the available information and the State Engineer's ruling #5429, it is clear that there is no water available for appropriation, and the applications should be denied.

¹ File No. 73048, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Application 73048 was filed for 500 afa of groundwater within the Bedell Flat Hydrographic Basin. The State Engineer considers the Bedell Flat Hydrographic Basin fully appropriated under existing water rights.² Permit 53338 was approved by the State Engineer on December 6, 1991, and appropriated 52.6 afa of groundwater from the Bedell Flat Hydrographic Basin. Permit 53338 was withdrawn on October 22, 2010. The State Engineer finds that with the withdrawal of Permit 53338 there is 52.6 afa of groundwater available for appropriation under Application 73048.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- 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 water previously appropriated under withdrawn Permit 53338 is available for appropriation within the Bedell Flat Hydrographic Basin. Application 73048 is the most senior pending application to appropriate groundwater. The State Engineer concludes that the protest may be overruled on the condition that Application 73048 is limited to a duty of 52.6 afa of groundwater.

² State Engineer's Ruling No. 5429, October 14, 2004, official records in the Office of the State Engineer.

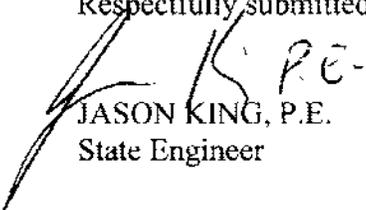
³ NRS chapters 533 and 534.

⁴ NRS § 533.370 (5).

RULING

The protest to Application 73048 is overruled and the application is hereby approved in the amount of 52.6 afa, subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 1st day of
December, 2010.