

IN THE MATTER OF APPLICATION NO. 13972)
 IN NAME OF JOHN B. DOYLE TO APPROPRIATE : RULING
 GROUND WATER FOR IRRIGATION PURPOSES, :
 DOUGLAS COUNTY, NEVADA.)

Application No. 13972 was filed January 3, 1952 by John B. Doyle to appropriate 4.0 c.f.s. of ground water for irrigation purposes. The proposed point of diversion is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, T. 12 N., R. 19 E., M.D.B.&M., and the land to be irrigated, consisting of 108 acres, is located in the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 11 and in portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, T. 12 N., R. 19 E.

Notice of said application was published in the Record Courier, a weekly newspaper of general circulation within Douglas County, for the period of time required by law. Within the time provided by law the following protests were filed to the granting of a permit under Application No. 13972:

Ed. Berning	-	Protest filed April 18, 1952
Roy and Dorothy Heise	-	" " " " "
Stella Johnson	-	" " " " "
Ella Anderson	-	Protest filed April 25, 1952
John Feil	-	" " " " "
Chris Cordes	-	" " " " "
Roy H. Storke	-	" " " " "

The grounds set forth in the protests are, in substance, the same; that is, that each protestant is the owner of small artesian wells used for domestic and stockwatering purposes and they are fearful that the pumping as proposed by Mr. Doyle under Application No. 13972 will seriously affect these wells. Several of the protestants pointed out that the pumping from the Dangberg well (located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31, T. 13 N., R. 20 E.) affected the flow from their wells.

On May 15, 1952 a field investigation was made by Messrs. Winchester and Jewitt of the State Engineer's staff and the report of their investigation is of record in the State Engineer's office.

GENERAL

The Underground Water Act provides that to have a vested right from an artesian well, the well must have been drilled prior to March 22, 1913 (Section 9B, Chap. 178, Stats. 1947). The ground water act does not, however, apply to domestic water where the draught does not exceed two gallons per minute, except as to the furnishing of any information required by the State Engineer (Sec. 3, Chap. 178, Stats. 1939 as amended Stats. 1949). The term "domestic use" as herein applied, extends to culinary and household purposes, the watering of domestic animals, family garden and lawns. The state engineer construes the term "two gallons per minute" (0.00446 c.f.s.) to mean that the owner can use a quantity of water equal to

2,880 gallons every 24 hours (1,440 minutes in each 24 hours), not necessarily in a continuous flow, but rather when the water is needed during the 24-hour period.

The owner of an artesian well, used for domestic purposes, or in fact any beneficial purpose, drilled prior to March 22, 1913, would have a vested right if water from such well was used for beneficial purposes prior to and subsequent from such date. The owner of such a well used for domestic purposes and drilled subsequent to March 22, 1913 would not have acquired a legal right to the water unless he had complied with the laws relating thereto; however, he would have a legal right of usage and would not be affected by any of the restrictive measures provided in the ground water law.

We have no information as to the dates the wells belonging to the protestants were drilled.

The question then arises as to what protection the users of the small artesian wells have as against other developments in the area where such development may affect the static water levels of their wells, even to the extent of causing the free-flow to stop. We think this is covered by the language in Section 10 of the ground water act (Stats. 1939, Chap. 178 as amended Stats. 1949). The interpretation of the State Engineer on the language therein pertinent is as follows:

The State Engineer shall determine if there is any unappropriated water in the area and shall issue permits only if he finds that there is unappropriated water available.

That each appropriation of ground water shall relate to a specific quantity and that such right must allow for a reasonable lowering of the static water level at the appropriator's well. The State Engineer is to determine the extent of reasonable lowering and in such determination shall consider the economics of pumping water for the general type of crops produced and may consider the effect of such water use on the economy of the area in general. It is the policy of the State Engineer to restrict further diversions when (1) the safe yield has been reached, and (2) when the water table has been lowered to a level from which the pumping lift approaches the maximum economical limit, and (3) when further diversion will adversely affect the economy of the area in general, whichever occurs first.

It further provides that a right to appropriate ground water does not guarantee the permittee the right to have the water level in his well maintained at any level higher than is necessary for a reasonable pumping lift. This means that such permittee

has no regress if other permits are granted in the area, although further appropriations under such permits cause the water level to drop or affect free-flow conditions. The State assumes, as a matter of public policy, the right to insure the largest beneficial use of the natural supply and that when the water level declines the burden is upon owners of existing wells, ultimately, to obtain their legal yield by increased pumping if necessary.

DECREED RIVER WATER:

It is the intention of applicant, by virtue of this application, to provide a supplemental supply of water to lands already having a vested right from the West Fork of the Carson River. In the Proposed Findings of Fact, Conclusions of Law and Decree "In the Matter of the United States of America, Plaintiff, vs. Alpine Land & Reservoir Company, a Corporation, et al", Defendants", Case No. D-183 pending in the District Court of the United States in and for the District of Nevada, the lands to which water is to be appurtenant under Application No. 13972, are given a decreed right as follows:

20 acres with a priority of 1858, and
88 acres with a priority of 1871.

FINDINGS:

As a result of the studies made in the Carson Valley area during the past few years, it is our considered opinion that there is unappropriated water available.

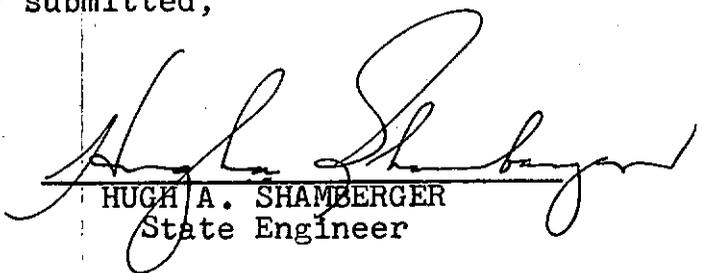
It is true that pumping operations from the proposed well under Application No. 13972 may affect other wells in the general area, although the extent of such affect cannot at this time be determined. In all valleys where ground water is available, and where ground water development is taking place, we can expect well interference. The extent of the interference depends on the proximity of the wells to each other; on the permeability of the aquifers, and the hydraulic connection between wells. It is quite possible that interference from the proposed Doyle well could be lessened by requiring that perforations in the casings be allowed only below a depth of 100 feet. Naturally, where there is interference, the static pressure is lowered. However, it does not follow that, because the static pressure is lowered the present users of ground water in the area have been legally injured if they can, by reasonable means, still obtain the amount of water to which they are entitled.

RULING

The protests to the granting of a permit under Application No. 13972 are herewith overruled and a permit will be issued subject to the following provisions:

- (1) Subject to prior existing rights on the source;
- (2) Perforations to be placed in pipe casing only below a depth of 100 feet; and
- (3) The combined use from all sources shall not, during any one season, exceed the duty of water on such land as may hereinafter be set by decree.

Respectfully submitted,



HUGH A. SHAMBERGER
State Engineer

Dated this 21st day of October, 1952.