

IN THE MATTER OF APPLICATIONS 36052)
THROUGH 36057, INCLUSIVE, TO CHANGE)
EXISTING WATER RIGHTS TO APPROPRIATE)
WATER FROM AN UNDERGROUND SOURCE IN)
SPANISH SPRINGS VALLEY, WASHOE)
COUNTY, NEVADA)

R U L I N G

INTRODUCTION

Applications 36052 through 36057, inclusive, were filed by the Spanish Springs Association to change the point of diversion and place of use of previously appropriated underground water in Spanish Springs Valley, Washoe County, Nevada.

Applications 36052 through 36057, inclusive, were protested by L. David Kiley, Trustee (and personally) and Richard T. Donovan.

FINDINGS OF FACT

I

Application 36052 was filed on October 18, 1978 by the Spanish Springs Association to change the point of diversion and place of use heretofore appropriated under Permit 29284. The amount of water proposed to be changed is 2.2 c.f.s. but not to exceed 474.49 acre-feet annually. The proposed point of diversion is within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, T21N, R20E, MDM. The existing point of diversion is within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T21N, R20E, MDM. The proposed place of use is within those portions of Sections 3 and 4, T20N, R20E; Sections 11, 13, 14, 15, 22, 23, 26, 27, 34 and 35, T21N, R20E, west of Highway 33. The existing place of use is within portions of Sections 14, 15, 22 and 23, T21N, R20E MDM, west of Highway 33. The manner of use for quasi-municipal purposes remains unchanged. The period of use remains from January 1 to December 31 of each year.

Application 36053 was filed on October 18, 1978 by the Spanish Springs Association to change the point of diversion and place of use heretofore appropriated under Permit 29285. The amount of water proposed to be changed is 0.33 c.f.s. but not to exceed 96.55 acre-feet annually. The proposed point of diversion is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T21N, R20E, MDM. The existing point of diversion is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T21N, R20E, MDM. The proposed place of use is the same as that described under Application 36052. The existing place of use is within the SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 13, T21N, R20E, MDM. The manner of use for quasi-municipal purposes remains unchanged. The period of use remains from January 1 to December 31 of each year.

Application 36054 was filed on October 18, 1978 by the Spanish Springs Association to change the point of diversion and place of use heretofore appropriated under Permit 29286. The amount of water proposed to be changed is 0.45 c.f.s. but not to exceed 124.14 acre-feet annually. The proposed point of diversion is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, T21N, R20E, MDM. The existing point of diversion is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, T21N, R20E, MDM. The proposed place of use is the same as that described under Applications 36052 and 36053. The existing place of use is within the NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 13, T21N, R20E, MDM. The manner of use for quasi-municipal purposes remains unchanged. The period of use remains from January 1 to December 31 of each year.

Application 36055 was filed on October 18, 1978 by the Spanish Springs Association to change the point of diversion and place of use heretofore appropriated under Permit 29287. The amount of water proposed to be changed is 1.8 c.f.s. but not to exceed 594.94 acre-feet annually. The proposed point of diversion is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T20N, R20E, MDM. The existing point of diversion is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T21N, R20E, MDM. The proposed place of use is the same as that described under Applications 36052, 36053 and 36054. The existing place of use is within Section 27; Section 26 west of Highway 33; N $\frac{1}{2}$ Section 34; NW $\frac{1}{4}$ Section 35 west of Highway 33, T21N, R20E, MDM. The manner of use for quasi-municipal purposes remains unchanged. The period of use remains from January 1 to December 31 of each year.

Application 36056 was filed on October 18, 1978 by the Spanish Springs Association to change the point of diversion and place of use heretofore appropriated under Permit 29288. The amount of water proposed to be changed is 1.1 c.f.s. but not to exceed 319.04 acre-feet annually. The proposed point of diversion is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T20N, R20E, MDM. The existing point of diversion is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T20N, R20E, MDM. The proposed place of use is the same as that described under Applications 36052, 36053, 36054 and 36055. The existing place of use is within Section 3 west of Highway 33 and the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 4, T20N, R20E; SE $\frac{1}{4}$ Section 34 and the SW $\frac{1}{4}$ Section 35 west of Highway 33, T21N, R20E, MDM. The manner of use for quasi-municipal purposes remains unchanged. The period of use remains from January 1 to December 31 of each year.

By deeds filed in the office of the State Engineer, a portion of Permit 29288 has been purchased by the Desert Springs Utility Company.

Application 36057 was filed on October 18, 1978 by the Spanish Springs Association to change the point of diversion and place of use heretofore appropriated under Permit 29289. The amount of water proposed to be changed is 0.9 c.f.s. but not to exceed 390.8 acre-feet annually. The proposed point of diversion is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, T21N, R20E, MDM. The existing point of diversion is within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T21N, R20E, MDM. The proposed place of use is the same as that described under Applications 36052, 36053, 36054, 36055 and 36056. The existing place of use is within the N $\frac{1}{2}$ Section 14 west of Highway 33; E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 15 and Section 11, all in T21N, R20E MDM. The manner of use for quasi-municipal purposes remains unchanged. The period of use remains from January 1 to December 31 of each year.

Protests to the granting of each Application 36052 through 36057, inclusive, were filed on June 1, 1979 by L. David Kiley, Trustee and L. David Kiley personally. The basis of the protest is that there has been no beneficial use of the water by the applicant and the applications were made to extend the time of the original applications. In addition, the protestant is of the belief that the Spanish Springs basin is over-appropriated and water not put to use should be allowed to expire.

Protests to the granting of each Application 36052 through 36057, inclusive, were filed on June 1, 1979 by Richard T. Donovan. The protestant claims the proposed changes of the points of diversion and places of use will impair the value of his existing certified rights and that the applicant has made no beneficial use of the water. The protestant further claims that Applications 36052 through 36057, inclusive, are a ploy to obtain extensions of time and that the Spanish Springs basin is grossly overappropriated with certificated and permitted rights.

II

A hearing was held before the State Engineer, after proper notice, on December 17, 1980 in Reno, Nevada in the matter of protested Applications 36052 through 36057, inclusive. 1/

Testimony by Protestant Donovan established that the nearest well owned by the Spanish Springs Association was approximately one and one-half miles from his existing rights. 2/

Testimony by Protestant Kiley established that the nearest well owned by the Spanish Springs Association was about a mile from his existing rights. 3/

Testimony in behalf of the Applicant Spanish Springs Association stated the intent of the applications to change existing water rights was to consolidate the place of use from six discrete places of use to one place of use where water from any one right could be used anywhere within the association property. 4/

Expert testimony in behalf of the applicant, Spanish Springs Association, calculated that approximately 62 percent of the water served to the development would be returned to the ground water aquifer and would be available for reuse. 5/

The expert witness testified in behalf of the applicant, Spanish Springs Association, of the minimal calculated effect of pumping the nearest association wells on the existing wells under rights held by protestants Kiley and Donovan. 6/

Testimony in behalf of the applicant, Spanish Springs Association, claims the applicant has exercised due diligence but the protests filed and restrictions placed by governmental agencies have caused a year and one-half delay in attempts to place the water to a beneficial use. 7/

CONCLUSIONS

I

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

II

The State Engineer shall approve all applications made in proper form which:

1. Contemplates the application of water to a beneficial use, or where
2. The proposed use or change does not tend to impair the value of existing rights, or
3. To be otherwise detrimental to the public welfare. 9/

III

The existing water rights held by the protestants are located at some distance from the proposed changes and do not threaten to impair the value of the protestants' rights.

Permits issued by the State Engineer are subject to a reasonable lowering of the water table and in areas of increasing development some effect may be caused by increasing demands.

IV

The applicant is attempting a more efficient distribution of the use of water from existing rights by filing simultaneous applications to consolidate the place of use into one general service area.

V

Delays of at least one and one-half years to develop the project in an orderly manner have been caused in resolving the protests filed and restrictions placed by governmental agencies.

VI

A portion of the appropriation granted under Permit 29288 has been assigned to the Desert Springs Utility Company. This portion of Permit 29288 shall remain appurtenant to the lands described within the place of use under Permit 29288. The permit granted to Application 36056 will reflect the balance of Permit 29288 held in the name of the Spanish Springs Association.

RULING

The protests to the granting of Applications 36052 through 36057, inclusive, to change the points of diversion and place of use of Permits 29284 through 29289, inclusive, are herewith overruled on the grounds that the granting will not tend to impair the value of existing rights. Permits will be granted to Applications 36052 through 36057, inclusive, extending the time for filing the Proof of Beneficial Use for a period of one and one-half years beyond the requirements of the original permits.

Respectfully submitted,



William J. Newman

William J. Newman
State Engineer

WJN/bc

Dated this 28th day of
APRIL, 1981.

FOOTNOTES

1. Transcript of December 17, 1980 hearing is a public record available for examination in the office of the State Engineer.
2. Transcript of December 17, 1980 hearing, page 20 and 21, is a public record available for examination in the office of the State Engineer.
3. Transcript of December 17, 1980 hearing, page 33, is a public record available for examination in the office of the State Engineer.
4. Transcript of December 17, 1980 hearing, page 48 and 49, is a public record available for examination in the office of the State Engineer.
5. Transcript of December 17, 1980 hearing, page 91, is a public record available for examination in the office of the State Engineer.
6. Transcript of December 17, 1980 hearing, pages 99 to 103, is a public record available for examination in the office of the State Engineer.
7. Transcript of December 17, 1980 hearing, pages 114 to 116, is a public record available for examination in the office of the State Engineer.
8. NRS 533.370.
9. NRS 533.370, Section 1.