

IN THE MATTER OF APPLICATION 46604)
FILED TO APPROPRIATE UNDERGROUND WATER)
IN WASHOE VALLEY, WASHOE COUNTY, NEVADA.)

R U L I N G

GENERAL

Application 46604 was filed by Washoe Estates on February 3, 1983 to change the point of diversion of a portion of Application 40565. Application 46604 was to change 0.20 c.f.s. and 18.62 million gallons annually of the 0.25 c.f.s. and 23.0 million gallons annually applied for under Application 40565 from an underground source. Application 40565 was filed on February 20, 1980 by Standard Investment Group, Inc.

Application 40565 was filed to be supplemental to the water already appropriated under Permit 34738. Permit 34738 was issued on August 15, 1978 for 0.25 c.f.s. and 23.0 million gallons annually. Application 40565 was filed to replace the water that had already been appropriated under Permit 36170 but that permit was cancelled on November 8, 1979 for failure to comply with the terms of the permit. The points of diversion of both Applications 40565 and 46604 and Permit 34738 are located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, T. 17 N., R. 19 E., M.D.B.&M. The place of use of all of the above is within portions of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, T. 17 N., R. 19 E., M.D.B.&M.

Application 46604 was protested by Bruce R. Scott, agent for Nevada First Thrift, on February 18, 1983. The protest prayed that Application 46604 be denied on the following grounds:

1. Applicant has no remaining interest in the permit or application on which they have filed this application to change.
2. Protestant owns the commercial property proposed to be served under this application to change.
3. Protestant owns the portion of the water right which is the subject of this application to change.

A letter on file in Application 46604 dated June 15, 1983, from Bruce R. Scott to Roy H. Hibdon, stated if "...Applications 46603 and 46605 would be withdrawn..." the protestant would withdraw the protest on Application 46604.

A letter on file in Application 46604 dated June 21, 1983, from Roy H. Hibdon to Bruce R. Scott, stated that until he (Hibdon) received authorization from Standard Investments "...I can do nothing." Mr. Hibdon further stated that he had not received direction as such.

A letter on file in Application 46604 dated August 4, 1983 from Roy H. Hibdon to Division of Water Resources, indicated that with Earl Huddleston's authorization, Applications 46603, 46604 and 46605 were to be withdrawn.

Applications 46603, 46604 and 46605 were withdrawn as of August 9, 1983.

A letter on file in Application 46604 dated October 3, 1983, from Earl M. Huddleston to the Division of Water Resources, stated that with his (Huddleston's) authorization Mr. Hibdon withdrew Applications 46603, 46604 and 46605. The letter further stated that "... Application 46604 should not have been withdrawn." 1/

CONCLUSION

Application 46604 which was to change Application 40565 was needed to correct the location of the well to the point it actually exists. This point of diversion is that which was issued under Permit 36170. When Permit 36170 was cancelled and Application 40565 was filed for the wrong point of diversion, another application to change was necessary to correct this. This error in point of diversion was discovered at the time of a hearing, which was conducted on October 26, 1982. This hearing covered a number of other applications, including Application 40565. Therefore, Application 46604 was filed to correct the point of diversion of Application 40565, which point of diversion physically existed under Permit 34738. 2/

The issuance of Application 40565 would not increase the amount of water being drawn from Washoe Valley Hydrographic Area since it is supplemental to Permit 34738, and is limited to a total combined duty of 23.0 million gallons annually..

Therefore, the withdrawal of Application 46604 would place the status of Application 40565 back to being in error and should the withdrawal stand, another application to change would be necessary to correct the point of diversion.

Ruling
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The State Engineer has jurisdiction of the parties and subject matter of this action. 3/

RULING

The withdrawal of Application 46604 is hereby rescinded on the grounds set forth in the conclusion of this ruling.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros". The signature is fluid and cursive, with a large initial "P" and "M".

PETER G. MORROS
State Engineer

PGM/HR/br

Dated this 20th day of
January, 1984.

FOOTNOTES

1. See Applications 34738, 36170, 40565, 46603, 46604, and 46605 on file in the State Engineer's office.
2. Transcript of Proceedings in the matter of applications to appropriate the public waters in Washoe Valley Groundwater Basin. October 26, 1982.
3. NRS 533.370.