

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

IN THE MATTER OF APPLICATION 61587)
FILED TO APPROPRIATE THE UNDERGROUND)
WATERS OF THE LAMOILLE VALLEY)
GROUNDWATER BASIN (45), ELKO COUNTY,)
NEVADA.)

RULING
4531

GENERAL

I.

Application 61587 was filed on October 3, 1995, by Richard L. Bitton Family Living Trust, Richard L. Bitton and Sherry Lynn Bitton co-trustees, to appropriate 1.00 cubic foot per second (cfs) of the underground waters of the Lamoille Valley Groundwater Basin, Elko County, Nevada, for irrigation purposes on 10 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 19, T.33N., R.58E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 19.¹

II.

Application 61587 was timely protested by Pershing County Water Conservation District of Nevada on the grounds that:

the granting of said application will affect the water table and drainage and adversely effect the decreed waters of the Humboldt River.¹

III.

The State Engineer initially described and designated the Lamoille Valley Groundwater Basin on July 18, 1985, under the provisions of NRS § 534.030, as a basin in need of additional administration.² The point of diversion proposed under Application 61587 is within the designated area described as the Lamoille Valley Groundwater Basin.

¹ File No. 61587, official records in the office of the State Engineer.

² State Engineer's Order No. 869, dated July 18, 1985, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

The perennial yield of a hydrologic basin is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural recharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded groundwater levels will decline until the groundwater reservoir is depleted.³ Withdrawals of groundwater in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of ground water gradients which could result in significant changes in the recharge-discharge relationship. The State Engineer finds that the perennial yield of the Lamoille Valley Groundwater Basin to be 8,000 acre feet annually (AFA).⁴ The perennial yield is a portion of the 83,000 AFA combined perennial yield for hydrographic basins 42, 43, 44, and 45, which are the Marys River Area, Starr Valley, North Fork Area, and Lamoille Valley.⁴

II.

The State Engineer finds that existing permitted and certificated groundwater rights in the Lamoille Valley Groundwater Basin total 2,516 AFA.⁵ Of this quantity, 2,034 AFA of water have been appropriated for irrigation use. The total quantity appropriated from the combined underground waters of hydrographic basins 42, 43, 44 and 45 exceeds 40,698 AFA.⁵ The State Engineer

³ State Engineer's office, WATER FOR NEVADA, STATE OF NEVADA WATER PLANNING REPORT NO. 3, p. 13, Oct. 1971.

⁴ Nowlin, Jon, GROUNDWATER QUALITY IN NEVADA, A PROPOSED MONITORING PROGRAM, Open File Report 78-768, USGS, p. 192.

⁵ Records in the office of the State Engineer.

finds that there is additional water available for appropriation within the Lamoille Valley Groundwater Basin.

III.

The protestant alleged that the proposed pumping from the applicant's well would conflict with the decreed water rights of the Humboldt River. The proposed point of diversion is located approximately 1,000 feet from Lamoille Creek. Lamoille Creek is a tributary to the Humboldt River. Using the standard Theis Non-Equilibrium equation to estimate the drawdown of the water level from the pumping of the proposed well, and using conservative values of storativity (0.01) and transmissivity (1,336 SFD), the State Engineer finds after pumping for a period of 10 years the drawdown of the groundwater level at a distance of 500 and 1,320 feet from the point of diversion under Application 61587 will be 2.4 feet and 1.8 feet, respectively. The State Engineer finds that the quantity of water applied for under Application 61587 is minimal and the distance great enough that the chances of interference with the protestant's water rights is nil. The State Engineer finds that the applicant's well can be pumped, as proposed under Application 61587, with only a reasonable lowering of the water table and will not interfere with existing rights.

IV.

The State Engineer finds that there is no evidence in the office of the State Engineer that the approval of Application 61587 threatens to prove detrimental to the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.⁶

⁶ NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters of Nevada where:⁷

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that it is a condition of each appropriation of ground water acquired under NRS Chapter 534 that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion.⁸

IV.

The State Engineer concludes that the approval of Application 61587 will not conflict with any existing rights nor would it threaten to prove detrimental to the public interest.

RULING

The protest to Application 61587 is hereby overruled and said application is hereby approved subject to existing rights and the payment of the statutory permit fees.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RKM/ab

Dated this 6th day of
June, 1997.

⁷ NRS § 533.370.

⁸ NRS § 534.110(4).