

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

IN THE MATTER OF APPLICATION 67828 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE ELKO SEGMENT )  
HYDROGRAPHIC BASIN (049), ELKO )  
COUNTY, NEVADA. )

RULING

# 5080

GENERAL

I.

Application 67828 was filed on July 20, 2001, by Maggie Creek Ranch, LP to appropriate 4.0 cubic feet per second, not to exceed 1,200 acre-feet annually, of underground water of the Elko Segment Hydrographic Basin, Elko County, Nevada. The proposed manner and place of use is for the irrigation of 300 acres of land located within the S $\frac{1}{4}$  of Section 17, and the W $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 20, T.33N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 17.<sup>1</sup>

II.

Application 67828 was timely protested by Pershing County Water Conservation District of Nevada on the following grounds.<sup>1</sup>

That the granting of said application will effect the water table and drainage and aversely effect the decreed waters of the Humboldt River. Also, said application is for basin #51 which is currently over appropriated.

FINDINGS OF FACT

I.

By State Engineer's Order No. 778, issued on December 8, 1981, the Elko Segment groundwater basin was described and designated by the State Engineer as a groundwater basin in need of additional administration.<sup>2</sup> The State Engineer finds that the

<sup>1</sup> File No. 67828, official records in the office of the State Engineer.

<sup>2</sup> State Engineer's Order No. 778, official records in the office of the State Engineer.

proposed point of diversion and place of use described under Application 67828 fall within the boundaries of the Elko Segment designated groundwater basin.

**II.**

The State Engineer has denied applications that requested permanent appropriations of underground water for irrigation purposes within the Elko Segment groundwater basin since 1993. These denials were based on the grounds that withdrawals of additional groundwater from the basin would interfere with and impair existing water rights and would prove to be detrimental to the public interest.<sup>3</sup> The State Engineer finds that Application 67828 requests an additional appropriation of water from within the Elko Segment groundwater basin for a manner of use that has previously been denied by the State Engineer.

**III.**

When a previous application for a similar use of water within the same hydrologic groundwater basin has been rejected on the grounds that there is no unappropriated water or when its proposed use would conflict with existing rights or would threaten to prove detrimental to the public interest, the new application may be denied without going to publication.<sup>4</sup> The State Engineer finds that Application 67828 can be denied prior to publication.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>5</sup>

**II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>6</sup>

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<sup>3</sup> File Nos. 58288 and 58389, official records in the office of the State Engineer.

<sup>4</sup> NRS § 533.370(3).

<sup>5</sup> NRS chapters 533 and 534.

<sup>6</sup> NRS § 533.370(3).

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024;
- D. the proposed use threatens to prove detrimental to the public interest; or

**III.**

The State Engineer concludes that an application may be denied without going to publication where a previous application for a similar use in the same basin has been denied.<sup>7</sup>

**IV.**

Application 67828 was filed to appropriate underground water from the Elko Segment groundwater basin. The State Engineer has denied previous applications that requested new appropriations of underground water for irrigation purposes from this groundwater basin on the grounds that their approval would impair existing rights and would threaten to prove detrimental to the public interest. The State Engineer concludes the approval of Application 67828 would have a similar negative effect; therefore, it must also be denied.

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<sup>7</sup> NRS § 533.370(3).

RULING

Application 67828 is hereby denied on the grounds that its approval would conflict with existing water rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
HUGH RICCI, P.E.  
State Engineer

HR/MDB/hf

Dated this 2nd day of  
October, 2001.