

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

IN THE MATTER OF APPLICATIONS 69547 )  
AND 70233 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE WARM SPRINGS )  
VALLEY HYDROGRAPHIC BASIN (084), )  
WASHOE COUNTY, NEVADA. )

RULING

# 5565

GENERAL

I.

Application 69547 was filed on February 6, 2003, by W. Dalton LaRue, Jr. and/or Anastasia J. LaRue, d.b.a. Winnemucca Ranch to appropriate 0.10 cubic feet per second (cfs), not to exceed 10.0 acre-feet annually (afa), of underground water from the Warm Springs Valley Hydrographic Basin. The proposed manner of use is for quasi-municipal purposes within the W $\frac{1}{2}$  W $\frac{1}{2}$  of Section 13 and the E $\frac{1}{2}$  E $\frac{1}{2}$  of Section 14, T.24N., R.19E., M.D.B.&M. The proposed point of diversion is described as being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 14, T.24N., R.19E., M.D.B.&M.<sup>1</sup>

II.

Application 70233 was filed on July 17, 2003, by W. Dalton LaRue, Jr. and/or Anastasia J. LaRue, d.b.a. Winnemucca Ranch to appropriate 0.10 cfs, not to exceed 10.0 afa of underground water from the Warm Springs Valley Hydrographic Basin. The proposed manner of use is for quasi-municipal purposes within the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 24, T.24N., R.19E., M.D.B.&M. and the W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 19, T.24N., R.20E., M.D.B.&M. The proposed point of diversion is described as being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 19, T.24N., R.20E., M.D.B.&M.<sup>2</sup>

<sup>1</sup> File No. 69547, official records in the Office of the State Engineer.

<sup>2</sup> File No. 70233, official records in the Office of the State Engineer.

**III.**

Application 69547 was timely protested by Robert W. and Nanette Marshall, d.b.a. Intermountain Cattle Company. The protestant requested that Application 69547 be denied on the grounds that issuing the permit would prove detrimental to the existing Warm Spring Creek Adjudication, permitted spring and underground rights, and maintaining ground water resources balance for the basin.<sup>1</sup>

**IV.**

Application 69547 was timely protested by Intermountain Pipeline, Ltd. The protestant requested that Application 69547 be denied on the grounds that issuing the permit would prove detrimental to the existing Warm Spring Creek Adjudication, permitted spring and underground rights, and maintaining ground water resources balance for the basin.<sup>1</sup>

**V.**

Applications 69547 and 70233 were timely protested by Washoe County. The protestant requested that Applications 69547 and 70233 be denied because;

- 1) There is no unappropriated water in the source of supply
- 2) The proposed appropriations threaten to prove detrimental to the public interest
- 3) The proposed applications would conflict with existing rights.<sup>1,2</sup>

**FINDINGS OF FACT**

**I.**

The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Warm Springs Valley Hydrographic Basin currently exceeds 7,100 acre-feet annually.<sup>3</sup>

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<sup>3</sup> Nevada Division of Water Resources Water Rights Database, Hydrographic Basin Summary, Warm Springs Valley, February 22, 2005, official records in the Office of the State Engineer.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded groundwater levels will decline.<sup>4</sup>

Withdrawals of ground water in excess of the perennial yield may 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 groundwater gradients, which could result in significant changes in the recharge-discharge relationship.

The Warm Springs Valley Hydrographic Basin has experienced continual and vigorous development of its underground water resource since 1967 when the United States Geologic Survey (USGS) first evaluated the groundwater basin's water resources as part of its Nevada water reconnaissance program. The findings of the hydrologic study, which are specific to the Warm Springs Valley Hydrographic Basin, can be found within Water Resources - Reconnaissance Series Report 43, Water-Resources Appraisal of the Warm Springs-Lemmon Valley Area, Washoe County, Nevada, "Recon 43". This report, which was authored by Rush and Glancy provides a general understanding of the groundwater basin's recharge-discharge relationship from which an estimate of the Warm Springs Valley perennial yield is derived.

Rush and Glancy estimated the potential groundwater recharge to the Warm Springs Valley Hydrographic Basin by precipitation was 6,000 afa. This was balanced against the estimated phreatophyte use of 1,500 afa and the 70 acre-feet of underground flow from Warm Springs Valley to Pyramid Lake Valley. The discrepancy between potential recharge and estimated discharge was believed to

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<sup>4</sup> Office of the State Engineer, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

be due to an overestimation of recharge potential due to the "shadowing" effect of the Sierra Nevada Mountains to the west. Therefore, the perennial yield of the Warm Springs Valley Hydrographic Basin was calculated by Rush and Glancy to be 3,000 acre-feet.<sup>3</sup>

State Engineer finds that the Recon 43 estimate of the Warm Springs Valley Hydrographic Basin perennial yield is significantly exceeded by the basin's committed groundwater resource.

## II.

The State Engineer has denied applications that requested a permanent appropriation of underground water within the Warm Springs Valley Hydrographic Basin since 1980. These denials were based on the grounds that withdrawals of additional groundwater in a basin in which appropriations of groundwater substantially exceed the perennial yield of the basin would adversely affect existing rights and be detrimental to the public interest and welfare.<sup>5</sup> The State Engineer finds that Applications 69547 and 70233 were filed to appropriate underground water in the same hydrologic basin as applications that have been denied in the past.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>6</sup>

### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>7</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;

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<sup>5</sup> See, State Engineer's Rulings for Application Nos. 32629, 35410, 35411, 35412, 69548, and 69549, official records in the Office of the State Engineer.

<sup>6</sup> NRS chapters 533 and 534.

- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

**III.**

Applications 69547 and 70233 were filed to appropriate underground water from the Warm Springs Valley Hydrographic Basin. A comparison of the committed groundwater resource of the Warm Springs Valley Hydrographic Basin with the estimates of the basin's perennial yield fails to identify any additional underground water that may be available for appropriation within the groundwater basin. The State Engineer concludes that to grant permits under the subject applications in a groundwater basin where the quantity of water under existing appropriations exceeds the perennial yield would conflict with existing rights and would threaten to prove detrimental to the public interest.

**RULING**

Application 69547 and Application 70233 are hereby denied on the grounds that granting the applications would interfere with existing rights and would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/MJA/jm

Dated this 9th day of

February, 2006.