

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

IN THE MATTER OF APPLICATIONS)
70610, 70611 AND 71540-T FILED TO)
CHANGE THE POINT OF DIVERSION AND)
PLACE OF USE OF THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE WITHIN)
THE TRUCKEE CANYON SEGMENT)
HYDROGRAPHIC BASIN (91), WASHOE)
COUNTY, NEVADA.)

RULING

5616

GENERAL

I.

Application 70610 was filed on November 7, 2003, by Pioneer Inn and Associates, Ltd. Partnership to change the point of diversion and place of use of 0.063 cubic feet per second (cfs), not to exceed 45.5 acre-feet annually (afa), a portion of the water previously appropriated under Permit 49067. The water is to be used for quasi-municipal and domestic purposes (community water system, commercial buildings, landscape and golf course maintenance) within the SE $\frac{1}{4}$ of Section 7, the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, T.19N., R.18E., 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 Section 8, T.19N., R.18E., M.D.B.&M.¹

II.

Application 70611 was filed on November 7, 2003, by Pioneer Inn and Associates, Ltd. Partnership to change the point of diversion and place of use of 0.126 cfs, not to exceed 91.0 afa, a portion of the water previously appropriated under Permit 49067. The place and manner of use are the same as that described under Application 70610. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, T.19N., R.18E., M.D.B.&M., which is a different well than that described under Application 70610.²

¹ File No. 70610, official records in the Office of the State Engineer. Exhibit No. 2, public administrative hearing before the State Engineer, November 17, 2004. Hereinafter the exhibits and transcript from this hearing will be referred to only by the exhibit number and transcript page.

² Exhibit No. 4.

III.

Application 71540-T was filed on August 4, 2004, by Pioneer Inn and Associates, Ltd. Partnership to change the point of diversion and place of use of 0.126 cfs, not to exceed 91.0 afa, a portion of the water previously appropriated under Permit 49067. The place and manner of use are the same as that described under Application 70610. The proposed point of diversion is described as being located within the SE¼ SW¼ of Section 8, T.19N., R.18E., M.D.B.&M., which is the same point of diversion as described under Application 70611.³

IV.

Applications 70610 and 70611 were timely protested by Washoe County on the following grounds:

1. The wells associated with the applications are within 1,500 feet of Washoe County's wells under Permits 20302 and 49790. The water from these wells serves the Verdi Elementary School, a public park and library, and the pumping of the proposed wells could adversely affect the School well.
2. The applications indicate they are for community water service. The place of use under the applications covers the same ground as recorded subdivision map #2181, River Pines Subdivision, which was approved based on a will serve letter from Verdi Springs Water Company under Permit 47077. See, State Engineer's Subdivision Review No. 2422F, dated June 21, 1984.
3. The Board of County Commissioners approved the terms of a purchase agreement for Verdi Springs Water Company subject to acceptance by the sellers.
4. The place of use under these applications is within the established service territory of Washoe County pursuant to NRS § 540A.300.

³ File No. 71540-T, official records in the Office of the State Engineer.

5. The place of use of these applications is within the place of use of Washoe County's Permit 64715 filed in December 18, 1998, for municipal use. Permit 64715 does not have sufficient duty to serve all of Verdi; however, it was used to delineate an anticipated service area of Washoe County.

6. Washoe County is currently involved in a case before the Public Utility Commission and legal action in the Second Judicial District Court regarding the County's right to provide water service in the Verdi area.

7. Washoe County through its Development Code and policies, in order to protect public welfare and safety, has prohibited the creation of independent small community water systems since 1984. These regulations and policies were enacted as a direct result of both operational and financial failure of multiple small community water systems within Washoe County.⁴

V.

After all parties of interest were duly noticed by certified mail, a public administrative hearing was held on November 17, 2004, before the State Engineer at Carson City, Nevada.⁵

FINDINGS OF FACT

I.

On November 14, 2003, the Applicant filed two Request(s) for a Waiver to Drill a Well to Determine the Quality and Quantity of Water in a Designated Basin.⁶ The requests for waiver indicated that the Applicant wished to drill the wells in the NW¼ SW¼ and in the SE¼ SW¼ of Section 8, T.19N., R.18E., M.D.B.&M.

On December 3, 2003, the Applicant had a local well driller file a notice of intent to drill card (Notice of Intent card no. 51481), which indicated an intention to drill a domestic well in

⁴ Exhibit Nos. 3 and 5.

⁵ Transcript and exhibits, public administrative hearing before the State Engineer, November 17, 2004.

⁶ File Nos. 70610 and 70611, official records in the Office of the State Engineer.

the SE¼ SW¼ of Section 8, T.19N., R.18E., M.D.B.&M., the same well location as that identified under Application 70611.

By letter dated December 24, 2003, the State Engineer denied the waiver requests on the grounds that the area had a sufficient number of wells in existence to determine aquifer characteristics. However, as evidenced by Notice of Intent card no. 51481, between December 10th and 18th, 2003, the Applicant had a well drilled in the same location as the well identified under Application 70611, but indicated the well was to be used for domestic purposes.

By letter dated August 16, 2004, the State Engineer was notified by Washoe County that the Applicant was possibly illegally diverting water from the domestic well and irrigating the golf course with water from said well.⁷ Washoe County's letter noted that the well had been equipped with a pump and motor and that piping had been emplaced within a trench from the well to a large excavation.

On August 27, 2004, a staff member from State Engineer's office conducted a field investigation regarding the complaint. The Applicant's agent on the site indicated that the discharge from the well was run to a pressure tank near the golf course shop, and the water from the tank was used to supply drinking water for the grounds crew. However, he further indicated that, in order to prevent short pump cycles due to the large horsepower pump in the well, a bypass/overflow discharge pipe had been plumbed to the pressure tank, which empties into the water reservoir used for irrigation, but stated that the well was not being used for irrigation. By letter dated September 21, 2004, the State Engineer indicated that the water was not being used for domestic purposes and ordered the Applicant to cease and desist use of the well until a water right permit was issued for use of water from that well.⁸

⁷ Exhibit No. 27.

⁸ Exhibit No. 28.

By letter dated September 22, 2004, the Applicant indicated that indeed it had drilled the domestic well, indicating there will be a future residence on the parcel, but wished to use the well under Temporary Application 71540-T as an interim supply and to determine if the use would affect the School well. Testimony provided during the administrative hearing indicated that on the large parcel in the southwest portion of the project, just east of the school, the Applicant now envisions a maintenance shop, a driving range, a pro shop, one residence, an employee house and a portion of the golf course.⁹

The Truckee Canyon Segment Hydrographic Basin is a designated basin.¹⁰ Nevada Revised Statute § 534.050 provides that a permit must be obtained before drilling a well in a designated basin, except if the well is to be used as a domestic well. Evidence provided at the hearing indicated that use of water for golf course purposes was also made from the "domestic" well prior to the diversion of Truckee River water for irrigation purposes.¹¹

The State Engineer finds that domestic wells do not require large horsepower pumps. The State Engineer finds, until the time of the administrative hearing, there was never any evidence indicating a residence would be on the parcel where the domestic well is located. Further, the evidence provided at the hearing indicated that the Applicant contemplates using the well for much more than a single family dwelling, which is the only use that can be made on a domestic well.

II.

The Protestant complains that the manner of use identified in the applications is quasi-municipal and domestic with the use specified as a community water system, commercial buildings, landscape and golf course maintenance; therefore, the manner of use should not be identified as quasi-municipal. The Protestant's

⁹ Transcript, p. 44.

¹⁰ State Engineer's Order No. 706, dated March 1, 1978, official records in the Office of the State Engineer.

¹¹ Exhibit No. 9.

witness indicated that in his experience quasi-municipal has only been used to support residential development or some commercial project.¹²

Nevada Revised Statute § 533.330 provides that no application shall be for use of water from more than one source or can be used for more than one purpose. A quasi-municipal manner of use is in essence a small municipal type use; however, the applicant may not be a municipality. Municipal use can encompass housing, commercial, industrial, irrigation of golf courses, etc. While a quasi-municipal manner of use is most commonly used to describe some residential or commercial development, it can include a mixture of manners of use. For example: Permit 21564 was issued for quasi-municipal use and includes use for a community center, community recreation, 5.2 acres of grass and the irrigation of 120 trees within a park area and Permit 48621 was issued for quasi-municipal use, which includes filling water trucks, dust suppression, domestic, a shop, washing trucks and landscape irrigation.

The applications under consideration were filed for quasi-municipal purposes that include a community water system, commercial buildings, landscape and golf course maintenance. The River Pines Subdivision, which is within the same place of use as these applications was approved by the State Engineer under recorded subdivision map #2181 and was approved for 30 lots based on a will serve letter from Verdi Springs Water Company under Permit 47077. See, State Engineer's Subdivision Review No. 2422F, dated June 21, 1984.¹³

Testimony indicated that the Verdi Springs Water Company does not have a service area that covers the River Pines Subdivision or the golf course.¹⁴ However, at the administrative hearing, the Applicant's agent indicated that the water supply for

¹² Transcript, p. 28.

¹³ Exhibit No. 16.

¹⁴ Transcript, p. 51.

the project would come from the Verdi Springs Mutual Water Company.¹⁵ However, the State Engineer's approval of the subdivision as to water supply was not based on a water supply from the Verdi Springs Mutual Water Company nor does its service area cover the River Pines Subdivision.¹⁶ The Applicant's agent then testified that Verdi Meadows Utility Company, Inc. would provide the community water service, but they needed to supply water rights to the utility and that would be part of this transfer.¹⁷ Again, the State Engineer's approval of the subdivision as to water supply was not based on a water supply from the Verdi Meadows Utility. Additionally, evidence indicated that Verdi Meadows Utility might not proceed with annexation to provide water to the River Pines Subdivision.¹⁸ Testimony indicated that the Applicant wants to provide water service to the large lot east of the school that will contain the maintenance shop, a driving range, a pro shop, one residence, an employee residence and golf.¹⁹

The State Engineer finds that the River Pines Subdivision was approved for development based on a will serve letter from Verdi Springs Water Company under Permit 47077. Testimony indicated that water would be used on one of the 30 lots originally approved under the State Engineer's Subdivision Review No. 2422F, dated June 21, 1984. The State Engineer finds these applications will not be approved for a community water system to be developed as the original subdivision approval is still in place.

III.

The Protestant alleges that Washoe County through its Development Code and policies, in order to protect public welfare and safety, has prohibited the creation of independent small community water systems since 1984. Evidence was provided that

¹⁵ Transcript, pp. 45, 52.

¹⁶ Exhibit No. 17, Transcript, pp. 52-53.

¹⁷ Transcript, pp. 54-55.

¹⁸ Exhibit No. 18.

¹⁹ Transcript, p. 44.

Washoe County's Master Plan has a provision to prohibit the creation of new private water and wastewater utility companies in Washoe County.²⁰

Washoe County provided evidence that Washoe County and the City of Reno have an agreement as to areas where each will provide water service and the Verdi area was identified as an area to be serviced by Washoe County.²¹ Washoe County has adopted Policy and Procedures for the Provision of Utility Services, which apply to all areas of service where the Department of Water Resources is the retail provider of service.²² Those policies and procedures provide that where Washoe County is to be the water purveyor, and where there is no infrastructure currently in place, a developer is required to build and dedicate the necessary facilities to the county's standards. The county then accepts the facilities and becomes the water provider.²³ The conflict between the Applicant and Washoe County is that Washoe County would not agree that the system could be used to provide water to a golf course based on its concern related to the water resources of the area.²⁴

The Protestant argues that it threatens to prove detrimental to the public interest for the State Engineer to grant a water right application in conflict with its policies and procedures. The State Engineer finds that since he has already found that he will not approve the applications for a community water system, the issue as to whether a community water system is being created in derogation of county policy is moot.

IV.

The Protestant alleged that the place of use under these applications is within the established service territory of Washoe County pursuant to NRS § 540A.300. The State Engineer finds that just because the use may be within an established service territory does not prevent the granting of applications or change

²⁰ Exhibit No. 14.

²¹ Transcript, p. 35.

²² Exhibit No. 15.

²³ Transcript, pp. 55-57.

²⁴ Transcript, pp. 56-61.

applications within that service territory, particularly when no service is available from the water purveyor.

V.

The Protestant alleged that Washoe County through its Development Code and Policies, in order to protect public welfare and safety, has prohibited the creation of independent small community water systems since 1984. These regulations and policies were enacted as a direct result of both operational and financial failure of multiple small community water systems within Washoe County. The State Engineer finds, since he is not permitting these water rights to be used for the community water system of the subdivision, the protest issue is moot.

VI.

The Protestant alleged that the Board of County Commissioners approved the terms of a purchase agreement for Verdi Springs Water Company subject to acceptance by the sellers; however, in its opening argument it indicated that the negotiations for purchase of Verdi Springs Water Company have broken down and it does not appear that the water company will be sold to Washoe County; therefore, the grounds for protest were no longer relevant.²⁵ The State Engineer finds the Protestant has abandoned this protest claim.

VII.

The Protestant alleges that the place of use of these water rights is within the place of use of Washoe County's Permit 64715 filed on December 18, 1998, for municipal use. It argues that, while Permit 64715 does not have sufficient duty to serve all of Verdi, it was used to delineate an anticipated service area of Washoe County. Permit 64715 is for a total duty of 4.04 acre-feet annually and covers a place of use that encompasses nearly eight sections of land. When working with governmental entities, small water rights are often transferred to cover large places of use, such as the service area of the municipal water purveyor. For example, the service area of the Las Vegas Valley Water District

²⁵ Transcript, p. 12.

covers all of Clark County, but the Water District in no way provides water service to all of Clark County and the State Engineer has permitted change applications in those areas that cannot be served.

The State Engineer finds Washoe County is not providing water service to the area and an anticipated service area does not prohibit the State Engineer from acting on water right applications within that area.

VIII.

The Protestant alleges that Washoe County is currently involved in a case before the Public Utility Commission and legal action in the Second Judicial District Court regarding the County's right to provide water service in the Verdi area. The State Engineer finds this protest claim states no relevant provision of Nevada water law for his consideration.

IX.

Between July and September 2004, the golf course was irrigated with Truckee River water.²⁶ By letter dated January 24, 2005, the State Engineer requested the Applicant provide detailed information as to the location of the golf course and "exactly" how any Truckee River decreed water rights are appurtenant to those lands.²⁷ In response, by letter dated March 24, 2005, the Applicant's agent indicated in Figure 6 that Claim Nos. 95 and 95A cover the entire golf course.

Records in the Office of the State Engineer indicate that Claim Nos. 95 and 95A do not cover all the irrigated golf course areas. The State Engineer finds the Applicant's representation of the area covered by the claims was not an accurate representation of the place of use authorized for irrigation under the Truckee River Decree under Claim Nos. 95 and 95A, that portions of the golf course are not covered by decreed water rights but have been irrigated using Truckee River water rights. The Applicant

²⁶ Transcript, pp. 24-26; Exhibit No. 9.

²⁷ File Nos. 70610 and 70611, official records in the Office of the State Engineer.

indicated that Truckee River water rights being used to irrigate the golf course belong to Verdi Springs Water Company, Inc., which notably is the entity that was authorized to provide water to the project.

The State Engineer finds the use of the decreed water rights on the portions of the golf course that do not have appurtenant decreed water rights is an illegal use of Truckee River water and change applications are required to legitimize that water use.

X.

The Protestant alleges that the wells associated with the applications are within 1,500 feet of Washoe County's wells under Permits 20302 and 49790.²⁸ The water from these wells serves the Verdi Elementary School, a public park and library, and the pumping of the proposed wells could adversely affect the School well.

Applications 70610, 70611 and 71540-T all request to change an existing permitted water right; however, the water right has never been placed to beneficial use. Permit 49067 was issued in September 1985 and proof of beneficial use of the water was first due to be filed in the Office of the State Engineer on June 21, 1987. The Protestant argues it threatens to prove detrimental to the public interest to allow a change on a water right that has sat dormant for nearly 20 years while other significant development has occurred, a great portion of which is based on the use of domestic wells, and allowing these changes would place an additional stress on a groundwater resource that may not be able to support existing development.

The State Engineer notes that Washoe County owns a portion of Permit 49067 and on April 19, 2005, filed a request for extension of time to place its portion of the water right to beneficial use. In its request for extension of time, Washoe County indicated that a portion of the water right under Permit 49067 has been dedicated to the county in accordance with Article 422 of the Washoe County Development Code and the Verdi Area Plan. It indicated that this

²⁸ Transcript, p. 62.

portion of the water right was to support a cat sanctuary (see Application 67626) and four parcel maps creating twelve new parcels, and that the homes built on these parcels would utilize individual domestic wells for water service until such time as a community water system is available.

The State Engineer finds it is disingenuous for Washoe County to argue that the Applicant should not be allowed to use the water under Permit 49067 as the use will impact existing rights while at the same time it is creating new parcels for additional development in the area and is itself allowing an additional draw on the resource. Therefore, the State Engineer finds there is little merit in Washoe County's argument.

XI.

The main focus of the Protestant's evidence is that water levels in the Verdi area are declining, the resource is already being used in quantities greater than recharge and use of water under these change applications may degrade the quantity of water available at the School well and may degrade the quality of the water in that well, which presently just meets the drinking-water standard for arsenic. The Protestant's witness indicated that the arsenic levels west of the School well exceed the arsenic standard and it is concerned that this new pumping will draw the higher concentrations of arsenic into the School well; therefore, use of water under these applications threatens to prove detrimental to the public interest. Finally, the Protestant is concerned that concentrated pumping in this area could lead to groundwater mining causing the re-drilling of tens of domestic wells.²⁹

Most of the wells in the Verdi area are completed in the volcanics, which has poor permeability, specific capacities are low - in the range of a few tens of gallons a day per foot of drawdown up to as much as 5,000 - 6,000 gallons per day per foot of drawdown.³⁰ The Hunter Creek sandstone on top of the volcanics also has poor permeability.³¹ The alluvium, which may be in

²⁹ Exhibit No. 7.

³⁰ Exhibit No. 20, Transcript, p. 77.

³¹ Transcript, p. 77.

hydraulic communication with the Truckee River, is very permeable and has high conductivity, but has low transmissivity due to the saturated thickness of the aquifer being only on the order of a few tens of feet.³²

The groundwater gradient in the area is towards the center of the basin and the groundwater discharge area is within the area of the River Pines Subdivision where the golf course is located³³ and both the existing and proposed points of diversion fall in similar places on that groundwater gradient.³⁴

The Protestant's evidence demonstrated that water levels in the Verdi area are not recovering as they normally do in the winter and large fluctuations in water levels are occurring (90-130 feet). Furthermore, significant water-level declines over the past couple of years of 90-100 feet have been noted, which in the witnesses' opinion, demonstrates that recharge comes from some distance, a poor storage capability of the volcanics and also very low transmissivity.³⁵ The Protestant's expert witness opined that there is evidence that the volcanic aquifer has limited capability to supply future development and it is not clear how well it will supply existing development.³⁶

The Protestant's evidence indicated that if the water rights requested for change are pumped to their full duty at a rate of 100 or 125 gallons per minute 24 hours a day for the 210 day irrigation season, the drawdown in just one season at the School well is between 34 and 43 feet. One mile from the Applicant's well the drawdown is between 25 and 31 feet. The Protestant's expert witness opined that within one season of pumping, there would be demonstrated drawdown at a fairly long distance away from the "domestic" well. However, the witness further opined that

³² Transcript, pp. 77-78.

³³ Exhibit No. 21, Transcript, pp. 79-80.

³⁴ Exhibit No. 21.

³⁵ Exhibit Nos. 22 and 23, Transcript, pp. 81-87.

³⁶ Transcript, p. 84.

there would also be drawdown if the water was pumped at the original point of diversion, in fact, the effects of drawdown would be greater because of a north/south fault structure located immediately west of the river.³⁷

The gist of the Protestant's concern is that, even though the distance from the existing point of diversion to the school well is roughly equivalent to the distance from the proposed point of diversion to the school well,³⁸ and the impacts from the change will be minimal in difference than if the water is pumped from the original point of diversion, it is the additional pumping in the basin that is going to exacerbate the problems and cause impact to existing wells and water rights.

The Protestant provided evidence that demonstrates that approximately 1,000 feet to the west of the School well, the arsenic levels are approximately 50 parts per billion with the lowest arsenic levels found in the center of the groundwater basin in the area of the School well and the golf course.³⁹

The State Engineer finds that it appears inevitable that the arsenic level at the School well will shortly exceed the drinking water standard. The State Engineer finds that whether the water right is pumped at the existing location or the new location the evidence indicates the pumping has the potential to cause water levels to decline over a fairly large area. The State Engineer finds there is substantial evidence to support a finding that use of the water proposed under these applications should be carefully approached.

The State Engineer finds that use of the water will only be allowed for supplemental golf course irrigation. In this instance, supplemental means that these applications are only to be used when there is no Truckee River decreed water right available for irrigating the golf course. The State Engineer finds before any permits will be issued under Applications 70610

³⁷ Transcript, pp. 95-96.

³⁸ Transcript, pp. 62-63.

³⁹ Exhibit No. 26.

and 70611, change applications must be filed and approved to legitimize the use of Truckee River water on those portions of the golf course that do not have appurtenant decreed water rights. The State Engineer finds the Applicant is to notify the State Engineer when water is not available for irrigation of the golf course under Claim Nos. 95 and 95A. The State Engineer finds that when use of water begins for irrigation of the golf course under these applications, the Applicant is to file a report on a monthly basis with the State Engineer indicating the amount of water pumped. The State Engineer finds if significant impacts are demonstrated to existing domestic wells or permitted water rights, the Applicant will be required to mitigate said impacts, including the possibility of cessation of pumping.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴⁰

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴¹

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

The Protestant argues it would threaten to prove detrimental to the public interest and impact existing rights to permit these change applications. It bases this argument on: the fact that the

⁴⁰ NRS chapters 533 and 534.

⁴¹ NRS chapter 533.370(5).

rights the Applicant is requesting to change have sat dormant for 20 years never having gone to beneficial use; and on the fact that significant development has occurred in the area with a great portion of that development being based on the use of domestic wells; and on the fact there is already evidence demonstrating significant drops in groundwater. Therefore, use of water under these applications would threaten the protectible interests in those domestic wells and impact Washoe County's water rights as the evidence demonstrated this additional pumping could cause an additional 34-43 feet of drawdown at the School well within one irrigation season.

The State Engineer concludes that substantial evidence was presented that the changes might have the potential to cause impacts to existing rights, protectible interests in domestic wells and may threaten to prove detrimental to the public interest. The State Engineer concludes that evidence supports placing limitations on the use of the water rights as further identified. The State Engineer concludes the River Pines Subdivision was not approved for development using these water rights and no use will be permitted for community water system development. The State Engineer concludes substantial evidence was provided to support that use of the water under any permits granted under these change applications should be carefully approached, and as such, they are only being approved as to supplemental golf course irrigation. The State Engineer concludes the use of Truckee River water on those portions of the golf course that do not have appurtenant decreed water rights is done so in violation of the *Orr Ditch Decree*.⁴²

RULING

The protest to Applications 70610 and 70611 is hereby upheld in part and overruled in part. Applications 70610 and 70611 are granted only for supplemental irrigation purposes when Truckee River water is not available, and are supplemental to the Truckee

⁴² Final Decree, *U.S. v. Orr Water Ditch Co.*, In Equity A-3 (D.Nev. 1944) ("*Orr Ditch Decree*").

River decreed water rights Claim Nos. 95 and 95A that are presently irrigating the golf course.

The Applicant is to notify the State Engineer when Truckee River water is no longer available. No use of ground water under these applications is allowed and no permits will be issued under Applications 70610 and 70611 until the change applications are filed and approved legitimizing the use of Truckee River water on those portions of the golf course that do not have appurtenant decreed water rights, but have been irrigated with Truckee River water. The applicant is to notify the State Engineer when and if said permits are granted.

Change Applications 70610 and 70611 are denied as to any use other than supplemental irrigation water.

When use of water begins for irrigation of the golf course under any permits issued, the Applicant is required to file a report on a monthly basis with the State Engineer indicating the amount of water pumped.

The Applicant is required to have a monitoring plan approved by the State Engineer prior to the diversion of any water under permits that may be issued pursuant to Applications 70610 and 70611. The Applicant is to submit the monitoring plan to the Protestant prior to filing with the State Engineer and the Protestant will be allowed to comment on any monitoring plan submitted within 30 days of the submittal of the Applicant.

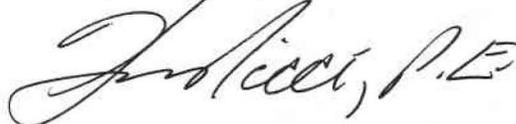
If significant impacts are demonstrated to existing domestic wells or permitted water rights, the Applicant will be required to mitigate said impacts, including the possibility of cessation of pumping.

Any permits issued under Applications 70610 and 70611 are subject to the payment of statutory permit fees and existing rights.

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Application 71540-T is denied as it is not in the public interest to issue a temporary application under the conditions where the use of the water in one season could have impacts to existing rights and protectible interests in domestic wells.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/SJT/jm

Dated this 17th day of
May, 2006.