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

FILED
SEP 02 1998
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 63994,
FILED BY Washoe County,
ON March 27, 19 98, TO APPROPRIATE THE
WATERS OF Underground

PROTEST

Comes now The Estate of John J. Casey, Randall L. Venturacci, Executor
Printed or typed name of protestant

whose post office address is 3500 Lakeside Ct., Ste. 101, Reno, NV 89509
Street No. or P.O. Box, City, State and Zip Code

whose occupation is Land Owner, and protests the granting

of Application Number 63994, filed on March 27, 19 98

by Washoe County to appropriate the

waters of Underground source situated in Washoe
Underground or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Exhibit "A"

THEREFORE the protestant requests that the application be DENIED
Denied, issued subject to prior rights, etc., as the case may be

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed [signature]
Agent or protestant

Randall L. Venturacci
Printed or typed name, if agent

Address 3500 Lakeside Ct. Ste. 101
Street No. or P.O. Box No.

Reno, NV 90509
City, State and Zip Code No.

Subscribed and sworn to before me this 1st day of September, 19 98.

Amy Smith
Notary Public

State of Nevada

County of Washoe

AMY SMITH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 94-4521-2 - Expires August 1, 2002

$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Exhibit "A"

Definition of "perennial yield" –
"The maximum amount of water that can be withdrawn from the ground-water system for an indefinite period of time without causing a permanent depletion of the stored water or causing a deterioration in the quality of the water." - Walker and Eakin

Before ruling on an application to appropriate waters of the State of Nevada, the State Engineer must determine if three basic criteria are being satisfied. These criteria are as follows:

1. *Is there unappropriated water at the source?*
2. *Does the purposed use conflict with existing rights.*
3. *Is the appropriation in the best interest of the public?*

The Protestant does not believe that the applicant has satisfactorily met any of the above criteria for the following reasons.

1. Is there unappropriated water at the source?

The applicant might argue that sufficient perennial yields exist within the region (Water Basin 16 "Duck Lake Valley" and Water Basin 21 "Smoke Creek Desert"). However, not all of the relative rights, such as claims to vested rights have been fully determined.

The applicant has not provided any type of analysis or hydrological study that would indicate that unappropriated water exists, and that it exists in such quantities to justify the approval of these applications.

If the water were to be exported out of the basin the system hydrology would be affected to the extent that depletion of the resource could occur. Withdrawal of underground water and the lowering of the static groundwater levels would induce recharge from surface water sources that the ranch has relied on for their use. One cannot withdraw water for Human Consumption and continue the natural discharge of the resource.

In the current condition discharge in the form of springs, seeps etc., are used for grazing of livestock and for providing feed for livestock consumption. Springs are considered a natural discharge that has senior rights to the applicant. Once the groundwater potentiometric surface has been lowered and human consumption replaces natural consumption these valuable sources will cease. or at best, be reduced to a point at which they no longer can support existing uses. The State Engineer must take mitigation into consideration in any decision that is made, should he continue with approving any appropriation.

In Summarizing C.V. Theis' (1940) the following observation was made;

"Prior to development by wells, aquifers are in a state of dynamic equilibrium, in that over long periods of time recharge and discharge virtually balance. Discharge from wells upsets this balance by producing a loss from storage, and a new state of dynamic equilibrium cannot be reached until there is no further loss from storage. This can only be accomplished by:

1. ***Increase in recharge (natural or artificial)***
2. ***Decrease in natural discharge.***
3. ***A combination of 1 and 2."***

2. Does the purposed use conflict with existing rights?

The Protestant believes that the approval of these applications could result in an unreasonable lowering of the static ground water level and negatively affect surface water sources. Appropriations such as these could also effect the quality of water in the basin. In past rulings, the State Engineer has determined that large appropriations such as the ones contemplated by Washoe County can lower the water table to a point where brackish waters from other aquifers infiltrate and dominate existing wells. This infiltration of brackish water significantly reduces the quality of the water, rendering the existing use of the water impossible.

The applicant has not provided any analysis or study to show that these appropriations will not cause a permanent depletion of stored water or cause deterioration in the quality of the existing water table.

The Protestant believes that these appropriations will adversely effect the value of existing rights in the basins. The reduction in value will be caused from an increase in pumping costs due to the lowering of the static ground water level below economically beneficial levels.

3. Is the appropriation in the best interest of the public?

The Protestant believes that the applicant is seeking to appropriate large amounts of water for entrepreneurial and speculative purposes. The Applicant has not demonstrated the financial ability to put the large quantities of appropriated water to beneficial use. The applicant has not supplied project descriptions nor growth projections commensurate with the quantity of these appropriations to justify their appropriation, nor has the applicant proven the financial ability to put the water to beneficial use. They have not demonstrated any type of routing or method to convey this water to the place of use. The applicant has not obtained the necessary easements and/or permits for right of way to convey the water to its ultimate place of use. The Protestant believes that the applicant is simply speculating, and these rights would be held in anticipation of the eventual sale to private and/or public developments, which is contrary to the public interest, based on previous State Engineer's Rulings.

The approval of these applications could result in a depletion of endangered species and non-endangered species of plants and wildlife. It could have an adverse impact on native indigenous and migratory animal species. In particular shore birds, waterfowl, and over-wintering raptors as well as various big game animals that rely on the area's groundwater, marshlands, riparian zones and other range lands that rely on phyreatophytic consumption.

Again, the applicant has not preformed an analysis or study that would satisfy environmental and ecological concerns.

The Protestant feels that until all of these concerns and questions have been satisfactorily answered, with a complete and thorough analysis of the basins, all of the applicant's applications to appropriate water should be denied.