

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

FILED
MAR 14 2002
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 68038
FILED BY DGD Development Limited Partnership
ON Sept. 21, 2001, TO APPROPRIATE THE
WATERS OF Musgrove Creek & Tributaries

PROTEST

Comes now Washoe County
Printed or typed name of protestant

whose post office address is P.O. Box 11130, Reno, NV 89520-0027
Street No. or P.O. Box, City, State, and Zip Code

whose occupation is a political subdivision of the State of Nevada, and protests the granting
of Application Number 68038, filed on Sept. 21, 2001

by DGD Development Limited Partnership to appropriate the
waters of Musgrove Creek & Tributaries 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:

Please refer to attached 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

Vahid Behmaram, Water Rights Supervisor
Printed or typed name, if agent

Address Washoe County Dept. of Water Resources
Street No. or P.O. Box No.
P.O. Box 11130, Reno, NV 89520-0027
City, State, and Zip Code No.

RECORDED
66:111 111130

Subscribed and sworn to before me this 13th day of March, 2002

 **SUZANNE T. WALSH**
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 98-0424-2 - Expires January 23, 2006

[Signature]
Notary Public
State of Nevada
County of Washoe

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

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EXHIBIT "A"

Applications 68038, 68039 & 68200

Washoe County protests granting of these applications based on the following grounds:

- 1) Granting of these applications is contrary to public interest
- 2) Granting of these applications is detrimental to existing rights

These applications collectively propose to divert 1113.752 acre-feet annually from Musgrove Creek and tributaries and Un-named Creek and tributaries for in-stream flow purposes. The applicant is proposing to allow this water to flow through the Little Washoe Lake reservoir system into the Steamboat Creek and ultimately into the Truckee River. The applications also state that upon passing Vista Gauge these waters would become return flow water and subject to consumption by downstream users. This quantity of water is in addition to 4710.10 acre-feet under Applications 66526 through 66529, which also propose to transfer the water into the Truckee River system.

The duty requested under these applications does not consider the actual yield of these streams, which may not be fully available in most years. In fact, supplemental ground water appropriations under Certificates 6086 (Permit 20648), 8078 (Permit 23287), 10394 (Permit 30579), 9766 (Permit 30581) and 9769 (Permit 35554) have been issued to augment flows in these streams for irrigation purposes (please refer to the attachment).

The applications as filed are requesting a change in both the consumptive and the non-consumptive portions of these water rights. The non-consumptive component of these water rights, in high flow years, has historically flowed through this system and has been appropriated under the Truckee River Decree. The State Engineer's ruling dated June 15, 1985, on Applications 35202 et.al. in part states:

"The Truckee River Decree specifically sets forth the rights or entitlement of the surplus flows of the tributaries to Washoe and Little Washoe Lakes"

These applications are unclear on how the water currently used in Township 16N, Range 19E will be conveyed to the southernmost portion of the proposed place of use located in Section 24, T.17N., R.19E. These applications refer to the "creek channel" as part of the proposed works of diversion to deliver water to the proposed place of use. The USGS topo maps show Musgrove Creek flowing into Washoe Lake near the section line common to Sections 14 and 23 of T.16N., R.19E., some 5 miles away from the proposed place of use. Therefore, if Washoe Lake is also a part of the works of diversion, then the following issues needs to be considered:

- 1) The conveyance of water through Washoe Lake into Little Washoe Lake is not possible in some years as the two lakes are not connected.

2) The evaporation losses during transit through Washoe Lake are great and have to be taken into consideration in the amount of return flow credit, if these applications are granted. Evaporation losses from Washoe Lake are estimated at 23,000 acre-feet annually (Arteaga-Nicholes 1984).

Administration of the system to insure the conveyance of these waters past higher priority water rights holders/users along the way is nearly an impossible task.

Washoe County Development Code specifically discourages the State Engineer from approving any export of water resources from the South Valleys Area Plan, which includes all of Washoe Valley hydrographic basin. Export of these resources could reduce inflow to the Washoe Lake system, which could impact ground water gradients. These changes to the ground water gradients could result in negative impacts to both the water quantity and quality of the ground water resources in Washoe Valley hydrographic basin.

Transfer of these resources out of this basin could have severe negative impacts on the wetlands and wildlife habitats within Scripps Wildlife Area in Washoe Valley. The State Engineer's Ruling dated June 5, 1985, on Applications 35202 et.al. in part states:

“Depletion of flows to the lakes will adversely impact the recreational and wildlife values of the valley and, therefore, would not be in the public interest”

Finally, the unknown quantity of these waters that may ultimately reach the Truckee River could be of such poor water quality that it could be detrimental to the quality of the Truckee River and damage the efforts of this community in improving water quality of the river.

THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

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WHEREAS, Victor H. Stafford, Agent has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from an Underground Source through a drilled well, pump and distribution system for Irrigation and Domestic purposes. The point of diversion of water from the source is as follows:

NW1/4 SE1/4, Section 22, T.16N., R.19E., M.D.B.&M., or at a point from which the SE corner of said Section 22 bears S. 46° 43' E., a distance of 2,650.0 feet situated in Washoe County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: Grant J. Weise
Source: Underground
Manner of Use: Irrigation and Domestic
Amount of appropriation: 2.5 c.f.s. but not to exceed 1,809.9 acre-feet annually
Period of use: January 1st to December 31st of each year
Date of priority of appropriation: August 20, 1962

Description of land to which the water is appurtenant: See Page Two

505.0 Acres Total

The total combined duty of water under this certificate and Certificates 6278, 8078, 9766, 9769, 10394, 12436, 12437 and Permit 50833 shall not exceed 2,228.85 acre-feet annually.

This certificate is issued subject to the terms of the permit and with the understanding that the total duty of water shall not exceed 4.5 acre-feet per acre from any and/or all sources.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I R. MICHAEL TURNIPSEED, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 19th day of AUGUST, A.D. 19 91.

Abrogated By: Part 41170 0.0028, Part 41171 0.0028, Part 41172 0.0028, Part 4169 0.0028

[Signature]
State Engineer

bk/vjw
part. 54024 cert 8/29/01
part. 59030 0.0063 cfs Cert. 12/17/01

