

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

IN THE MATTER OF APPLICATION NUMBER 80123
FILED BY Spring Creek Utilities Company
ON August 31, 20 10, TO APPROPRIATE THE
WATERS OF permit #69323 at NE1/4 NE1/4 Sec.36, T33N, R56E



FILED
OCT 23 2010
STATE ENGINEER'S OFFICE

PROTEST

Comes now Elias Goicoechea

Printed or typed name of protestant

whose post office address is 960 Tobiano Rd Spring Creek, NV 89815

Street No. or PO Box, City, State and ZIP Code

whose occupation is Nevada State Trooper

and protests the granting

of Application Number 80123

, filed on August 31

, 20 10

by Spring Creek Utilities Company

to appropriate the

waters of Underground Basin - 048 - Dixie Creek/Tenmile Creek area

situated in Elko

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:

As noted at NRS 533.024, "the legislature declares that it is the policy of this state to recognize the importance of domestic wells as appurtenances to private homes, to create a protective interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated." The amount of water proposed for municipal use (2.0 cfs/471.81mgd) to provide additional water to the Spring Creek Association residents could potentially have an adverse affect on our existing well (log#69323). Consequently, the proposed point of diversion will be up-gradient of and in the same aquifer as our domestic well. We believe the Spring Creek Utilities Company has other well location options that would be less likely to adversely impact groundwater intersected by our well. The adverse impacts, if realized, could require us to lower our pumps, deepen or re-drill our wells, all of which would cost significant amounts of money and reduce property values. A more detailed account of considerations and requested mitigation measures are attached.

THEREFORE the Protestant requests that the application be Denied OR Issued subject to mitigation recommendations attached

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

Elias D Goicoechea

Agent or protestant

Elias D Goicoechea

Printed or typed name, if agent

Address

960 Tobiano Rd

Street No. or PO Box

Spring Creek, NV 89815

City, State and ZIP Code

775-738-2226

Phone Number

Subscribed and sworn to before me this

20th

day of

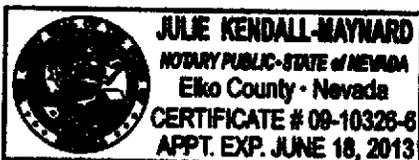
October

, 20 10

Julie Kendall-Maynard
Notary Public

State of Nevada

County of Elko



† \$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

RECEIVED

2010 OCT 22 11:11:18

STATE ENGINEER NEVADA

LETTER OF PROTEST/CONCERN TO STATE ENGINEER NEVADA DIVISION OF WATER RESOURCES

We, the undersigned, owning property described as 960 TOBIANO RD, and with mailing address of SAME, respectfully

request review of Application Number 80123, filed by Spring Creek Utilities Company on August 31, 2010, to appropriate the waters of NE1/4 Section 36, T.33N, R.56E.,M.D.M. from which the NE corner of said section bears N54°44'E., 171.47 ft. distant, situated in the County of Elko, State of Nevada. We first received notification of this application on or about September 8, 2010. Last date of publication is scheduled for September 30, 2010.

We own property in the area commonly referred to as Ruby Mountain Estates (subdivision). The subdivision is divided into 31 parcels, consisting of approximately 10 acres each, which, by covenant, cannot be further subdivided. The subdivision, located in the south one-half of section 23, Township 33 North, Range 56 East, MDB&M, is bordered on the north and east by property within the Spring Creek Association (Association); properties within the Association are serviced by Spring Creek Utilities Company. Ruby Mountain Estates has been in existence since the early 1970's and each parcel owner has a domestic well which provides the residents with all of their current household and property water. We wish to express our concern that the amount of water proposed for municipal use (2.0 cfs/471.81mga) to provide additional water to the Spring Creek Association residents will have an adverse affect on our existing wells. We believe the Spring Creek Utilities Company has other well location options within the 23.4 square mile Spring Creek Housing area which would be less likely to adversely impact groundwater intersected by our wells. These adverse impacts could require us to lower our pumps, deepen or re-drill our wells.

The hydrologic reasons for our concerns, and our proposed mitigation measures should the point of diversion change be approved, are attached.

We, the concerned Protestants signed below, respectfully request the Office of the State Engineer of the State of Nevada Division of Water Resources to deny the issuance of the application to change the point of diversion. As noted at NRS 533.024, "the legislature declares that it is the policy of this state to recognize the importance of domestic wells as appurtenances to private homes, to create a protective interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated."

Thank you for your consideration and assistance.

Respectfully submitted this ____ day of October 2010.

X Elias D Goicoechea

ELIAS D GOICOECHEA

X Kathy Goicoechea

KATHY GOICOECHEA

Cc: Spring Creek Utilities Company/Chilton Engineering

Hydrologic background and review

The proposed well, in the NE ¼ NE ¼ section 36 T33N R56E, is within one quarter mile of the main stem of Butterfield Creek. The wells at Ruby Mountain Estates (south ½ section 23 T33N R56E) are also generally within one quarter mile of the same stem of Butterfield Creek. The proposed well will be within 9,000 feet of the nearest domestic well in Ruby Mountain Estates.

If we assume that the shallow groundwater gradient more or less mimics the surface drainage, the Ruby Mountain Estates wells are down-gradient of the proposed well. This well, if constructed, will have a permitted duty of 2 cfs, or 900 gpm.

Since 2000, Butterfield Creek has only flowed through Ruby Mountain Estates in 2005 and 2006 (89 days in 2005, and 138 days in 2006). Historical precipitation data are not available for the immediate vicinity of Ruby Mountain Estates, and an attempt to find data that would accurately reflect the precipitation received within the subdivision proved fruitless. Anecdotal evidence suggests that Butterfield Creek flowed through Ruby Mountain Estates annually between April and September through 1999. The observed lack of surface flow in Butterfield Creek in the subdivision through all but two years of the period 2000 – 2010 suggests that water levels in the shallow aquifer are in a general state of decline. It is highly likely that the same condition exists in the domestic wells that are owned by the property owners in Ruby Mountain Estates.

An existing well owned by Spring Creek Utilities Company is located down-gradient of the Ruby Mountain Estates wells, and is within the Butterfield Creek drainage. This well is in the NE ¼ NE ¼ section 22 T33N R56E, and is within one half mile of the nearest domestic well in Ruby Mountain Estates. The permitted duty on this well is 4 cfs, or 1795 gpm. We have not been able to locate any pumping records for this well, drilled in 1972, which has a total cased depth of 500 feet, and is screened from 160 to 500 feet. When the well was drilled and tested, it produced 470 gpm with 128 feet of drawdown from an original static water level of 38 feet below grade (for a pumping water level of 166' below grade).

Current groundwater monitoring points in the vicinity of the proposed well and Ruby Mountain Estates are located as follows:

1. Up-gradient, in Stoffer Creek drainage, NW ¼ NW ¼ section 30 T33N R57E.
2. Down-gradient, in the drainage of a tributary to Tenmile Creek, either SE ¼ SE ¼ section 14 T33N R56E or SW ¼ SW ¼ section 13 T33N R56E (map from Spring Creek Utilities Company suggests the monitor point is on the section line).
3. An additional groundwater monitor point is also in the drainage of a tributary to Tenmile Creek in SW ¼ SW ¼ section 13 T33N R56E.

As residents of Ruby Mountain Estates, we have a profound interest in the effects the proposed well will have on our domestic wells, which have total depths ranging from as little as 90 feet to 177 feet (averaging 124 feet). Static water levels, as indicated on Nevada Well Driller's Logs, vary from 8 feet below grade to 81 feet (averaging 36 feet). The oldest well in the subdivision was drilled in 1980, and the most recent in 2006; the bulk of the wells were drilled in the mid-1990s.

The lack of groundwater monitoring between the location of the proposed well and our wells is troublesome to us. Likewise, the lack of groundwater monitoring between the existing down-gradient well and ours is a concern, especially given that both the existing well and the proposed well are located within the main Butterfield Creek drainage, as are the domestic wells in Ruby Mountain Estates.

Proposed mitigation measures in the event that Application 80123 is approved by the State Engineer

In light of the foregoing, as residents of Ruby Mountain Estates, we have good reasons to be concerned that if the point of diversion change requested by Spring Creek Utilities Company under application 80123 is approved, our domestic wells will be adversely impacted.

In the event that application 80123 is approved by the State Engineer, in the interest of mitigating our concerns, we propose that Spring Creek Utilities Company agree to the following:

1. Install multi-point piezometers in the SW ¼ of section 25, NE ¼ of section 26, and NW ¼ of section 23 T33N R56E. These locations will provide reasonable data to determine the down-gradient drawdown associated with pumping the proposed well, as well as up-gradient impacts from the existing well. We believe that the piezometers should test individual water-bearing zones, and suggest the following:
 - a. 50 feet below grade
 - b. 100 feet below grade
 - c. 200 feet below grade
 - d. 500 feet below grade
2. These new piezometers should be constructed a minimum of six months prior to drilling the proposed well, and water level measurements made monthly at a minimum.
3. Location information (UTM preferred, with elevations as USGS AMSL) for each piezometer, and completion information, will be provided to the property owners in Ruby Mountain Estates. If additional piezometers are constructed down-gradient of the

11. If the data collected during production pumping of the proposed well indicate potential lowering of the static water level in the Ruby Mountain Estates domestic wells to the point that individual wells may require either lowering of pumping equipment, or deepening, in order for those wells to remain viable, Spring Creek Utilities Company will agree to perform the work, at no cost to the Ruby Mountain Estates property owners, necessary to keep the well viable.
12. If pump re-setting or deepening of an existing domestic well in Ruby Mountain Estates is required to ensure the continued viability of that well, Spring Creek Utilities Company will make every effort to get the work completed in as timely a manner as possible. Spring Creek Utilities Company will ensure that potable water is available to the domestic well owner while the domestic well is out of service, at no cost to the domestic well owner.
13. In the event that domestic wells in Ruby Mountain Estates need to be deepened, a cost analysis will be performed by Spring Creek Utilities Company to determine the increased pumping costs that will be incurred by the domestic well owner because of the deeper water levels. Spring Creek Utilities Company will agree to offset any higher pumping costs that might be incurred by the domestic well owners if those costs can be attributed to drawdown related to pumping from the proposed well.