

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

FILED
JUN 01 2012
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 81720
FILED BY SADLER RANCH, LLC c/o DOUG FRAZER
ON MARCH 30, 2012



PROTEST

Comes now EUREKA COUNTY

Printed or typed name of protestant

whose post office address is POST OFFICE BOX 677, EUREKA, NEVADA 89316

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

whose occupation is POLITICAL SUBDIVISION

and protests the granting

of Application Number 81720, filed on MARCH 30, 2012

by SADLER RANCH, LLC c/o DOUG FRAZER

for the

waters of UNDERGROUND SOURCES (WELL "D") situated in EUREKA

an underground source 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" ATTACHED HERETO

(*) only to supplement the yet to be established decline in flow.

THEREFORE the Protestant requests that the application be issued, subject to Eureka County's protest points and (*)

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

Leonard Fiorenzi

Agent or protestant

LEONARD FIORENZI, COMMISSION CHAIRMAN

Printed or typed name, if agent

Address

POST OFFICE BOX 677

Street No. or PO Box

EUREKA, NEVADA 89316

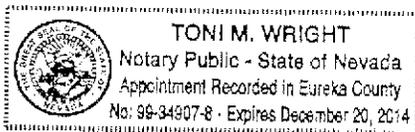
City, State and ZIP Code

(775) 237-5262

Phone Number

E-mail

Subscribed and sworn to before me this 31ST day of MAY, 2012



Toni M. Wright
Notary Public

State of NEVADA

County of EUREKA

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

Exhibit "A"
Eureka County Protest to Sadler Ranch LLC
Application Nos. 81719 and 81720

1. Eureka County affirms support for valid vested water rights and the doctrine of prior appropriation as established by state law. These protests do not challenge the existence of vested water rights on Big Shipley Springs and Indian Camp Springs. Because the intent of applications 81719 and 81720 are unclear, specifically the diversion rate and annual duty, these protests are intended to ensure that Eureka County citizens are informed and any final decision by the State Engineer on applications 81719 and 81720 is based on consideration of all facts and potential issues related to the applications.
2. The water which the applications seek to supplement at both Big Shipley Springs and Indian Camp Springs is actually groundwater discharge accounted for in the estimation of the perennial yield of Diamond Valley per the USGS mapped groundwater discharge area of Diamond Valley. Thus, these springs would inevitably cease to flow even if the basin were only pumped with a consumptive use at the basin perennial yield of 30,000 acre-feet per year, let alone being over appropriated at more than 134,000 acre-feet per year with a currently estimated consumptive use of approximately 55,000 acre-feet per year. As a result, increasing the groundwater extractions from the basin by any amount, let alone an additional 6,924.76 acre-feet per year requested under applications 81719 and 81720, would exacerbate the problems already associated with over allocation of the resource. Consequently, there may be no unappropriated water at the proposed source of supply, the proposed use may conflict with or will impair and interfere with existing rights and protectable interests in existing domestic wells and threatens to prove detrimental to the public interest.
3. Proofs of Appropriation of Water for irrigation and stock water from these springs stating a priority date of 1879 are on file with the Nevada State Engineer. Proof V03289 relates to 1,657.28 acres of land irrigated by water from Big Shipley Springs and Proof V03290 relates to 73.91 acres of land irrigated by water from Indian Camp Springs, for a total of 1,731.19 acres, the same acreage identified in the current applications. The claims under Proofs V03289 and V03290 make no mention as to the annual amount of water applied through active irrigation, nor have the claims been validated by the Nevada State Engineer through an adjudication. Therefore, the amount of groundwater needed to provide a supplemental source of irrigation water supply to the declared acreage is unknown. It seems to follow the State Engineer cannot grant permits for supplemental groundwater rights until a determination has been made as to the actual amount of surface water that has been historically applied for irrigation purposes under the two claims and the potential impacts on existing rights and domestic wells.
4. The applications request 6,924.76 acre-feet per year of groundwater, or four acre-feet per acre for irrigation purposes. Historical measurements of spring flows for Big Shipley Springs show approximately 7 cfs in the mid-1960s and more than 8 cfs in the mid- to late-1980s (source: Montgomery, *et al.*, 2010). Harrill (1968) provided three discharge measurements (7.19 cfs on 9/22/65, 7.01 cfs on 4/1/66, and 6.20 cfs on 10/19/66) and estimated the annual discharge in 1965/1966 at 4,900 AF/yr. These measurements in Harrill (1968) were made near the beginning of groundwater exploitation by wells in the southern portion of the valley and likely were not influenced by groundwater pumping at that time, so they provide an indication of pre-pumping spring discharge. Eureka County has not been

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able to find any evidence of historical flows prior to the mid- 1960's, much less spring flows sufficient to support a duty of 4 acre-feet per acre.

5. Applications 81719 and 81720 assert to be supplemental to vested claims, yet due to the location of the proposed wells, the supplemental groundwater pumping will likely dry up the springs. It is not clear whether these applications can be supplemental to the spring flows when the groundwater pumping will likely fully intercept the spring flows.
6. Eureka County asks the State Engineer to weigh the granting of Applications 81719 and 81720 (asserted to make vested claims "whole") in balance with State Engineer Orders within Diamond Valley. This includes, but is not limited to, Order 717 which states that: *"All applications filed after December 31, 1978 to appropriate ground water for irrigation purposes on any land within the Diamond Valley Ground Water Basin will be denied."*
7. Eureka County mandates the use of peer-reviewed science in the assessment of impacts related to water resource development. We request copies of the data and information used to determine the potential impacts related to the additional groundwater pumping that would occur under the applications and to justify the amount of groundwater applied for under the applications.
8. Should these protests result in hearings before the State Engineer, Eureka County requests that such hearings be held in Eureka to facilitate access by the body of Protestants.

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