

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

IN THE MATTER OF APPLICATIONS 67991)
AND 79807 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE GOSHUTE VALLEY)
HYDROGRAPHIC BASIN (187), ELKO)
COUNTY, NEVADA.)

RULING
#6192

GENERAL

I.

Application 67991 was filed on September 6, 2001, by the City of West Wendover, Nevada and the City of Wendover, Utah to appropriate 6.0 cubic feet per second (cfs) of water from an underground source for municipal purposes. The proposed place of use is described as being located within the Sections 7, 8, 9, 10, 15, 16, 17, and 18, T.33N., R.70E., M.D.B.&M. (Nevada) and Sections 16, 17, 18, 19, 20, and 21, T.1S., R.19W., S.L.B.&M (Utah). The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, T.36N., R.66E. M.D.B.&M.¹

II.

Application 79807 was filed on April 26, 2010, by the City of West Wendover, Nevada and the City of Wendover, Utah to appropriate 6.0 cfs of water from an underground source for municipal purposes. The proposed place of use is described as being located within the Sections 7, 8, 9, 10, 15, 16, 17, and 18, T.33N., R.70E., M.D.B.&M. (Nevada) and Sections 16, 17, 18, 19, 20, and 21, T.1S., R.19W., S.L.B.&M (Utah). The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, T.36N., R.66E. M.D.B.&M.² Application 79807 indicates that it was filed as a re-submittal of Application 67991.

III.

Application 67991 was timely protested by the Big Springs Land & Resource Company, LLC and the United States Department of the Interior, Bureau of Land Management. On August 20, 2008, a letter was sent from the Office of the State Engineer to the Applicants and the Protestants inquiring as to whether or not they intended to continue to pursue the application and the protests. In a letter received in the Office of the State Engineer on September 8, 2008, the

¹ File No. 67991, official records in the Office of the State Engineer.

² File No. 79807, official records in the Office of the State Engineer.

BLM withdrew its protest to Application 67991. No response was received from Big Springs Land & Resources Company, LLC and its protest was dismissed.

IV.

Application 79807 was timely protested by Big Spring Ranch, LLC and the Star Living Trust, the Wendover Project, LLC and the Star Living Trust, and the Southern Nevada Water Authority on various grounds including an assertion that there is no unappropriated water in the source and previous applications for new appropriations of water have been denied, the proposed use will conflict with existing rights, the Applicant has not demonstrated the need for the water, the Applicant holds existing water rights it has not developed, the proposed use of the water is not environmentally sound for the basin of origin and is not in the public interest along with other asserted protest issues not considered in this ruling.²

FINDINGS OF FACT

I.

State Engineer's Order No. 842, dated April 30, 1984, described and designated a portion of the Goshute Valley Hydrographic Basin as a groundwater basin in need of additional administration under the provisions of NRS Chapter 534 and municipal, quasi-municipal and domestic uses were declared as preferred uses within the described Northern Part of the designated portion of the hydrographic basin.³ The State Engineer finds that the proposed points of diversion and places of use described under Applications 67991 and 79807 are within the Northern Part of the designated Goshute Valley Hydrographic Basin.

II.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. The perennial yield cannot be more than the natural recharge to a groundwater basin and in some cases is less. If the perennial yield is exceeded, groundwater levels will decline and steady-state conditions will not be achieved, a situation commonly referred to as groundwater mining. Additionally, withdrawals of groundwater in excess of the perennial yield may contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, and land subsidence. The Division of Water Resources estimates that the perennial yield of

³ State Engineer's Order No. 842, dated April 30, 1984, official records of the State Engineer.

the Goshute Valley Hydrographic Basin is approximately 11,000 acre-feet annually (afa).⁴ Existing permitted and certificated water rights in the Goshute Valley Hydrographic Basin exceed 11,600 afa. Applications 67991 and 79807 were filed for 6.0 cfs each; no duty of water was specified. A diversion rate of 6.0 cfs, when expanded, is equivalent to approximately 4,300 afa. The remarks section of Application 67991 states that the Applicant intends to appropriate all remaining water within the Goshute Valley Hydrographic Basin, which it estimates at 2,000 afa. The State Engineer finds that there is insufficient groundwater available in the Goshute Valley Hydrographic Basin to satisfy the requested appropriations as determined by comparing existing committed groundwater rights to the estimated perennial yield of the groundwater basin.

III.

By State Engineer's Ruling No. 5363, Applications 68177 and 68178 were denied, in part, on grounds that the Goshute Valley Hydrographic Basin's committed groundwater resources currently exceed the estimated perennial yield.⁵ The State Engineer finds that Applications to appropriate substantial amounts of groundwater have been previously denied within the Goshute Valley Hydrographic Basin.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁷

- 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.

⁴ Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 48, Oct. 1971.

⁵ State Engineer's Ruling No. 5363, June 4, 2004, official records in the office of the State Engineer.

⁶ NRS Chapters 533 and 534.

⁷ NRS § 533.370(5).

III.

The committed groundwater resources of the Goshute Valley Hydrographic Basin currently exceed the groundwater basin's estimated perennial yield. The State Engineer concludes there is no unappropriated water available in the quantity requested for appropriation, that the approval of the subject applications would result in the withdrawal of substantial amounts of groundwater in excess of the perennial yield thereby conflicting with existing rights and threatening to prove detrimental to the public interest.

IV.

The protests to Application 79807 include assertions that there is no unappropriated water in the source and that previous applications for new appropriations of water have been denied. A review of records on file in the Office of the State Engineer found that the committed groundwater resources currently exceed the groundwater basin's perennial yield and that Applications to appropriate substantial amounts of groundwater within the Goshute Valley Hydrographic Basin have been previously denied by State Engineer's Ruling No. 5363; therefore, the State Engineer concludes Applications 67991 and 79807 must be denied.

RULING

The protests to 79807 are upheld, in part, and Applications 67991 and 79807 are hereby denied on the grounds their issuance would conflict with existing rights and threaten to prove detrimental to the public interest. No ruling is made on the merits of the remaining protest issues.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 6th day of
August, 2012