

**IN THE OFFICE OF THE STATE ENGINEER**

IN THE MATTER OF APPLICATION 49409)  
FILED TO APPROPRIATE EFFLUENT)  
WASTEWATER DISCHARGE FROM THE)  
LAHONTAN NATIONAL FISH HATCHERY,)  
U.S. FISH AND WILDLIFE SERVICE, THE)  
PUBLIC WATERS OF AN UNDERGROUND)  
SOURCE, IN CARSON VALLEY GROUND)  
WATER BASIN, DOUGLAS COUNTY AND)  
CARSON CITY COUNTY, NEVADA. )

**RULING**

**GENERAL**

I.

Application 49409 was filed on September 23, 1985, by Robert C. Downer, as agent for applicant Robert L. Pruett, to appropriate 1.88 cubic-feet per second, but not to exceed 360 acre-feet annually of effluent wastewater discharge from the Lahontan National Fish Hatchery, U.S. Fish and Wildlife Service, the water of an underground source, for irrigation purposes on 90 acres of land within the place of use specified by the application. The point of diversion of the effluent wastewater is described as being within the NE1/4 of SE1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion of the water from the underground source is described as being the Fish Hatchery well, Permit No. 19723, owned by U.S.A., but located on the Robert L. Pruett Ranch, (Well 4).<sup>1</sup>

II.

Application 49409 was protested on December 27, 1985, in compliance with Nevada Revised Statutes (NRS), Chapters 533 and 534, by Settelmeyer Ranches, Arnold Settelmeyer, for the following reasons and on the following grounds, to wit:<sup>1</sup>

"Well Permit No. 22249, 22065, 22942, 22539, discharge at the proposed point of diversion."

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<sup>1</sup> Public record in the office of the State Engineer, Nevada Division of Water Resources.

"Issue this permit subject to the actual production of the well on the Pruett Ranch, to protect prior rights, and simplify administration of this water."

The protestant requests "that the application be issued and that an order be entered for such relief as the State Engineer deems just and proper."

Permit 22539 was cancelled and has been replaced by Permit 25180.<sup>1</sup>

III.

Pursuant to NRS Chapter 533, after notice of public hearing to applicant, protestant, and other interested parties of record, a public administrative hearing was conducted on February 9, 1988, by Nevada Division of Water Resources to acquire additional evidence and testimony in the matter of protested Application 49409 to assist the State Engineer to determine appropriate action in this matter. The applicant, Robert L. Pruett, was represented by David Pruett; the protestant, Settlemeyer Ranches and Arnold Settlemeyer, was represented by Arnold Settlemeyer; the Lahontan National Fish Hatchery was represented by Duane L. Wainwright.<sup>2</sup>

IV.

Carson River Decree and maps specify and illustrate adjudicated water rights of the Carson River system.<sup>1,3</sup>

V.

Permit 19723 was approved December 6, 1961, and Certificate 6456 was issued January 17, 1968, to Robert L. Pruett to appropriate 5.0 cubic-feet per second but not to exceed 959.24 acre-feet per season of water from an underground source for irrigation purposes on 239.81 acres of land within the place of use specified by the certificate. The

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<sup>2</sup> In regarding the matter of Application Number 49409; Transcript of Proceedings; Public Hearing; Tuesday, February 9, 1988, Minden, Nevada; office of the State Engineer. Public record in the office of the State Engineer.

<sup>3</sup> Carson River Decree, more specifically described as: The United States of America vs. Alpine Land & Reservoir Company; In the United States District Court for the District of Nevada; Civil Case No. D-183 BRT, Final Decree, October 28, 1980. Public record in the office of the State Engineer.

point of diversion is described as being within SE1/4 of NE1/4, Section 14, T.12N., R.20E., M.D.B.&M., (Well #4).<sup>1</sup> Permit 19723 has been abrogated by Permit 47104; and Permit 19723 is invalid as a right to divert and use water.

VI.

Permit 22065 was approved October 20, 1964, and Certificate 7338 was issued April 21, 1970, to the U.S. Fish and Wildlife Service (Lahontan National Fish Hatchery) to appropriate 1.147 cubic-feet per second, but not to exceed 828.55 acre-feet annually of water from an underground source for nonconsumptive use in the operation and maintenance of the fish hatchery within the NE1/4 of SE1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion of water is described as being Well #3 located within the NE1/4 of NE1/4, Section 23, T.12N., R.20E., M.D.B.&M.<sup>1</sup>

VII.

Permit 22249 was approved August 12, 1965, and Certificate 7778 was issued March 10, 1972, to Arthur Arnold Settlemeyer and Lawrence Settlemeyer to appropriate 1.14 cubic-feet per second, but not to exceed 814.0 acre-feet annually of effluent wastewater discharge from the Lahontan National Fish Hatchery, U.S. Fish and Wildlife Service, the water of an underground source, for irrigation purposes on 203.5 acres of land within the place of use specified by the certificate. The point of diversion of the water from the underground source is described as being within NE1/4 of NE1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion of water from the underground source under Permit 22249 is the same as the well under Permit 22065, (Well #3). Permit 22249 is supplemental to Permit 22942.<sup>1</sup>

VIII.

Permit 22448 was approved June 4, 1965, and Certificate 7328 was issued April 10, 1970, to the U.S. Fish and Wildlife Service (Lahontan National Fish Hatchery) to appropriate 3.966 cubic-feet per second, but not to exceed 935.6 million gallons annually, i.e. 2871.25 acre-feet annually, of water from an underground source for nonconsumptive use in the operation and maintenance of the fish hatchery within the NE1/4 of SE1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion of water is described as being Well #4 located within the SE1/4 of NE1/4, Section 14, T.12N., R.20E., M.D.B.&M.<sup>1</sup>

IX.

Permit 22942 was approved June 4, 1968, and Certificate 7779 was issued March 10, 1972, to the Settlemeyer Ranches to appropriate 1.849 cubic-feet per second, but not to exceed 814.0 acre-feet annually of effluent wastewater discharge from the Lahontan National Fish Hatchery, U.S. Fish and Wildlife Service, the water of an underground source, for irrigation purposes on 203.5 acres of land within the place of use specified by the certificate. The point of diversion of the water from the underground source is described as being within SE1/4 of NW1/4, Section 23, T.12N., R.20E., M.D.B.&M., (Well #6). Permit 22942 is supplemental to Permit 22249.<sup>1</sup>

X.

Permit 25180 was approved December 29, 1969, and Certificate 7364 was issued May 29, 1970, to the U.S. Fish and Wildlife Service (Lahontan National Fish Hatchery) to appropriate 1.782 cubic-feet per second of water from an underground source for operation and maintenance of the fish hatchery within the NE1/4 of SE1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion of water is described as being Well #6 located within SE1/4 of NW1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion under Permit 25180 is the same as the well under Permit 22539. Permit 25180 replaces cancelled Permit 22539.<sup>1</sup>

XI.

Permit 47267 was issued September 12, 1984, to the U.S. Fish and Wildlife Service (Lahontan National Fish Hatchery) to change the point of diversion of 2.228 cubic-feet per second, but not to exceed 1612.57 acre-feet annually of water from an underground source as previously granted under Permit 22447, Certificate 7190, for use in the operation of the fish hatchery within the NE1/4 of SE1/4, Section 23, T.12N., R.20E., M.D.B.&M. The point of diversion of water under Permit 47267 is described as being within the SE1/4 of NE1/4, Section 14, T.12N., R.20E., (Well #4).<sup>1</sup>

XII.

By letter dated March 29, 1988, Doris Morin, Truckee-Carson Irrigation District, expressed concern "that any application considered to appropriate wastewater from the Lahontan Fish Hatchery not constitute a reduction of return flows which historically

have contributed to the adjudicated supply of the Carson River System," and requested "that further investigations be conducted into the actual operation and procedural workings of the hatchery for substantiation purposes."<sup>1</sup>

### FINDINGS OF FACT

#### I.

Lahontan National Fish Hatchery uses water from Well #3, Well #4, and Well #6 as process water for fish hatchery operations.<sup>1,2</sup>

The pumping record for Wells #3, #4, and #6 is illustrated by the chart entitled "Lahontan National Fish Hatchery, 1985-87 Deep Well Pumping"; prepared by Duane Wainwright; refer to State of Nevada, Exhibit #6, Public Hearing in the matter of Application 49409.<sup>2</sup>

The chart illustrates the days per month during the years 1985, 1986, and 1987, that water was diverted from Wells #3, #4, and #6 and used as process water for the fish hatchery operations. The chart also specifies the estimated pumping rates for these wells, i.e., 300 gallons per minute for Well #3, 1100 gallons per minute for Well #4, and 600 gallons per minute for Well #6.<sup>2</sup>

The chart illustrates that Well #3 operates approximately from mid April through mid July, and from mid September through mid October, a total of approximately four months; that Well #4 operates approximately from mid July through the following mid March, a total of approximately eight months; and that Well #6 operates approximately from mid January through mid May, a total of approximately four months. Refer to Addendum for detail.

Well #3 operating continuously for four months at 300 gallons per minute produces approximately 161 acre-feet; Well #4 operating continuously for eight months at 1100 gallons per minute produces approximately 1182 acre feet; and Well #6 operating continuously for four months at 600 gallons per minute produces approximately 323 acre feet.

Diversions of water from Wells #3, #4, and #6 for process water requirements for the fish hatchery are not continuous or constant, but are intermittent and variable during the year and from year to year contingent upon hatchery activities and water characteristics. The waters diverted from Wells #3, #4, and #6 are commingled as

desired to produce water with characteristics suitable for hatchery process requirements. Therefore the effluent wastewater discharge from the fish hatchery is intermittent and variable and is unreliable as a constant source.<sup>1,2</sup>

## II.

Application 49409 proposes to appropriate effluent wastewater discharged from the fish hatchery into the Allerman Canal (a portion of the underground water produced from Well #4 under Permits 22448 and 47267). Since water flowing in the Allerman Canal is not returned to the Carson River system, water withdrawn from the Allerman Canal will not result in a reduction of return flows to the Carson River system. Underground waters diverted from Well #4 under Permits 22448 and 47267 are not subject to administrative supervision under provisions of the Carson River Decree, because the Carson River Decree does not apply to waters other than the Carson River system.<sup>1,3</sup>

## III.

The following table specifies the production of water from Wells #3, #4, and #6 for estimated seasonal operation and potential annual operation, specifies the amounts of water approved for appropriation under permits associated with these wells, and specifies the amount of water proposed for appropriation under Application 49409.

Production and Appropriation of Water  
From Wells #3, #4, and #6

	<sup>4</sup> <u>PERIOD</u>	<u>GPM</u>	<u>CFS</u>	<u>AFS</u> <u>AFA</u>	<u>COMMENT</u>
Well #3	Annual	300	0.668	483.61	Potential
Well #3	4 MO	300	0.668	161.	Estimated; Hatchery
Permit 22065	Annual		1.147	828.55	Hatchery
Permit 22249	Annual		1.14	814.0	Irrigation
Well #4	Annual	1100	2.451	1774.45	Potential
Well #4	8 MO	1100	2.451	1182.	Estimated; Hatchery
Permit 19723	Seasonal		5.0	959.24	Abrogated
Permit 22448	Annual		3.966	2871.25	Hatchery (935.6 MGA)
Permit 47267	Annual		2.228	1612.57	Fish Hatchery
Application 49409	Annual		1.88	360.0	Irrigation
Well #6	Annual	600	1.337	967.95	Potential
Well #6	4 MO	600	1.337	323.0	Estimated; Hatchery
Permit 22539	Annual		5.0		Cancelled
Permit 22942	Annual		1.849	814.0	Irrigation
Permit 25180	Annual		1.782	1290.11	Hatchery

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<sup>4</sup> PERIOD means period of use or operating period.  
 GPM means gallons per minute.  
 CFS means cubic-feet per second.  
 AFA means acre-feet annually.  
 AFS means acre-feet per season.  
 MGA means million gallons annually.  
 MO means month.

IV.

Well #3 operating continuously at 300 gallons per minute will produce 483.61 acre-feet annually. Permit 22065 was approved to appropriate 828.55 acre-feet annually from Well #3 for fish hatchery operations and maintenance. Permit 22249 was approved to appropriate 814.0 acre-feet annually of effluent wastewater discharged from the fish hatchery, underground water produced from Well #3, for irrigation purposes. Therefore the entire current potential annual production of water from Well #3 is appropriated for irrigation purposes.

Well #4 operating continuously at 1100 gallons per minute will produce 1774.45 acre-feet annually. Permit 22448 was approved to appropriate 935.6 million gallons annually (2871.25 acre-feet annually) from Well #4 for fish hatchery operations and maintenance. Permit 47267 was approved to appropriate 1612.57 acre-feet annually from Well #4 for fish hatchery operation. Application 49409 proposes to appropriate 360 acre-feet annually of effluent wastewater discharged from the fish hatchery, underground water produced from Well #4, for irrigation purposes. Therefore Application 49409 proposes to appropriate a portion of the current potential annual production of water from Well #4 for irrigation purposes.

Well #6 operating continuously at 600 gallons per minute will produce 967.95 acre-feet annually. Permit 25180 was approved to appropriate 1290.11 acre-feet annually from Well #6 for process water for fish hatchery operation and maintenance (Permit 25180 replaces cancelled Permit 22539). Permit 22942 was approved to appropriate 814.0 acre-feet annually of effluent wastewater discharged from the fish hatchery, underground water produced from Well #6, for irrigation purposes. Therefore a portion of the current potential annual production of water from Well #6 is appropriated for irrigation use.

V.

The combined potential annual production of water for continuous operation of Wells #3, #4, and #6 is 3226.01 acre-feet annually. The combined appropriations of water for irrigation purposes approved under Permits 22249 and 22942 and proposed under Application 49409 is 1988.0 acre-feet annually (Permits 22249 and 22942 are supplemental). Therefore for continuous operation of Wells #3, #4, and #6 there is a combined potential production of 1238.01 acre-feet annually remaining for possible appropriation for consumptive use.

VI.

Review of records of Nevada Division of Water Resources does not disclose any currently valid water right appurtenant to the portion of the proposed place of use under Application 49409 located east of the Allerman Canal.<sup>1</sup>

CONCLUSION

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>5</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>6</sup>

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.

III.

Waters diverted from Wells #3, #4, and #6 are appropriated by Lahontan National Fish Hatchery under Permits 22065, 22448, 47267, and 25180, and are commingled to produce process water for fish hatchery operations, a substantially nonconsumptive use; then these commingled waters are discharged as effluent wastewater from the fish hatchery into the Allerman Canal. The entire portion of the effluent wastewater diverted from Well #3 and a substantial portion of the effluent waste water diverted from Well #6 are appropriated by Settlemeyer Ranches and Arnold Settlemeyer under

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<sup>5</sup> NRS Chapters 533 and 534.

<sup>6</sup> NRS 533.370(3).

Permits 22249 and 22942 for irrigation purposes. A portion of the effluent wastewater diverted from Well #4 is proposed to be appropriated by Robert L. Pruett under Application 49409 for irrigation purposes.

Since diversions of water from Wells #3, #4, and #6 are intermittent, variable, and commingled to satisfy fish hatchery requirements, and then the same waters from specific wells are appropriated by different parties for irrigation purposes upon different lands; therefore a reliable monitoring system is necessary to properly control diversions of water to ensure equitable distribution of well waters and of Carson River water which are conveyed by the Allerman Canal.

IV.

Well #4 operating continuously at 1100 gallons per minute will produce 1774.45 acre-feet annually. Well #4 operating continuously for eight months will produce 1182 acre-feet. The record does not disclose any currently valid water right approved to divert water from Well #4 for consumptive use. Therefore there is unappropriated water at the source. Application 49409 proposes to appropriate 360 acre-feet annually of water from Well #4 for irrigation use, after that water is discharged from the Lahontan National Fish Hatchery into the Allerman Canal.

V.

The record does not disclose any evidence that the proposed appropriation of water produced from Well #4 under Application 49409 will conflict with existing water rights or threaten to prove detrimental to the public interest.

VI.

Protestant, Settlemeyer Ranches, Arnold Settlemeyer, requests that Permit 49409 be issued subject to actual production of the well on the Pruett Ranch, to protect prior rights, and to simplify administration of this water, and that an order be entered for such relief as the State Engineer deems just and proper.

To ensure proper control and equitable distribution of water diverted from Wells #3, #4, and #6 and from the Carson River, a reliable monitoring system is necessary.

RULING

I.

The protest of Settlemeyer Ranches, Arnold Settlemeyer, is hereby affirmed.

II.

Application 49409 will be approved upon receipt of the permit fee, on the grounds that there is unappropriated water at the source, and that this appropriation will not conflict with existing rights and will not be detrimental to the public interest, and subject to the following terms and conditions.

Permit 49409 is issued subject to all existing rights on the source.

Totalizing meters must be installed and maintained in the discharge pipelines for the pump at well #4 and for each pump withdrawing water from the Allerman Canal for use under Permit 49409. Accurate measurements must be kept of water placed to beneficial use. Meter readings and dates and times must be recorded at start-up and shut-down for each pump and at the end of each month when operating. The record of meter readings for each pump for each month must be submitted by permittee to the State Engineer upon request. The totalizing meters must be installed and operable before any use of water begins or before the Proof of Completion of Work is filed. The State retains the right to regulate the use of the water herein granted at any and all times.

Water approved for appropriation under Permit 49409 is limited to that water withdrawn under Permits 22448 and 47267 from well #4 located within SE1/4 of NE1/4, Section 14, T.12N., R.20E., M.D.B.&M., or at a point from which the SE corner of said Section 14 bears S. 12° 46' E. a distance of 2791 feet, more or less. Water may be diverted for use under Permit 49409 only during the time period when water diverted under Permits 22448 and 47267 is being discharged from Lahontan National Fish Hatchery into the Allerman Canal. The diversion rate under Permit 49409 must not at any time exceed the pumping rate from the well under Permits 22448 and 47267.

Permittee must install and maintain in operating condition a reliable monitoring system to control and regulate waters diverted from well #4 to ensure equitable distribution of well waters and Carson River waters which are conveyed by the Allerman Canal. The monitoring system and any change to this system must be approved by the State Engineer, the Federal Water Master and the U.S. Fish and Wildlife Service before

starting any work. The monitoring system must be installed and operable before any use of water begins or before the Proof of Completion of Work is filed.

Permittee must coordinate activities under Permit 49409 at all times with operating requirements of Lahontan National Fish Hatchery to prevent interference or conflict with Hatchery water rights.

The permit granted herein carries with it no provision or guarantee for continuous use or availability of water since the source is fish hatchery effluent wastewater. The diversion of water from the underground source (well #4) for fish hatchery use is intermittent and is unreliable as a constant source.

Permit 49409 is issued for direct diversion of 1.88 c.f.s., therefore, secondary permits will not be required.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/RT/bk

Dated this 21st day of

July, 1988.

## ADDENDUM

In the Matter of Application 49409  
Lahontan National Fish Hatchery  
1985-87 Deep Well Pumping  
Operation of Wells #3, #4, and #6

The chart illustrates that Well #3 was operated in 1985 during August and September for a total of 7 days, in 1986 intermittently during May, June, and July for a total of 42 days, in 1987 continuously during the latter part of April through the early part of July for a total of 79 days, intermittently during the remaining part of July and early part of August for a total of 23 days, and continuously during the latter part of September through the early part of October for a total of 42 days.

The chart illustrates that Well #4 was operated in 1985 intermittently during early January through early June for a total of 66 days, and continuously during the latter part of July through December for a total of 173 days, in 1986 continuously during January through the early part of March for a total of 71 days, intermittently during the latter part of March and early part of April for a total of 7 days, and continuously during the latter part of June through December for a total of 201 days, in 1987 continuously during January through the early part of March for a total of 82 days, and continuously during the latter part of July through December for a total of 166 days.

The chart illustrates that Well #6 was operated in 1985 continuously during the latter part of January through the early part of April for a total of 82 days, continuously during the latter part of April through May for a total of 50 days, continuously during the latter part of June and the early part of July for a total of 24 days, continuously during the latter part of August for 3 days, and continuously during part of September and the early part of October for a total of 44 days, in 1986 continuously during the early part of March for a total of 5 days, continuously during the latter part of March through the early part of May for a total of 50 days, intermittently during the early part of June for a total of 3 days, continuously during the latter part of July and part of August for a total of 43 days, and during September for 1 day, in 1987 continuously during February for 12 days, continuously during the early part of March for 13 days, continuously during the latter part of March and early part of April for a total of 24 days, continuously during the early part of June for 3 days, continuously during the latter part of June and the early part of July for a total of 14 days, continuously during part of August and the early part of September for a total of 28 days.