IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF THE REQUEST FOR) CHANGE OF WATER SOURCES UNDER) WATER RIGHT PERMITS 28498, 28499 AND) 28501, APPROVED TO APPROPRIATE WATER) FROM SPRING SOURCES IN SPANISH) SPRINGS GROUNDWATER BASIN (BASIN 85),) WASHOE COUNTY, NEVADA.)

RULING

GENERAL

I.

Permit 28498 was approved August 19, 1975, to appropriate 1.0 cubic-feet per second (CFS) of water from an unnamed spring source for irrigation and domestic purposes on 160 acres (AC) of land. Permits 28498 and 28499 have the same point of diversion. Proof of Beneficial Use and Cultural Map have not been submitted. Proof of Completion of Work has been filed.[1] Harry J. Williams is current owner-of-record.

Permit 28499 was approved August 19, 1975, to appropriate 0.00056 CFS of water from an unnamed spring source for stockwatering and domestic purposes for 18 head of livestock. Permits 28498 and 28499 have the same point of diversion. Proof of Beneficial Use has not been submitted. Proof of Completion of Work has been filed.[1] Harry J. Williams is current owner-of-record.

Permit 28501 was approved August 19, 1975, to appropriate 2.7 CFS of water from a spring and sump source for irrigation and domestic purpose on 160 AC of land. Proof of Beneficial Use and Cultural Map have not been submitted. Proof of Completion of Work has been filed.[1] Harry J. Williams is current owner-of-record.

Application 28500 submitted July 9, 1974, to appropriate 2.7 CFS of water from an underground source for irrigation and domestic purposes on 160 AC of land, was denied March 4, 1975 "on the grounds that the granting of this Application would adversely affect existing water rights and be detrimental to the public welfare".[1]

The points of diversion for the Water Right Permits and Applications considered in this action are located within the Spanish Springs Groundwater Basin (Basin 85).[1]

---

[1] Public record in the office of the State Engineer, Nevada Division of Water Resources, Carson City, Nevada.

II.

A "Request for Change of Water Source Location" under Permits 28498, 28499 and 28501 was originally received on January 11, 1988, and was subsequently resubmitted as a separate statement notarized March 25, 1988.[1]

FINDINGS OF FACT

I.

In the "Request for Change of Water Source Location", Mr. Williams explains and asserts the following:[2]

- That the source unnamed spring (Permits 28498 and 28499) and the source springs and sump (Permit 28501) were originally incorrectly described as springs in previous water right applications by Mr. Williams' father;

- That both sources are actually underground water sources, i.e., diversion by a horizontal well (Permits 28498 and 28499) and a shallow vertical well (Permit 28501);

- That the unnamed spring source is actually "a perforated pipe placed and jacked several hundred feet horizontally into an aquifer in the hills behind the ranch", i.e., a horizontal well;

- That the springs and sump source are actually "a deep excavation into an aquifer in a canyon", i.e., a shallow vertical well;

- That the "water sources now being used, which have been in use since the 1930's are technically wells, and not springs", and

- That "the property on which the water is used is a 165-acre ranch parcel which the Williams family has worked or lived on since the 1930's. Homestead patent on the land was ultimately received by my father and he continued to work the ranch until his death in 1963".

II.

Staff engineers, Nevada Division of Water Resources (NV DWR), conducted a preliminary reconnaissance inspection in the Spring 1988, and subsequently, a second

---

[2] Refer to the "Request for Change of Water Source Location" submitted by Harry J. Williams, a statement notarized March 25, 1988. Public Record in the office of the State Engineer.

final inspection about December 2, 1988, to determine site conditions and to acquire data concerning the water sources under Permits 28498 and 28499 (unnamed spring) and Permit 28501 (springs and sump source).[3]

The purpose of this inquiry was to acquire and evaluate information to determine the nature of the water sources developed under Water Right Permits 28498, 28499, and 28501.

The site investigation was confined to the water source under Permits 28498 and 28499. There is insufficient site data to properly evaluate the nature of the source under Permit 28501.[3]

III.

The diversion structure under Permits 28498 and 28499 appeared to be situated as specified by the Permits, and was identified by Mr. Williams as being the point of diversion.[3]

The diversion structure under Permits 28498 and 28499 is located on the south slope of a gully, approximately 10 feet up-slope from and 3 feet higher than the bottom of the gully channel. The gully is aligned approximately east and west, and the gully channel slopes down from west to east. The terrain in the area generally slopes upward to the west and downward to the east from the diversion structure.

There is a dense growth of brush in the vicinity of the diversion structure. The brush growth extends approximately 100 feet in both east and west directions from the diversion structure, along the bottom of the gully, and the growth is approximtely 20 feet wide.[3]

Seepage water flow was not observed on the ground surface adjacent to the diversion structure.[3]

The water source is developed by a diversion structure consisting of a concrete box and some type of an underground water collection system which conveys water into the concrete box.[3]

The concrete box is approximately 3 feet by 3 feet cross section by 8 feet high inside. The bottom of the concrete box extends approximately 6 to 6-1/2 feet below the ground surface and the top of the concrete box extends approximately 1-1/2 to 2 feet

---

[3] Refer to Report of Field Investigation,Index No. 830, dated June 30, 1989, In the Matter of Request for Change of Water Source Under Water Right Permits 28498, 28499 and 28501. Public record in the office of the State Engineer.

above the ground surface. The top of the concrete box is a concrete slab cap, with a manhole-type opening. The size of the top opening is too small to allow easy access. The inside of the box was inspected by observation through the top opening.[3]

Prior to pumping any water from the structure, the water level inside the structure was determined to be approximately 12 to 18 inches above the ground surface adjacent to the structure.[3]

One inlet opening was observed in the west wall of the box structure, approximately 6-feet below ground surface and 6-inches above the bottom of the box. The west wall is aligned approximately north and south, across the gully channel, and faces the up-stream direction (west) of the gully channel.[3]

The outlet opening was not observed, which apparently is located in the bottom of the structure.

Seepage water was not observed on the inside wall surfaces of the concrete box structure.[3]

During pumping water from the structure, as the water level inside the structure fell to expose the wall inlet opening, and continued to fall below the opening, initially the stream flow through the opening into the structure appeared to be pressure induced and approximately 6 inches across (horizontal). As pumping was continued to maintain a water level in the structure below the wall inlet opening, the opening appeared to flow full for approximately one minute; then the stream flow appeared to change to open channel flow and continually diminished during a period of approximately 5 minutes to a stabilized stream flow approximately 2 inches across, and maintained this size until the pump was shut-off and the water level rose to "flood-out" the opening.

The direction of the stream flow through the wall inlet opening into the structure was aligned approximately northwest to southeast and was skewed approximately 72 degrees from the wall surface (the wall is aligned approximately north to south). The extension of the stream alignment toward the west would penetrate into the ridge forming the north slope of the gully.

IV.

Application 28498 was approved August 19, 1975, to appropriate water from a spring source for irrigation and domestic purposes.

Application 28499 was approved August 19, 1975, to appropriate water from a spring source for stockwatering and domestic purposes.

Application 28501 was approved August 19, 1975, to appropriate water from a spring source for irrigation and domestic purposes.

Application 28500 to appropriate water from an underground source for irrigation and domestic purposes was denied March 4, 1975, on the grounds that granting the application would adversely affect existing water rights and be detrimental to the public welfare.[1]

V.

Affidavit of Harry J. Williams asserts the following:[1]

-That affiant, Harry J. Williams, is the permittee of Permit 28501 (should specify Permit 28498)
-That affiant has had a long personal and close relationship with his father and the ranch property, which upon his father's death became his property;
-That affiant recalls being told by his father that his father and the commander of the Civilian Conservation Corps (the CCC were camped in the area) agreed that for use of some of the water the CCC would help drill a horizontal well (a perforated pipe driven into the aquifer at an angle) into the hills above the ranch.[1,4]

Affidavit of George E. Schonard asserts the following:

-That affiant, George E. Schonard, has lived on the Williams Ranch since 1961 as renter and caretaker;
-That he is familiar with the ranch water facilities;
-That based upon his experience and prior conversation with the deceased Mr. James Williams, who was party to the drilling of the well (the same diversion structure as under Permits 28498 and 28499), that a perforated pipe jacked into the hills above the ranch is the source of water for this well.[1,5]

---

[4] The affidavit specifying Permit 28501 applies to Permits 28498 and 28499, and not to Permit 28501; and the affidavit specifying Permit 28498 applies to Permit 28501, and not to Permit 28498.

[5] The affidavit specifying Permit 28501 applies to Permit 28498 and 28499, and not to Permit 28501.

VI.

Nevada Revised Statutes does not authorize the State Engineer to change the source of an existing water right.[6]

CONCLUSIONS

I.

The State Engineer has jurisdiction of the subject mater of this action.[6]

II.

Nevada Revised Statutes (NRS) recognizes sources of water above and beneath the surface of the ground, i.e., surface water sources (including springs) and underground water sources.[7]

III.

Nevada Revised Statutes specify that no application to appropriate water shall be for the water of more than one source, and that each application to appropriate water must specify the name of the source.[8]

IV.

The water source under Permits 28498 and 28499 is developed by a concrete box structure extending approximately 6 to 6½ feet below ground surface and 1½ to 2 feet above ground surface. The water level inside the concrete box was approximately 1 to 1½feet above the ground surface. There was no seepage water observed on the ground surface in the area surrounding the concrete box.

V.

Since the water level inside the concrete box was above the ground surface adjacent to the box, and there was no seepage water on the ground surface, then the water in the box must originate from a source remote from the diversion structure.

---

[6] Nevada Revised Statutes (NRS) Chapters 533 and 534.

[7] NRS 533.025.

[8] NRS 533.330 and 533.335.

These characteristics are compatible with the source being developed by a casing extending horizontally into the side of the hill and tapping the groundwater reservoir at a location where the water table is at a higher elevation than at the concrete box. This is consistent with the affidavits of Harry J. Williams and George E. Schonard that this water source is developed by a perforated pipe driven horizontally into an aquifer in the hills above the ranch.

VI.

Applications 28498 and 28499 were approved in part because the water sources were described by the applicant to be surface water sources (i.e., springs), and not underground water sources.

Substantial evidence supports the conclusion that the water sources under Permits 28498 and 28499 are underground water sources.

VII.

Surface water sources are considered to be separate and independent sources from underground water sources.

VIII.

The water source under each Permit 28498 and 28499 (the same spring) was erroneously described in the respective applications as a spring source, and is actually an underground source developed by a horizontal well.

IX.

There is insufficient site data to properly evaluate the nature of the water source under Permit 28501.

RULING

I.

The State Engineer hereby rules that the water source under each Permit 28498 and 28499 (the same source and point of diversion) is an underground source.

The State Engineer makes no ruling concerning the nature of the water source under Permit 28501.

II.

The granting of Permits 28498 and 28499 are hereby rescinded on the grounds that the water sources were erroneously described in the respective Water Right Applications 28498 and 28499 as spring sources instead of underground sources, and therefore these applications failed to comply with NRS 533.335, et seq.

III.

The rescinded permits are invalid as water rights to divert and use water.

IV.

Applications 28498 and 28499 are hereby denied on the grounds that the source is an underground source and not a spring source.

Respectfully submitted,

PETER G. MORROS
State Engineer

PGM/RLT/bk

Dated this 19th day of

July, 1989.