

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 53189)
FILED TO CHANGE THE POINT OF)
DIVERSION, MANNER OF USE AND PLACE)
OF USE OF A PORTION OF THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE AMARGOSA DESERT GROUNDWATER)
BASIN, NYE COUNTY, NEVADA,)
HERETOFORE APPROPRIATED UNDER)
PERMIT 53189.)

RULING

GENERAL

Application 53189 was filed on April 17, 1989, by Earl Norman Selbach and Billy J. Strickland to change the point of diversion, manner and place of use of a portion of 0.3 c.f.s. of water from an underground source heretofore appropriated under Permit 16562, Certificate 5837. The proposed point of diversion was within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, T.16S., R.48E., M.D.B.&M. The existing point of diversion was within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, T.16S., R.48E., M.D.B.&M. The proposed manner of use was commercial and domestic. The proposed place of use was 15 acres within the E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, T.16S., R.48E., M.D.B.&M. The existing place of use was 120 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, T.16S., R.48E., M.D.B.&M.¹

A timely protest to the granting of Application 53189 was filed on July 26, 1989, by Owen R. Williams on behalf of the United States, National Park Service. The grounds of the protest are as follows:

"The application, if granted, may cause injury to reserved and appropriative water rights of the United States, Death Valley National Monument, including the United States' reserved water rights at Devil's Hole, a detached unit of Death Valley National Monument."¹

Water Resources Reconnaissance Series Report 14, "Geology and Ground Water of Amargosa Desert, Nevada-California", by George E. Walker and Thomas E. Eakin, geologists, was prepared cooperatively by the Nevada Department of Conservation and

¹ Public record in the office of the State Engineer.

Natural Resources, Division of Water Resources, and the U.S. Department of the Interior, Geological Survey. This report is available from the office of the State Engineer.

FINDINGS OF FACT

I.

By an order dated May 14, 1979, the State Engineer designated and described the Amargosa Desert Groundwater Basin under the provisions of NRS Chapter 534.²

II.

The State Engineer, in cooperation with the U.S. Geological Survey, has conducted and continues to maintain groundwater level measurements and pumpage inventories in the Amargosa basin for the purpose of monitoring groundwater withdrawals and long-term effects on groundwater levels and storage depletion.³

III.

The proposed point of diversion for Application 53189 and existing point of diversion for Permit 16562, both fall within portions of the existing place of use for Permit 16562. The new proposed well location for Application 53189 is within $\frac{1}{2}$ mile of the existing well location.

IV.

The proposed place of use for Application 53189 is 15 acres within a portion of the existing place of use appurtenant to the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T.16S., R.48E., M.D.B.&M. Thus, despite the change in manner of use, actual commercial situs is within the existing permitted area. Approval of Application 53189 does not constitute a new appropriation of water from the source therefore there will be no impairment of existing rights.

² State Engineer's Order No. 724, public record in the office of the State Engineer. In the Memorandum of Decision and Order in Civil Case No. 8801, Marville Stewart, et al. v. William J. Newman, State Engineer, in the District Court of the Fifth Judicial District of the State of Nevada, in and for the County of Nye, the Order dated May 14, 1979, designating Amargosa Desert Groundwater Basin was affirmed.

³ Public record in the office of the State Engineer.

V.

There is no evidence that approval of Application 53189 will not be in the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 and NRS 533.435.

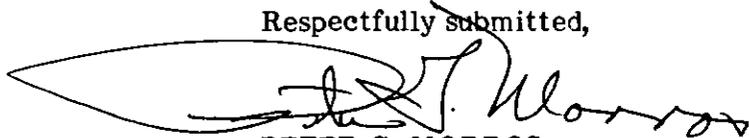
II.

Application 53189 is filed to change a portion of a prior existing certificated water right. The change proposed does not constitute an expansion of use, nor will it result in additional withdrawal of water from the groundwater basin.

RULING

The protest to the granting of Application 53189 is herewith overruled on the grounds that approval will not effect existing rights or be detrimental to the public interest. A permit will be granted under Application 53189 upon receipt of statutory permit fees, subject to existing rights. The State Engineer does not waive the right to regulate groundwater withdrawals under this application if he deems it necessary.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/DL/bk

Dated this 26th day of
September, 1989.