

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

IN THE MATTER OF APPLICATION 48406 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNDERGROUND SOURCE )  
WITHIN STONE CABIN VALLEY )  
GROUNDWATER BASIN (149), NYE )  
COUNTY, NEVADA )

RULING

# 4297

GENERAL

I.

Application 48406 was filed on September 17, 1984, by Stone Cabin Valley Farms, Inc., to appropriate 5.4 cubic feet per second (cfs) of water from the underground waters of the Stone Cabin Valley Groundwater Basin, Nye County, Nevada, for irrigation and domestic purposes for use within the E $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 9; W $\frac{1}{2}$ NW $\frac{1}{4}$  Section 10; S $\frac{1}{2}$ SW $\frac{1}{4}$  Section 3, T.3N., R.48E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 3, T.3N., R.48E., M.D.B.&M.<sup>1</sup>

II.

Application 48406 was timely protested on January 17, 1985, by Roy Clifford, Joe Clifford, Jr., Albina Clifford and Marguerite Boscovich, aka Stone Cabin Ranch Partnership, on the following grounds:

Protestors have invested time and capital over the years to assure a sustained and/or yield of water from this area for livestock watering purposes which is the livelihood of our operation and the granting of this application could prove detrimental to this purpose. Also protestors (Stone Cabin Partnership) made Application No. 46635, filed in the State Engineer's Office February 14th, 1983, to appropriate 5.4 c.f.s. second feet of water from this area for irrigation and domestic purposes and to date the approval of this application has been withheld; so therefore we feel that to insure the stability of our operation which has been in existence since 1893, the application of Stone Cabin Farms, Inc. be denied or withheld also.

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<sup>1</sup> File No. 48406, official records of the Office of the State Engineer.

FINDINGS OF FACT

I.

Application 46635 was filed on February 14, 1983, by Stone Cabin Partnership, to appropriate 5.4 cfs of water from the underground waters of the Stone Cabin Valley Groundwater Basin, Nye County, Nevada, for irrigation and domestic purposes for use within the E $\frac{1}{2}$ W $\frac{1}{2}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 5; and NE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 8, T.4N., R.48E., M.D.B.& M. The point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 5, T.4N., R.48E., M.D.B.&M.<sup>2</sup>

A permit under Application 46635 was granted on January 28, 1986. The State Engineer finds that the point of diversion and place of use under Permit 46635 is more than six miles from the point of diversion and place of use under Application 48406.

II.

Permit 22620, was granted by the State Engineer on April 14, 1966. Under Permit 22620, the applicant was allowed to divert 5.4 cfs, not to exceed 4.0 acre-feet per acre of land irrigated, of water from the underground waters of the Stone Cabin Valley Groundwater Basin, Nye County, Nevada, for irrigation and domestic purposes for use within the E $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$  Section 9; W $\frac{1}{2}$ NW $\frac{1}{4}$  Section 10; S $\frac{1}{2}$ SW $\frac{1}{4}$  Section 3, T.3N., R.48E., M.D.B.& M. The point of diversion being described as located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 3, T.3N., R. 48E., MD.B.&M.<sup>3</sup>

Proof of beneficial use of the waters under Permit 22620 was filed with the State Engineer and Certificate 6928 was issued under Permit 22620 on January 27, 1969. By Ruling No. 3243, dated October 8, 1985, Certificate 6928 was forfeited for failure to continue to beneficially use the waters as allowed under the certificate. The State Engineer finds that the point of diversion,

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<sup>2</sup> File No. 46635, official records of the Office of the State Engineer.

<sup>3</sup> File No. 22620, official records of the Office of the State Engineer.

place and manner of use under Application 48406 is identical to that identified under Permit 22620, and that the waters of Stone Cabin Valley Groundwater Basin had previously been used to develop the identical lands as identified in Application 48406.

III.

The United States Geological Survey estimates the average annual recharge to the groundwater reservoirs in the valley fill of the Stone Cabin Valley Groundwater Basin to be 16,000 acre-feet annually.<sup>4</sup>

IV.

The State Engineer finds that existing permitted and certificated groundwater rights in the Stone Cabin Valley Groundwater Basin exceed 2,857 acre-feet annually.<sup>5</sup>

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the subject matter of this action.<sup>6</sup>

II.

The State Engineer is prohibited by law from granting a permit where:

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or

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<sup>4</sup> Eakin, Thomas, GROUND-WATER RESOURCES - RECONNAISSANCE SERIES, Report 12, State of Nevada Department of Conservation and Natural Resources & United States Geological Survey, p. 11, Oct. 1962.

<sup>5</sup> Hydrographic Basin Abstract, Basin 10-149, official records of the Office of the State Engineer, February 1991.

<sup>6</sup> NRS Chapters 533 and 534.

- C. The proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes there is water available for appropriation in the Stone Cabin Valley Groundwater Basin.

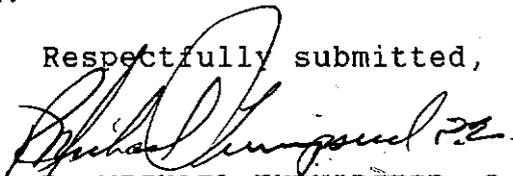
IV.

The State Engineer concludes that the point of diversion and place of use under Permit 46635 is more than six miles away from the point of diversion under Application 48406, that granting a permit under Application 48406 will not interfere with the protestants' existing rights, nor prove detrimental to the public interest.

RULING

The protest to Application 48406 is hereby overruled and Application 48406 is granted.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SJT/ab

Dated this 6th day of  
February, 1996.