

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

IN THE MATTER OF APPLICATION 55014 FILED TO )  
APPROPRIATE THE UNDERGROUND WATERS OF THE )  
TRACY SEGMENT GROUNDWATER BASIN (83); )  
STOREY COUNTY, NEVADA. )

RULING

# 4447

GENERAL

I.

Application 55014 was filed on June 28, 1990, by Nevada Hydrocarbon, Inc. to appropriate 0.35 cubic feet per second (cfs) and not to exceed 11.0 million gallons annually (mga), which is equivalent to 33.8 acre feet annually (AFA), of the underground waters of the Tracy Segment Groundwater Basin, Storey County, Nevada, for industrial use at a contaminated soil remediation facility located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 11, T.19N., R.21E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 11.<sup>1</sup>

II.

Application 55014 was timely protested by Storey County Properties on the grounds that:

The proposed point of diversion under this application appears to be less than  $\frac{1}{4}$  mile from an existing well under Permit 50464, owned by Storey County Properties. The production of this well is limited and we feel that the granting of a permit under Application 55014 would adversely affect Storey County Properties' existing right and be detrimental to the public welfare.

Therefore, the protestant requests that the application be denied and that an order be entered for such relief as the State Engineer deems just and proper.<sup>1</sup>

---

<sup>1</sup>File No. 55014, official records in the Office of the State Engineer.

III.

After all parties were noticed by certified mail,<sup>2</sup> a public administrative hearing was held before a Hearing Officer for the State Engineer.<sup>3</sup> At the hearing, administrative notice was taken of all of the records in the Office of the State Engineer.<sup>4</sup>

FINDINGS OF FACT

I.

The State Engineer has issued permits and certificates under which a total of 5,539 acre feet annually (AFA) of water have been appropriated from the underground waters within the Tracy Segment Groundwater Basin.<sup>5</sup> Of this quantity, 509.0 AFA of water have been appropriated for mining use, which is considered temporary in nature and will not have a permanent effect on the groundwater resource. The recharge to the groundwater in this basin is estimated to be 6,000 AFA.<sup>6</sup> The State Engineer finds that there is additional water available for appropriation within the Tracy Segment Groundwater Basin.

---

<sup>2</sup>Exhibit No. 1, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>3</sup>Transcript of Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>4</sup>Transcript p. 5, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>5</sup>Official Records in the Office of the State Engineer.

<sup>6</sup>Water Resources-Reconnaissance Series Report 57: A Brief Water-Resources Appraisal of the Truckee River Basin, Western Nevada, Prepared cooperatively by the USGS and the Nevada Division of Water Resources, p. 40, 1973.

II.

The Protestant feels that the proposed pumping from the Applicant's well will conflict with his existing well (Permit 50464, Certificate 13113) located about 600 feet away.<sup>7</sup> However, no evidence or testimony was presented in support of this position. Presently, the Applicant uses water from the Protestant's well and is experiencing poor water quality and diminishing water production.<sup>8</sup> The Applicant's well was constructed as a monitoring well required by the Nevada Division of Environmental Protection.<sup>9</sup> The water level in this well is stable and is observed to rise while the Protestant's well is pumped.<sup>10</sup> The water quality is much better in this well than that from the Protestant's well.<sup>11</sup> The two wells were both constructed in volcanic material.<sup>12</sup> The State Engineer finds that the Applicant's well can be pumped, as proposed under Application 55014, with minimal impact observed in the Protestant's well.

The Applicant offered, as a condition of approval of Application 55014, to monitor the Protestant's well and mitigate any negative impact that may occur.<sup>13</sup> The State Engineer finds

---

<sup>7</sup>Transcript pp. 6-7 and Exhibit No. 3, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>8</sup>Transcript pp. 22, 24, and 28, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>9</sup>Transcript pp. 25-26, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>10</sup>Transcript p. 56-57, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>11</sup>Transcript p. 22, Public Administrative Hearing before the State Engineer, March 29, 1996.

<sup>12</sup>Well Log No. 31449 in File 55014 and Well Log No. 29209 in file 50464, official records in the Office of the State Engineer.

<sup>13</sup>Transcript pp. 60-61 and 65, Public Administrative Hearing before the State Engineer, March 29, 1996.

that these are reasonable approval conditions, namely, the Applicant will be required to monitor the Protestant's well and to mitigate adverse impacts that go beyond any reasonable lowering of the water table observed at the Protestant's well that are caused by the pumping of the Applicant's well:

III.

The State Engineer finds that there is no evidence on the record that the approval of Application 55014 threatens to prove detrimental to the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.<sup>14</sup>

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters of Nevada where:<sup>15</sup>

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

III.

It is a condition of each appropriation of groundwater acquired under NRS Chapter 534 that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion.<sup>16</sup>

---

<sup>14</sup>NRS Chapters 533 and 534.

<sup>15</sup>NRS 533.370.

<sup>16</sup>NRS 534.110(4).

IV.

The recharge to the Tracy Segment Groundwater Basin is 6,000 AFA and the quantity of water committed under permits and certificates issued by the State Engineer totals 5,539. The State Engineer concludes that there is unappropriated water available within this groundwater basin.

V.

The evidence on the record indicates that the pumping of groundwater as proposed under Application 55014 will have no impact on the Protestant's well in excess of a reasonable lowering of the groundwater level. The State Engineer concludes that the approval of Application 55014 will not conflict with any existing rights.

VI.

As conditions of approval of Application 55014, the Applicant has agreed to monitor the Protestant's well and mitigate adverse impacts that may be caused by the pumping of water under said application. The State Engineer concludes that these conditions will insure that the approval of Application 55014 will not prove detrimental to the public interest.

RULING

The protest to Application 55014 is hereby overruled and said Application is hereby approved subject to existing rights, the payment of the statutory permit fees, and the approval of a monitoring plan for the Protestant's well which the Applicant shall submit no later than 60 days from the date of this Ruling.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/JCP/ab

Dated this 11th day of  
October, 1996.