

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

IN THE MATTER OF APPLICATIONS 50564)
AND 50566 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE DRY VALLEY)
HYDROGRAPHIC BASIN (095), WASHOE)
COUNTY, NEVADA.)

RULING
5088

GENERAL

I.

Application 50564 was filed on February 2, 1987, by High Pacific Seed Co., Inc., to appropriate 5.0 cubic feet per second (cfs) of underground water for irrigation and domestic purposes within the W $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4; SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5; NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8; W $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9; Lot 10 of Section 7, all within T.24N., R.18E., M.D.B.&M., and for use within the following portions of California: the W $\frac{1}{4}$, W $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6; N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{4}$ NE $\frac{1}{4}$, Lots 6,7,8, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, all within T.24N., R.18., M.D.B.&M.; NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, all within T.24N., R.17E., M.D.B.&M.; SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, all within T.25N., R.17E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, T.24N., R.18E, M.D.B.&M.¹

II.

Application 50566 was filed on February 2, 1987, by High Pacific Seed Co., Inc., to appropriate 5.0 cfs of underground water for irrigation and domestic purposes within the same place of use as that identified under Application 50564. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, T.24N., R.18E, M.D.B.&M.²

¹ File Number 50564, official records in the Office of the State Engineer.

² File Number 50566, official records in the Office of the State Engineer.

III.

Applications 50564 and 50566 were timely protested by the Washoe County Utility Division on the following grounds:

- A. The applications would interfere with pending Application 50200 filed by Washoe County.
- B. The applicant has allowed its former Permits 32579, 32580 and 34698 to lapse, which causes Washoe County to question the applicant's intentions.
- C. The applicant would cause Nevada waters to be used in the state of California.

IV.

Applications 50564 and 50566 were timely protested by the County of Lassen, California, on the following grounds:

- A. The application seeks to appropriate water to irrigate 1600 acres in a Section which appears to be a standard 640 acre Section.
- B. The proposal will increase draft from the Nevada portion of the Honey Lake Water Basin. Extraction of volumes in excess of the amount recharged by the Dry Valley watershed could overdraft the basin and cause an increase in the hydrolic gradient in favor of the Nevada portion of the Dry Valley Basin.
- C. Flows will be induced from California to Nevada by increased gradient, thereby reducing the groundwater level, which would have the effect of impairing existing, and currently underutilized, rights located within California.
- D. Groundwater flows into the Dry Valley Basin from other portions of the Honey Lake Water Basin could adversely affect those portions of the Honey Lake Basin currently being studied by the USGS.
- E. The commitment made by the Nevada State Engineer to delay any action on applications within the "Honey Lake Basin" should be extended to all areas within the Honey Lake Water Basin as depicted in the Water Budget, Honey Lake Water Basin, January 1986. (Copy of the study area map attached.)
- F. No further appropriations of groundwater or permits for the change in place or manner of use should be approved until an equitable apportionment or other agreement for the joint management of Honey Lake Water Basin groundwater

has been approved by both the State of Nevada and California.

- G. There is no conclusive evidence that the granting of the subject permit would not be detrimental to groundwater aquifers.

FINDINGS OF FACT

I.

Every water right application that is submitted to the Office of the State Engineer in its proper form must contain the name of the applicant. If the applicant is a corporation, it is required that the date and place of incorporation be included in the application form. Information provided by the applicant on the application forms indicates that High Pacific Seed Co., Inc. was incorporated in January 1983. The State Engineer finds that at the time of the filing of Applications 50564 and 50566, High Pacific Seed Co., Inc. existed as a Nevada corporation and as such, was qualified to request appropriations of water through the statutory permitting process.

II.

On November 28, 2001, the Office of the State Engineer searched the records of the Nevada Secretary of State's office regarding the corporate status of High Pacific Seed Co., Inc. It was found that High Pacific Seed Co., Inc. was no longer a corporation licensed in Nevada. The State Engineer finds that because High Pacific Seed Co., Inc. is no longer an active corporation within Nevada, they are disqualified from obtaining water right permits from the Office of the State Engineer.

III.

On November 28, 2001, the Office of the State Engineer searched the records of the Washoe County Assessor's office regarding the current owner of the land under the Nevada portion of Applications 50564 and 50566. The information indicated that High Pacific Seed Co., Inc. is not the current owner of the parcel.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- A. There is no unappropriated water at the proposed source;
- B. The proposed use conflicts with existing rights;
- C. The proposed use conflicts with protectable interests in existing domestic wells as set forth in NRS § 533.024; or
- D. The proposed use threatens to prove detrimental to the public interest.

III.

Applications 50564 and 50566 were filed by a corporation that is no longer an active corporation as witnessed by the Nevada Secretary of State's records. The State Engineer concludes that the approval of water right permits to a corporation no longer authorized to do business in the State of Nevada would threaten to prove detrimental to the public interest.

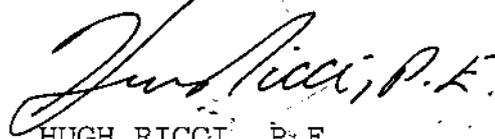
³ NRS chapters 533 and 534.

⁴ NRS § 533.370(3).

RULING

Applications 50564 and 50566 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TP/jm

Dated this 4th day of
December, 2001.