

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

IN THE MATTER OF PROTESTED)
APPLICATION 69653 FILED TO CHANGE)
THE POINT OF DIVERSION AND PLACE)
OF USE OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE PREVIOUSLY)
APPROPRIATED UNDER PERMIT 45900)
WITHIN THE CARSON VALLEY)
HYDROGRAPHIC BASIN (105), DOUGLAS)
COUNTY, NEVADA.)

RULING

#5351-A

GENERAL.

I.

Application 69653 was filed on February 24, 2003, by the Gardnerville Ranchos General Improvement District (GRGID), to change the point of diversion and place of use of 3.0 cubic feet per second (cfs) of underground water previously permitted for appropriation under Permit 45900. The proposed manner of use and place of use is described on the application as being for quasi-municipal purposes within portions of Sections 8, 9, 10, 14, 15, 16, 17, 20, 21, 22, 23, 27 and 28, T.12N., R.20E., M.D.B.&M. The changes requested by Application 69653, if approved, would transfer the applicant's existing point of diversion from the NW¼ SE¼ of Section 22, T.12N., R.20E., M.D.B.&M. to a point which is located within the SW¼ SE¼ of Section 10, T.12N., R.20E., M.D.B.&M. The existing place of use is described as being located within portions of Sections 15, 22, 23, 27 and 28, T.12N., R.20E., M.D.B.&M.¹

II.

Permit 48752 was issued on December 9, 1986, to the GRGID for the diversion of 1.894 cfs (1,371.02 acre-feet annually) for quasi-municipal and domestic purposes. The point of diversion is an existing well referred to as GRGID No.2, which is the same point of diversion as described under Application 69653.²

¹ File No. 69653, official records in the Office of the State Engineer

² File No. 48752, official records in the Office of the State Engineer

III.

Application 69653 was timely protested by Lee Ertle, on the grounds that approval of the application would adversely affect his domestic well.¹

FINDINGS OF FACT

I.

Nevada Revised Statute (NRS) § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State Engineer finds that in the case of protested Application 69653, there is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on this matter is not required.

II.

A review of records on file in the Office of the State Engineer show the protestant is the owner of a domestic well that serves a single-family dwelling located approximately 2,500 feet west north west of the proposed point of diversion under Application 69653. The use of a domestic well is exempted from the requirement of obtaining a water right permit under Nevada water law.² It is the policy of the state to recognize the importance of domestic wells as appurtenances to private homes and to create a protectible interest in such wells and to protect their supply from unreasonable adverse effects, which are caused by municipal, quasi-municipal or industrial uses.⁴ In consideration of water right applications, the State Engineer must take into account whether the proposed change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024.⁵

The State Engineer finds that the protestant has an existing domestic well and has a protectible interest in said domestic well.

¹ NRS §§ 534.013 and 534.160.

² NRS § 533.024 (2)

⁵ NRS § 533.370 (4)

III.

Nevada water law does not prevent the granting of permits to applicants later in time on the grounds that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectible interests in existing domestic wells and the rights of existing appropriators can be satisfied. Additionally, Nevada water law requires the State Engineer to include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any adverse effects on an existing domestic well located within 2,500 feet of the well.⁶ A review of Application 69653 and NRS § 534.110, shows that any permit issued under Application 69653 would fall within the criteria of this statute and would include the above stated permit condition giving the State Engineer the authority to limit or prohibit the pumping of water at GRGID No. 2.

The State Engineer finds that protections exist within the Nevada water law to protect domestic well owners from an unreasonable lowering of the water table, should such impacts occur as a result of pumping water at GRGID No. 2.

IV.

Application 69653 involves changing the point of diversion of 3.0 cfs (604.87 acre-feet annually) to the location of existing well GRGID No. 2. A review of records on file in the Office of the State Engineer shows existing Permit 48752 at well GRGID No. 2 allows a diversion rate of 1.894 cfs and an annual duty of 1,371.02 acre feet. If Application 69653 were approved, the maximum annual duty of water that could be withdrawn would increase to 1,975.89 acre-feet annually. In this regard, a two-layer groundwater flow model was used to predict the possible impacts to the protestant's well from the potential increase in pumping under Application 69653.

An existing two-layer finite difference groundwater flow model, constructed for the Gardnerville area, was used. The only modification to the model was the location of the wells being evaluated. The existing model covered the entirety of Carson Valley and utilized a one-mile grid. For the purposes of the simulation, only the area south of

⁶ NRS § 534.110 (5).

Gardnerville was utilized in this analysis. The well was modeled to pump at its maximum annual duty for 30 years. The results show the drawdown at the protestant's well was estimated to be 9 feet after 5 years and 10 feet after 30 years with near steady-state conditions reached after about 6 years.⁷ According to the Well Driller's log,⁸ the protestant's well is 396 feet deep with a reported static water level of 125 feet.

The State Engineer finds the projected drawdown impact of 10 feet over 30 years at the protestant's well is reasonable and will not conflict with protectible interests in his domestic well.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁹

II.

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate the public waters where:¹⁰

- A. there is no unappropriated water at the proposed source,
- B. the proposed use or change conflicts with existing rights;
- C. or conflicts with protectible 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.

The groundwater model computation shows a minimal drawdown of 10 feet after 30 years in the protestant's domestic well. The State Engineer concludes Application 69653 will not conflict with protectible interests in existing domestic wells as set forth in NRS § 533.024, NRS § 534.110, and NRS § 533.370 and the application will not cause an unreasonable drawdown in any nearby domestic wells.

⁷ See Interoffice correspondence dated March 12, 2004, in File No. 69653, official records in the Office of the State Engineer

⁸ Well Driller's Report, Log No. 73464, official records in the Office of the State Engineer

⁹ NRS chapters 533 and 534.

¹⁰ NRS § 533.370 (4).

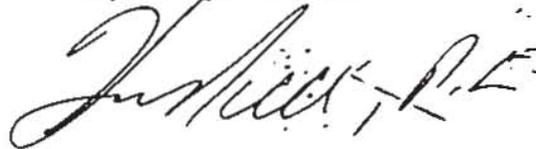
IV.

Application 69653 was filed to change existing groundwater rights within the Carson Valley Hydrographic Basin. Based on the record of evidence available, the State Engineer concludes that approval of Application 69653 will neither conflict with existing rights nor threaten to prove detrimental to the public interest.

RULING

The protest to Application 69653 is hereby overruled and the application is approved subject to existing rights and payment of the statutory permit fees. Any permit issued under this application will include the condition that pumping from this well may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse affects

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 23rd day of
April, 2004.