

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

IN THE MATTER OF APPLICATION 71689)
FILED TO CHANGE THE POINT OF)
DIVERSION, PLACE OF USE AND THE)
MANNER OF USE OF THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE PREVIOUSLY APPROPRIATED)
UNDER PERMIT 64957 WITHIN THE)
DAYTON VALLEY HYDROGRAPHIC)
BASIN (103), LYON COUNTY, NEVADA.)

RULING

#5499

GENERAL

I.

Application 71689 was filed on September 16, 2004, by Paul and Margaret Holloway to change the point of diversion, manner of use and place of use of 0.0078 cubic feet per second, not to exceed 1.0 acre-foot annually, of the underground water previously permitted for appropriation under Permit 64957. The proposed point of diversion is described as being located within the SE¼ NW¼ of Section 32, T.16N., R.21E., M.D.B.&M. The proposed manner and place of use is described as being for irrigation purposes within the SE¼ NW¼ of Section 32, T.16N., R.21E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Nevada Revised Statutes § 534.120(3) provides that in a designated basin, the State Engineer may:

- a) Issue temporary permits to appropriate ground water which can be limited as to time and which may, except as limited by subsection 4, be revoked if and when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.
- b) Deny applications to appropriate ground water for any use in areas served by such an entity.
- c) Limit the depth of domestic wells.

¹ File No. 71689, official records in the Office of the State Engineer.

- d) Prohibit the drilling of wells for domestic use, as defined in NRS 534.013 and 534.0175, in areas where water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

The proposed point of diversion and place of use described on Application 71689 are within an area where water can be furnished by Lyon County / Dayton Utilities, which is a municipality presently engaged in furnishing water to the inhabitants thereof.² Information on file in the Office of the State Engineer indicates that water service is currently provided to the proposed place of use by Lyon County's municipal system.³

The Dayton Valley Hydrographic Basin was designated under NRS § 534.030 on July 22, 1973, and further designated on August 23, 1977.

The State Engineer finds drilling a new well within an area where water can and is being furnished by a municipality may be prohibited.

The State Engineer finds that regulation of a basin is more readily accomplished when fewer wells are pumping water within the basin. The State Engineer finds it is not a good policy to encourage individual wells within an area served by a public utility system.

II.

The applicant indicated the local utility originally had some concern about cross-contamination, but that anti-siphon valves could be installed. The State Engineer has the same concern. Each additional well presents additional potential for contamination of the utility's system and as such threatens to prove detrimental to the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate the public waters where.⁵

² File No. 62077, official records in the Office of the State Engineer.

³ File No. 71689, official records in the Office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS chapter 533.370(4).

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

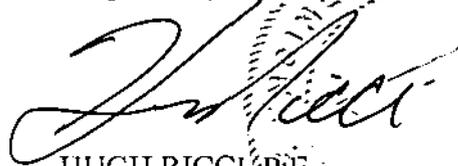
III.

The State Engineer concludes that to grant applications that allow the drilling of additional groundwater wells in areas where water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants would be contrary to NRS § 534.120, and would threaten to prove detrimental to the public interest.

RULING

Application 71689 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/SNC/jm

Dated this 21st day of

July 2005.