

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

IN THE MATTER OF APPLICATION 76352)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE LOVELOCK VALLEY-OREANA)
SUBAREA HYDROGRAPHIC BASIN (73A,))
PERSHING COUNTY, NEVADA.)

RULING
#6103

GENERAL

I.

Application 76352 was filed on October 4, 2007, by Bradley D. Quilici and Lynda Quilici to appropriate 0.1 cubic feet per second, not to exceed 20 acre-feet annually (afa), of water from an underground source for commercial and domestic purposes. The proposed place of use is described as being located within S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, E $\frac{1}{2}$, W $\frac{1}{2}$ of Section 9, all of Section 11, all of Section 15, W $\frac{1}{2}$ of Section 16, S $\frac{1}{2}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 21, all of Section 22, all of Section 27, all of Section 28, and all of Section 33, T.30N., R.33E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, T.30N., R.33E., M.D.B.&M.¹

II.

Application 76352 was timely protested by the Lovelock Meadows Water District on the following grounds:¹

1. Basin 73A is already over allocated.
2. Basin 73A is inside the Lovelock Meadows Water District Curtailment Area.
3. Basin 73A is inside the Lovelock Meadows Water District underground water basin.

FINDINGS OF FACT

I.

Nevada Revised Statute § 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.

¹ File No. 76352, official records in the Office of the State Engineer.

The State Engineer finds that sufficient evidence is available in the Office of the State Engineer to evaluate the merits of Application 76352 and a hearing is not necessary.

II.

Nevada Revised Statute § 534.120 provides that within an area that has been designated by the State Engineer where, in his judgment, the ground-water basin is being depleted, the State Engineer in his administrative capacity is empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved. The application of this provision of the NRS to the Lovelock Valley-Oreana Subarea is evidenced by a series of orders issued by the State Engineer beginning with State Engineer's Order No. 369 which designated the area.² This initial order described and designated an area of the hydrographic basin as a ground-water basin in need of additional administration.

By designating the ground-water basin, the State Engineer set the stage for further restrictions relating to the appropriation of ground water from the basin. State Engineer's Order No. 1079 gave notice that no further appropriations of ground water would be approved for irrigation purposes and the preferred use is municipal, within portions of the Lovelock Valley-Oreana Subarea as described therein.³

The State Engineer finds that Application 76352 has a proposed point of diversion within the designated area of State Engineer's Order No. 1079.

IV.

Nevada Revised Statute (NRS) Chapters 533 and 534 and the policies developed by the Office of the State Engineer control the appropriations of water within the State of Nevada. Under provisions found under NRS § 533.370(5), before an application that requests a new appropriation of underground water can be considered for approval it must be determined that there is unappropriated water available at the targeted source.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. The perennial yield

² State Engineer's Order No. 369, dated February 25, 1969, official records in the Office of the State Engineer.

³ State Engineer's Order No. 1079, dated May 17, 1993, official records in the Office of the State Engineer.

cannot be more than the natural recharge to a groundwater basin and in some cases is less. If the perennial yield is exceeded, groundwater levels will decline and steady-state conditions will not be achieved, a situation commonly referred to as groundwater mining. Additionally, withdrawals of groundwater in excess of the perennial yield may contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, and land subsidence.⁴

The Division of Water Resources estimates that the perennial yield of the Lovelock Valley, Oreana Subarea Hydrographic Basin is approximately 2,000 afa.⁵ The committed groundwater resources in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Lovelock Valley, Oreana Subarea Hydrographic Basin currently exceeds 4,300 acre-feet annually.⁶ The State Engineer finds that the existing groundwater rights in the Lovelock Valley-Oreana Subarea Hydrographic Basin exceed the perennial yield of the ground-water basin.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁸

- 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.

⁴ Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 13, Oct. 1971.

⁵ D.E. Everett, F. Eugene Rush, *Water Resources Appraisal of the Lovelock Valley, Pershing County, Nevada*, Water Resources - Reconnaissance Series Report 32, (Nevada Department of Conservation and Natural Resources and United States Geological Survey), p. 23, 1965.

⁶ Nevada Division of Water Resources Water Rights Database, Hydrographic Basin Summary, Lovelock Valley-Oreana Subarea, December 15, 2010, official records in the Office of the State Engineer.

⁷ NRS Chapters 533 and 534.

⁸ NRS § 533.370(5).

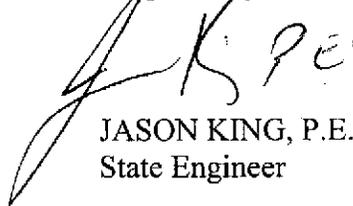
III.

The committed groundwater resources of the Lovelock Valley-Oreana Subarea Hydrographic Basin currently exceed the groundwater basin's estimated perennial yield. The State Engineer concludes that the approval of the subject application would result in the withdrawal of groundwater in excess of the perennial yield; therefore, approval would adversely affect existing rights and would threaten to prove detrimental to the public interest.

RULING

The protest is upheld in part and Application 76352 is hereby denied on the grounds that there is no unappropriated water at the proposed source, approval would conflict with existing rights and would threaten to prove detrimental to the public interest. No ruling is made on the merits of the remaining protest issues.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 15th day of
March, 2011.