

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

IN THE MATTER OF APPLICATION )  
80869 FILED TO APPROPRIATE THE )  
UNDERGROUND WATERS OF THE )  
CLOVER VALLEY HYDROGRAPHIC )  
BASIN (177), ELKO COUNTY, NEVADA. )

**RULING**

**#6156**

**GENERAL**

**I.**

Application 80869 was filed on May 18, 2011, by Donald L. Darby and Donalee Darby to appropriate 2.0 cubic feet per second, not to exceed 315.26 acre-feet annually (afa) of the underground waters of the Clover Valley Hydrographic Basin for irrigation purposes from January 1 through December 31 of each year. The proposed place of use is described as being located within portions of the W $\frac{1}{2}$  SW $\frac{1}{4}$  and the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4, T.34N., R.62E., 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 4, T.34N., R.62E., M.D.B.&M.<sup>1</sup>

**II.**

Application 80869 was timely protested by Martha P. Hoots, on the grounds that approval would "Deplete underground source of water for existing wells."<sup>1</sup>

**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 80869 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.

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<sup>1</sup> File 80869, official records in the Office of the State Engineer.

## II.

Application 80869 was protested on the grounds that the proposed appropriation, of 315.26 acre-feet, of water would adversely impact nearby senior wells. State Engineer's Ruling No. 3215 addresses this concern. The point of diversion for the proposed water right is within an area of high concentration within the Clover Valley Hydrographic Basin, a basin designated by State Engineer's Order 850 under the provisions of NRS Chapter 534. The total groundwater appropriation in the basin is 18,832 afa. Of this total, 14,144 afa (approximately 75%) is appropriated within T.34N. and T.35N., R.62E., M.D.B.&M. Ruling No. 3215 denies applications within these townships based on the conclusion that due to the concentration of existing rights, granting of these applications will cause a detrimental effect on existing rights.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>3</sup>

- 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 protectable 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 the point of diversion of Application 80869 is within an area of extremely high concentration of groundwater appropriation. Granting Application 80869 would adversely impact nearby senior water rights and would threaten to prove detrimental to the public interest.

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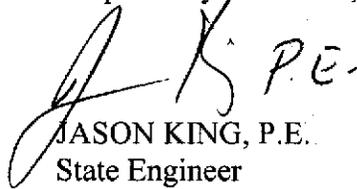
<sup>4</sup> NRS Chapters 533 and 534.

<sup>3</sup> NRS § 533.370(5).

**RULING**

Application 80869 is hereby denied on the grounds that its approval would conflict with existing water rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
JASON KING, P.E.  
State Engineer

Dated this 2nd day of  
December, 2011.