

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

IN THE MATTER OF APPLICATION 79945)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE LAMOILLE)
VALLEY HYDROGRAPHIC BASIN (45),)
ELKO COUNTY, NEVADA.)

RULING

#6174

GENERAL

I.

Application 79945 was filed on June 17, 2010, by William E. Johnson to appropriate 0.05 cubic feet per second (cfs), not to exceed 0.9 acre-feet annually (afa), of water from an underground source for irrigation purposes. The proposed place of use is described as being located within portions of the NE¼ NW¼ of Section 21, T.33N., R.58E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of said Section 21.¹

II.

Application 79945 was timely protested by Gallagher Family Trust on the following summarized grounds:¹

The existing well, upon which Mr. Johnson has filed Application 79945, was drilled on August 25, 2004, for the benefit of the 7th Canyon Ranch. Subsequent to the drilling, the Gallagher Family Trust acquired 7th Canyon Ranch including all rights.

It has recently been discovered that the well was incorrectly drilled by Hackworth Drilling, Inc., on the wrong property belonging to the applicant, Mr. William E. Johnson. Well Log No. 94471 was submitted to the State Engineer's office on October 30, 2006. This well should have been drilled under Permit No. 75153 (Gallagher Family Trust) for irrigation and not for domestic purposes.

A new survey of the property has been completed and the error discovered. It is the intent of the Gallagher Family Trust to re-drill this irrigation well approximately 25 feet north of the existing well to the proposed point of diversion under Permit No. 75153 and with the approval of the adjacent property owner because the existing well will be abandoned (approval may be with-held due to the Johnson's application).

¹ File No. 79945, official records in the Office of the State Engineer.

The distance from the existing well to the new well (25 feet) will be extremely detrimental to the performance of the new irrigation well for which all applications were previously filed and approved, before Application 79945 was submitted.

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 79945, 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.

Application 79945 was protested on the grounds that the proposed appropriation of 0.9 afa of water would adversely affect the Protestant's well. Every permit issued by the State Engineer is conditioned with a set of permit terms, which govern the appropriation of water. Among the terms applied to underground permits is the condition that the approval of the permit will allow for a reasonable lowering of the static water level. The State Engineer has determined that the Protestant's point of diversion, being Permit 75153 for irrigation,² is separated from the Applicant's proposed point of diversion by approximately 214.85 feet. On January 31, 2012, the Office of the State Engineer personnel reviewed available data within the vicinity of the proposed application and conducted analysis to evaluate the Protestant's concern. Available data included well log records, pump tests, local geology and associated measured or computed aquifer properties. Potential drawdown at the Protestant's well was estimated assuming a diversion rate of 0.05 cfs as specified in Application 79945, with a duty of 0.9 afa, assuming 3 acre-feet per acre for 0.3 acres, suggests a drawdown in the Protestant's well of less than 2 feet in 10 years. The State Engineer finds that the increased impact to the Protestant's proposed well under Permit 75153, by the pumping of 0.9 afa at the Applicant's well, is de minimis using the Theis method and the above assumptions.

² File No. 75153, official records in the Office of the State Engineer.

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 a permit under an application to appropriate the public water where: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.

Application 79945 if approved would appropriate 0.9 afa from a point of diversion within 214.85 feet from the closest of the Protestant's irrigation wells. The potential drawdown effect that this amount of pumpage would have on the Protestant's wells was evaluated by employing a standard analytical method. The analysis indicated that the approval of Application 79945 will not conflict with the Protestant's irrigation wells. The State Engineer concludes that the issuance of a water right permit derived from Application 79945 will not conflict with existing rights and will not threaten to prove detrimental to the public interest.

RULING

The protest to Application 79945 is hereby overruled and Application 79945 is hereby approved subject to existing rights and the payment of statutory filing fees.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 2nd day of
May, 2012.

³ NRS Chapters 533 and 534.
⁴ NRS § 533.370(2).