

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

IN THE MATTER OF APPLICATION 82835)
FILED TO CHANGE THE POINT OF)
DIVERSION OF PERMIT 61703, WITHIN THE)
PLEASANT VALLEY HYDROGRAPHIC)
BASIN (88), WASHOE COUNTY, NEVADA.)

RULING

#6248

GENERAL

I.

Application 82835 was filed on May 31, 2013, by Washoe County to change the point of diversion of 0.2853 cubic feet per second not to exceed 82.88 acre-feet annually (afa) of groundwater previously appropriated under Permit 61703 for municipal purposes. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T.17N., R.20E., M.D.B.&M. The existing point of diversion is located within a portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T.17N., R.20E., M.D.B.&M.¹

II.

Application 82835 was timely protested by Richard Panelli, Joan C. Latham, Sherrie L. Baker, Gary Peters, Stephen W. and Connie Cryer, Edward E. and Deborah J. Davis and Shari Curreri on various grounds including that the application should have adequate protection or observation equipment and procedures to monitor any impacts to the domestic wells in the area; and, if well water levels are impacted, then costs for deepening the wells should be paid for by Washoe County.¹

III.

Application 82835 was timely protested by Timothy F. Holt on the same grounds as Protestants Richard Panelli, Joan C. Latham, Sherrie L. Baker, Gary Peters, Stephen W. and Connie Cryer, Edward E. and Deborah J. Davis and Shari Curreri, but also to protect existing underground and surface water rights held by the Protestant. Protestant Holt requests that if there are any impacts to Protestant's domestic well, that the remedy would be the payment of cost for deepening the domestic well and allowing the domestic well to be deepened even though it is within the service area of a public water system.¹

IV.

Application 82835 was timely protested by Richard and Janet Hodgson, but no protest grounds were provided.¹

¹ File No. 82835, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Nevada Revised Statute (NRS) § 533.365(4) 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 82835, 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.

Every permit issued by the State Engineer is conditioned with a set of permit terms that 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 as provided by NRS § 534.110(4). The State Engineer finds that for the amount of water being changed the approval of Application 82835 would not cause an unreasonable lowering of the static water level.

This application seeks a change in the point of diversion where the proposed point of diversion is about 400 feet west of the existing point of diversion. This change moves the well location further away from the Protestants' domestic wells, which are all located east of the existing point of diversion. The State Engineer is not aware of any conflicts to the domestic wells as a result of pumping water from the existing well under Permit 61703, and therefore finds that no conflicts will occur when pumping from a well even farther away as proposed under Application 82835.

III.

If the Application is approved, Protestant Holt requests that if there are any impacts to the Protestant's domestic well, that the remedy would be the payment of cost for deepening the domestic well and allowing the domestic well to be deepened even though it is within the service area of a public water system. Nevada Revised Statute § 534.120(3) provides that in a designated basin, the State Engineer may limit the depth of domestic wells. Nevada Administrative Code (NAC) § 534.315(7) provides that if water service is available from an entity presently engaged in furnishing water to the inhabitants to the area, a well for domestic use may not be drilled, deepened, reconditioned or replaced unless a waiver is first obtained from the Division of Water Resources. The State Engineer finds that whether a well will be allowed to be deepened or is required to be plugged is not an issue for a decision on this Application to change, but will be addressed at the time a request for a waiver is made to the State Engineer.

IV.

In addition to the concerns of the domestic well, Protestant Holt raised concerns over his existing water rights. Timothy F. Holt and Pamela L. Holt are shown as owners of record for a portion of Permit 11533, Certificate 3069. The point of diversion of Permit 11533, Certificate 3069, is located within the NE¼ SW¼ of Section 7, T.17N., R.20E., at a point that lies approximately one mile east of the existing point of diversion.² Like the domestic wells, the State Engineer is not aware of any conflicts with Permit 11533, Certificate 3069 as a result of pumping water from the existing well under Permit 61703, and therefore finds that no conflicts will occur when pumping from a well even farther away as proposed under Application 82835.

Protestant Holt also raises concern over impacts to Truckee River Decree rights under Claims 655 through 659. Timothy F. Holt and Pamela L. Holt are shown as owners of record for a portion of Claims 655 through 659, Truckee River Decree.³ The source of the water for Claims 655 through 659 is Galena Creek.⁴ For a well to be drilled within ¼-mile of a perennial stream, it must conform to the requirements of NAC § 534.390. Such a well must be sealed to a depth of 100 feet, and perforations in the production casing are prohibited from ground level to a depth of 100 feet. The point of diversion proposed under Application 82835 is within ¼-mile of Galena Creek; therefore, the State Engineer finds that a 100-foot seal requirement is necessary to prevent interference with Galena Creek water rights.¹

V.

Nevada Revised Statute § 533.365(1) provides that any person may file "...a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest...." The State Engineer finds that the protest by Richard and Janet Hodgson did not state any protest grounds; therefore, it is dismissed.¹

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.⁵

² File No. 11533, official records in the Office of the State Engineer.

³ Truckee River Transfer Book No. DTR-655, official records in the Office of the State Engineer.

⁴ Final Decree in *United States v. Orr Water Ditch Co.*, In Equity Docket No. A-3 (D. Nevada 1944).

⁵ NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate the public waters where:⁶

- 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.

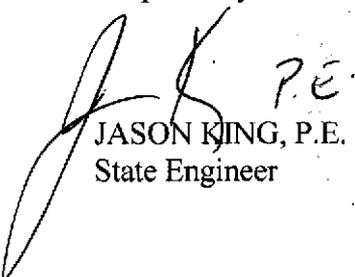
The State Engineer concludes that the proposed change does not conflict with protectable interests in existing domestic wells or any existing rights.

RULING

The protests are hereby overruled and Application 82835 is approved for a total of 82.88 acre-feet annually, subject to:

- 1. Requirement that the proposed well be sealed from ground level to 100 feet;
- 2. Existing rights; and
- 3. Payment of the statutory permit fees.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 27th day of
December, 2013

⁶NRS § 533.370(2).