

IN THE MATTER OF APPLICATION NO. 10406 )  
IN NAME OF WILLIAM GANSBERG TO APPROPRIATE : RULING  
GROUND WATER IN DOUGLAS COUNTY, NEVADA. )

Application No. 10406 was filed July 19, 1939 by Henry Seeman to appropriate 1.0 c.f.s. of ground water for irrigation and domestic purposes. The point of diversion is within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 9, T. 12 N., R. 20 E. and the lands to be irrigated, consisting of 13 acres, is within the same subdivision.

Following the publication of the notice of application in The Record Courier, a protest was filed January 23, 1940 by Fred W. Fricke. The basis of the protest was that the proposed location of the well was about 300 feet westerly of a domestic well of protestant, and that a deep well 2,940 feet westerly of protestant's well was known to have affected said protestant's well. The protestant stated that the application could be "issued subject to prior rights."

Sometime prior to August 24, 1939 applicant drilled a well at the proposed point of diversion to a depth of 105 feet. The application states that the lands to be irrigated are irrigated from the East Carson River under a vested right and that the proposed well supply will supplement the river water when the river supply becomes insufficient to satisfy the irrigation requirements.

On March 8, 1943 Applicant Henry Seeman deeded the land on which water under Application No. 10406 was to be appurtenant, together with appurtenances.

From information furnished to us, it appears that the acreage to be irrigated consists of some 9 acres, and that no pumping has been done the past two years due to the fact that river water furnished the required amount of water needed.

The Nevada Ground Water Act provides that "all underground waters within the boundaries of the State belong to the public, and subject to existing rights of the use thereof, are subject to appropriation for beneficial use -----" (Sec. 1, Chap. 178, Stats. 1939), and "The State Engineer-----shall determine if there is unappropriated water in the area affected and shall issue permits only if such determination is affirmative. It shall be an express condition of each appropriation of ground water acquired under this act that the right of the appropriator shall relate to a specific quantity of water and that such right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion----- and nothing herein shall be so construed as to prevent the granting of permits to applicants later in time on the ground that the diversion under such proposed later appropriation may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as the rights of holders of existing appropriations can be satisfied under such express conditions-----." (Sec. 10, Chap. 178, Stats. 1939 as amended Stats. 1949).

It is our opinion, based on studies made in Carson Valley, that there is unappropriated ground water. It is true that pumping

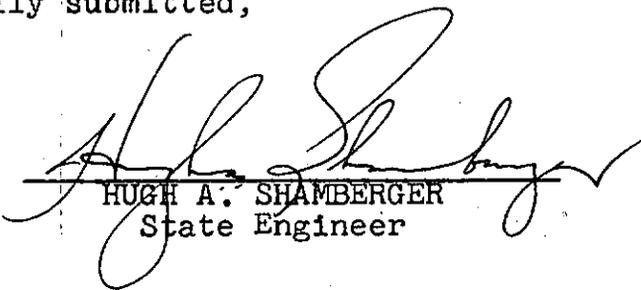
from a well may affect the static head of another well, or wells, in the general area, causing such head to lower. The statutes quoted in part above took this into account and where there is unappropriated water, and the lowering of the static head caused by increased draft of the ground water is not unreasonable, the State Engineer is required to grant additional permits to appropriate. In the instant case the amount of water needed is not large and the pumping of such water would only be done at such times when the Carson River could not furnish the required amount of water.

RULING

The protest to the granting of a permit under Application No. 10406 is herewith overruled and a permit will be granted, following receipt of the statutory permit fee, subject to the following conditions:

- (1) Said permit will be issued subject to existing rights on the source; and
- (2) The permit will be issued in the amount of 0.5 c.f.s. with the understanding that the amount of water pumped, when added to the amount of river water diverted, shall not exceed the total duty of water as may be fixed by decree.

Respectfully submitted,

  
HUGH A. SHAMBERGER  
State Engineer

Dated this 21st day of October, 1952.