

IN THE MATTER OF APPLICATION 35551 )  
FILED BY DUANE B. AND GENEVIEVE SOUTH )  
TO APPROPRIATE WATER FROM AN UNNAMED )  
SPRING FOR QUASI-MUNICIPAL AND DOMESTIC )  
PURPOSES IN WASHOE COUNTY, NEVADA )

R U L I N G

INTRODUCTION

Application 35551 was filed by Duane R. and Genevieve South to appropriate water from an unnamed spring for quasi-municipal and domestic purposes in Washoe County, Nevada.

FINDINGS OF FACT

I

Application 35551 was filed on June 16, 1978, by Duane R. and Genevieve South for permission to appropriate 0.25 c.f.s., of water from an unnamed spring located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 16, T.17N., R.19E., M.D.M., for quasi-municipal and domestic purposes. The place of use is within the N $\frac{1}{2}$  NW $\frac{1}{4}$  Section 16, T.17N., R.19E., M.D.M. The period of use is from January 1st to December 31st of each year. The application states that the water will be used in fifty single family dwellings requiring 1,000 gallons of water per day per dwelling. 1/

II

A protest against Application 35551 was submitted by Rosemount Water Company, which was received in this office on March 12, 1979. The protest was received too late to be officially filed, as the period for filing protests had closed on October 27, 1978. The protest alleged that the proposed appropriation would be detrimental to existing permitted and vested rights, and that the source(s) was fully appropriated. The protest also alleged that, since the works of diversion had been completed under Permit 31036, the proposed works of diversion under Application 35551 would substantially interfere with and damage the existing works of diversion and might impede existing flows already appropriated to the protestant (Rosemount). 2/

III

Certificate of Appropriation 8640 was issued under the terms of Permit 23632 for the appropriation of 0.225 c.f.s., of water, not to exceed 9.2 million gallons annually, from 3 unnamed springs, numbers 4, 5, and 6, all of which are located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 17, T.17N., R.19E., M.D.M., for commercial purposes (Christmas Tree Lodge, Tannenbaum Ski Area, and Sundance Lodge). The period of use is from January 1st to December 31st of each year. The place of use is within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 9, NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 16, and NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 17, all in T.17N., R.19E., M.D.M. Water from each of the springs is piped to a collection

box from whence the water is pumped to a storage tank and then distributed to the places of use. The collection box is located at the points of diversion described in Application 35551 and Permit 31036 (see below). The owner of record of Certificate 8640 is Rosemount Water Company. 3/

IV

Permit 31036 was granted for the appropriation of 0.25 c.f.s., of water, not to exceed 18.25 million gallons annually, from unnamed springs located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 16, T.17N., R.19E., M.D.M. for quasi-municipal and domestic purposes (100 single family units). The place of use is within the E $\frac{1}{2}$  NE $\frac{1}{4}$  Section 17, NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 16, and the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 9, all in T.17N., R.19E., M.D.M. The period of use is from January 1st to December 31st of each year. The point of diversion described in Permit 31036 is identical to that described in Application 35551 and the collection box described in Certificate 8640. The owner of record of Permit is Rosemount Water Company. 4/

V

A formal field investigation in the matter of Application 35551 was held on June 16, 1979. Water from the springs described in Certificate 8640 and Permit 31036 is piped to a collection box from where it is pumped to a storage tank and then distributed to the places of use. The pump does not run continuously, but is controlled by the amount of water in the storage tank. When the pump is not in operation the water collected from the springs overflows from the collection box into natural drainage. In 1979, the amount of water collected from the springs exceeded the capacity of the pump, so that there was overflow from the collection box even when the pump was in operation. The overflow was measured at the time of the field investigation and found to be 78 gallons per minute, with the pump off. 5/

VI

The overflow from the collection box was measured three additional times in 1979, with the following results: 6/

<u>Date of Measurement</u>	<u>Amount Gal./Min.</u>	<u>Remarks</u>
7/19/79	60	Pump off
7/19/79	30.5	Pump on
9/14/79	59.1	Pump off
11/8/79	60	Pump off

VII

The ultimate demand from the source under Application 35551 is 18.25 million gallons annually, based upon 50 units using 1,000 gallons per day each. 7/

VIII

A total of 27.45 million gallons annually has been appropriated from the source described in Application 35551 under Certificate 8640 and Permit 31036. 8/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 9/

II

The State Engineer shall approve all applications made in proper form where:

- A. All fees have been paid which contemplate application of water to a beneficial use; and
- B. The proposed use does not tend to impair the value of existing rights; or
- C. The proposed use is not otherwise detrimental to the public welfare. 10/

III

The State Engineer shall reject an application and refuse to issue the permit asked for where:

- A. There is no unappropriated water in the source; or
- B. Where its proposed use or change conflicts with existing rights; or
- C. Where its proposed use or change threatens to prove detrimental to the public interest. 11/

IV

The average overflow of the four measurements taken in 1979 was 64.275 gallons per minute, including the measurement taken on June 16, 1979 at the time of the field investigation. The final three measurements of the overflow, taken on July 19, 1979, September 14, 1979, and November 8, 1979, were at or near 60 gallons per minute. It is concluded

that in 1979 the dependable flow of the springs was 60 gallons per minute, or 31.54 million gallons annually, of which 27.45 million gallons annually are already appropriated or permitted. 12/

V

There is no reason to believe that the flow of the springs will remain at 60 gallons per minute, from one year to the next. The rate of flow is dependent on the precipitation for the year, and may be greater in one year and less in another.

VI

The total demand for water under Application 35551 is 18.25 million gallons annually, which exceeds the overflow of the springs by 14.16 million gallons annually, insofar as determined by measurements of the flow in 1979.

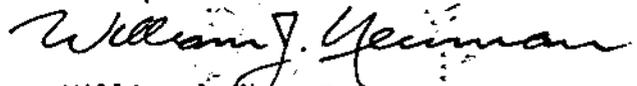
VII

To approve the proposed appropriation, where the potential demand is in excess of the amount of water available; where the proposed beneficial use is for quasi-municipal and domestic purposes; and where the proposed source is not reliable for the proposed use, might result in a scarcity of, or in the extreme circumstance, a complete lack of water for the intended use. It is therefore concluded that the granting of Application 35551 would be detrimental to the public welfare.

RULING

Application 35551 is denied on the grounds that its approval would be detrimental to the public welfare.

Respectfully submitted,



William J. Newman  
State Engineer

WJN/JCP/bc

Dated this 4th day of  
NOVEMBER, 1980.

FOOTNOTES

1. Public Records available in the office of the State Engineer.
2. Public Records available in the office of the State Engineer.
3. Public Records available in the office of the State Engineer.
4. Public Records available in the office of the State Engineer.
5. Report of field investigation is a public record available in the office of the State Engineer.
6. Public Records available in the office of the State Engineer.
7. Public Records available in the office of the State Engineer.
8. Public Records available in the office of the State Engineer.
9. NRS 533.025 and 533.030(1).
10. NRS 533.370(1).
11. NRS 533.370(4).
12. Public Records available in the office of the State Engineer.