

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 45840)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF THE)
PUBLIC WATERS OF THE STATE OF NEVADA)
HERETOFORE APPROPRIATED UNDER)
PERMIT 35542 FROM AN UNDERGROUND)
SOURCE IN STEPTOE VALLEY, WHITE PINE)
COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 45840 was filed on June 16, 1982, by White Pine County to change the point of diversion and place of use of 3.0 cubic feet per second of a portion of water heretofore appropriated under Permit 35542.

The proposed point of diversion is within the NE1/4 NE1/4 of Section 30, T.20N., R.64E., M.D.B.&M. The proposed place of use is within Sections 2, 3, 4, 9, 10 and 11, T.24N., R.64E., M.D.B.&M.; and Sections 33, 34 and 35, T.25N., R.64E., M.D.B.&M.¹

II.

Application 45840 was protested by William G. Davidson of the Steptoe Ranch Co. on December 3, 1982. The protest stated that "(T)he issuing of the permit may affect the existing water right on stockwatering, wells, springs, and/or the Steptoe Slough". The protestant requested that the application be "(I)ssued subject to prior water rights".¹

III.

An amended notice of hearing was sent by certified mail on July 22, 1983, to William G. Davidson, P.O. Box 1077, McGill, Nevada, 89318. The return receipt shows delivery of this notice on August 1, 1983.¹

IV.

A public hearing was held on August 17, 1983, in the matter of hearing a number of applications which included Application 45820.²

¹ Public record in the office of the State Engineer under Application 45840.

² Transcript of Proceedings, August 17, 1983, Ely, Nevada.

V.

William C. Davidson was represented at the public hearing by Richard Forman.³ Mr. Forman stated that the protestant "...would like to see their water rights and water uses recognized by the power plant..." and "...did not request these applications be denied; however, for the Agricultural Subcommittee to work with the power plant project and come up with a reasonable mitigation plan, so if there is significant impacts in these areas, that the ranchers are not chased out of business, unduly".⁴

VI.

William G. Davidson testified that he was "...Chairman of the Subcommittee that has been used in the record...and to emphasize that all points that have been made here...have been adequately covered".⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁶

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public welfare.⁷

III.

Testimony received indicated "...that a substantial monitoring and companion study program has been put into effect through a cooperative effort of the U.S. Geological Survey, the Nevada Department of Conservation and Natural Resources and the participants of the White Pine Power Project. The primary objective of the monitoring program is early detection of any adverse effects of large ground water withdrawals".⁸

³ Transcript of Proceedings, August 17, 1983, Ely, Nevada, p 29, ll. 25 and 26.

⁴ Transcript of Proceedings, August 17, 1983, Ely, Nevada, p. 103, ll. 3, 4, 24, 25 and 26; and p. 104, ll. 1, 2 and 3.

⁵ Transcript of Proceedings, August 17, 1983, Ely, Nevada, p. 105, l. 26; and p 106, ll. 1, 2 and 3.

⁶ NRS 533.025 and NRS 533.030, subsection 1.

⁷ NRS 533.370, subsection 3.

⁸ Transcript of Proceedings, August 17, 1983, Ely, Nevada, p. 134. ll. 1 through 8.

IV.

The State Engineer ruled "(I)n the matter of applications 35538 through 35541 and applications 45836, 45838, 45841, 45834, 45835, 45837, 45839 which are under protest...that the protests to the granting of the referred to applications are herewith upheld and permits will be granted under these applications...subject to existing rights".⁹

V.

It is apparent that through all of the testimony received that a ruling by the State Engineer on Application 45840 was strictly an oversight at the conclusion of the public hearing before the State Engineer on August 17, 1983.

RULING

The protest to granting Application 45840 is hereby upheld and a permit will be granted under Application 45840 subject to existing rights. The permit under Application 45840 will be subject to the terms and conditions of the State Engineer's Ruling of August 17, 1983.¹⁰

Respectfully submitted



Peter G. Morros
State Engineer

PGM/HR/bl

Dated this 28th day of
SEPTEMBER, 1984.

⁹ Transcript of Proceedings, August 17, 1983, Ely, Nevada, p. 133, ll 23 through 25; p. 135, ll. 7 through 11.

¹⁰ Transcript of Proceedings, August 17, 1983, Ely, Nevada, p. 135, ll. 17 through 26; p. 136; p. 137, ll. 1 through 4.