

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 47613)
AND 47614 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE, AND APPLICATIONS 49060 AND)
49422 FILED TO CHANGE THE POINTS OF)
DIVERSION OF APPLICATIONS 47613 AND)
47614, RESPECTIVELY LOCATED IN THE)
GOSHUTE VALLEY GROUNDWATER BASIN,)
ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 47613 was filed on January 27, 1984, by the Unincorporated Town of West Wendover, Nevada, to appropriate 2.0 c.f.s. of water from an underground source for municipal purposes within T.33N., R.70E., M.D.B.&M., located in Nevada and T.1S., R.19W., S.L.B.&M., located in Utah. The point of diversion is described as being within the NE1/4 NE1/4 Section 10, T.35N., R.67E., M.D.B.&M.¹

Application 47614 was filed on January 27, 1984, by the Unincorporated Town of West Wendover, Nevada, to appropriate 2.0 c.f.s. of water from an underground source for municipal purposes within T.33N., R.70E., M.D.B.&M., located in Nevada and T.1S., R.19W., S.L.B.&M., located in Utah. The point of diversion is described as being within the NW1/4 SW1/4 Section 4, T.35N., R.67E., M.D.B.&M.¹

Application 49060 was filed on May 20, 1985, by the Unincorporated Town of West Wendover, Nevada, to change the point of diversion of 2.0 c.f.s. of water from an underground source heretofore applied for under Application 47613. The existing point of diversion is described as being within the NE1/4 NE1/4 Section 10, T.35N., R.67E., M.D.B.&M. The proposed point of diversion is described as being within SE1/4 SE1/4 Section 12, T.35N., R.67E., M.D.B.&M.¹

Application 49422 was filed on October 2, 1985, by the Unincorporated Town of West Wendover, Nevada, to change the point of diversion of 2.0 c.f.s. of water from an underground source heretofore applied for under Application 47614. The existing point of diversion is described as being within the NW1/4 SW1/4 Section 4, T.35N., R.67E., M.D.B.&M. The proposed point of diversion is described as being within the NE1/4 NW1/4 Section 18, T.35N., R.68E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

II.

Applications 47613 and 47614 were protested on May 11, 1984, by Toano Development Corporation on the following grounds:¹

"To grant this application which proposes to utilize sizeable drafts of underground water sources would create an over appropriated ground water system and seriously endanger existing water rights. We, as a private landowner, feel we should have a right to a portion of water from the Goshute Valley."

Applications 47613 and 47614 were protested on May 11, 1984, by Ford's Inc. on the following grounds:¹

"To grant this application, which proposes to utilize sizeable drafts of underground water sources, would create an over appropriated ground water system and seriously endanger existing water rights. We, as private landowners feel we should have a right to a portion of water from the Goshute Valley."

Applications 47613 and 47614 were protested on May 11, 1984, by Reed B. Robinson on the following grounds:¹

"To grant this application, which proposes to utilize sizeable drafts of underground water sources, would create an over appropriated ground water system and seriously endanger existing water rights. I, as a private landowner feel I should have a right to a portion of water from the Goshute Valley."

Applications 47613 and 47614 were protested by Richard W. Roth on behalf of the Flying 'S' Land and Cattle Co. on the following grounds:¹

"The Unincorporated Town of West Wendover to date has permits to draft 3,612.5 acre feet per year from the Goshute Valley Hydrological Basin. This is 47% of the adjusted perennial yield for the basin. This application is one of five additional applications that have been filed to draft an additional 7,225 acre feet per year from the basin. These new applications would account for 94% of the adjusted perennial yield of the basin. Thus, Wendover proposes applications to draft 144% of the adjusted perennial yield of the valley. This would have an adverse affect upon the existing water rights in the basin.

These requests for additional water by West Wendover are both speculative and unreasonable. The present duty allotted Wendover from the Goshute Valley is enough to supply a city of 16,125 persons at an average daily per capita use of 200 gallons. This about the average per capita use of five other metered Nevada communities. Wendover, Utah also has a supply of water from near Pilot Peak that will supply an additional population. The projected population of the combined Wendover communities by the year 2,000 is 20,000 persons. The combined duty of the present permits to the two Wendover communities should be adequate to handle this projected population if the water systems were adequately repaired and maintained, and reasonable conservation practices were employed. Population growth to 20,000 is a matter of speculation, and it does not seem consistent with the intent of Nevada Water Law to reserve water on speculation to the degree that these requests attempt.

Flying 'S' Land & Cattle Company thus requests that the requests for additional duty by these applications be denied. Sufficient permitted duty currently exists to supply the needs of the projected population in the year 2,000."

FINDINGS OF FACT

I.

By Order Number 842 dated April 30, 1984, the State Engineer designated and described The Goshute Valley Ground water Basin (187) as a basin in need of further administration under the provisions of NRS 534 and further declared municipal, quasi-municipal and domestic uses as preferred uses within the northern half of the basin.²

II.

The Unincorporated Town of West Wendover, Nevada, presently holds ground water rights in Goshute Valley under Permits 29433, 39110 and 46685 which allow a total combined duty of 2890 acre-feet annually.³

² Public record in the office of the State Engineer. See Order No. 842.

³ Public record in the Office of the State Engineer under Permits 29433, 39110 and 46685.

III.

In a letter dated March 17, 1986, Mark Chilton, acting as agent for the Unincorporated Town of West Wendover, requested that Applications 49060 and 49422 be granted on the condition of the withdrawal of Permit 46685 and with the express understanding that the total duty of water would remain at 2890 acre-feet annually.⁴

IV.

Applications 49060 and 49422 propose to change the points of diversion of protested Applications 47613 and 47614, respectively, which will result in the points of diversion being located at a greater distance in relation to other existing rights in Goshute Valley.⁵ This in effect will decrease the possibility of interference with existing rights.

V.

The proposed points of diversion are within the northern area of Goshute Valley designated as an area of preferred uses for municipal, quasi-municipal and domestic purposes.⁶

CONCLUSION

I.

The State Engineer⁷ has jurisdiction of the parties and the subject matter of this action and determination.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁸

- A. There is no unappropriated water at 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.

⁴ Public record in the office of the State Engineer under Application 46685.

⁵ See Applications 49060, 49422, 47613, 47614 and Supporting Maps, public record in the office of the State Engineer.

⁶ NRS 534.120.

⁷ NRS Chapters 533 and 534.

⁸ NRS 533.370(3).

III.

The granting of Permits 49060 and 49422, subject to the withdrawal of Permit 46685 and with the express condition that the total annual duty of the Unincorporated Town of West Wendover's groundwater rights in Goshute Valley remain at 2890 acre-feet annually, will not result in a further appropriation in the Goshute Valley Groundwater Basin. In addition, the proposed points of diversion under Applications 49060 and 49422 are located at a greater distance from existing rights in Goshute Valley than point of diversion under existing Permit 46685. Therefore the granting of Applications 49060 and 49422 will not conflict with existing rights.

IV.

The granting of Applications 49060 and 49422 for municipal purposes within the area of Goshute Valley in which municipal use is a designated preferred use for the express purpose of developing a reliable source of water supply for the health, safety and welfare of the residents of the Unincorporated Town of West Wendover is in the public interest.

V.

The fact that a portion of the place of use under Applications 47613, 47614, 49060 and 49422 lies in the State of Utah does not prohibit the issuance of permits under the subject applications.⁹

RULING

Since the approval of the subject applications does not constitute an additional appropriation of ground water and the granting of the applications will not interfere with existing rights, the protests to the granting of Applications 47613 and 47614 are herewith overruled.

Applications 47613 and 47614 will be granted upon receipt of the statutory permit fees and upon the withdrawal of Permit 46685. Applications 49060 and 49422, which totally abrogate Applications 47613 and 47614 will be issued with the condition that the total combined duty of water under Permits 29433, 39110, 49060 and 49422 be limited to 2890 acre-feet annually.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/CT/sb

Dated this 9th day of
April, 1986.

⁹ NRS 533.515.