

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 48016)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
TRUCKEE MEADOWS, WASHOE COUNTY,)
NEVADA.)

RULING

GENERAL

Application 48016 was filed on May 2, 1984, by Salem Plaza Condominium Association to appropriate 2.5 c.f.s. of water from an underground source for geothermal heating purposes within the NE1/4 SE1/4 Section 23, T.19N., R.19E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 23, T.19N., R.19E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 42576 was filed on October 2, 1980, by Hydrothermal Energy Corporation to appropriate 2.5 c.f.s. of water from an underground source for geothermal purposes within the NE1/4 SE1/4 Section 23, T.19N., R.19E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 23, T.19N., R.19E., M.D.B.&M. A permit was granted under Application 42576 on July 9, 1981.¹

II.

Records in the office of the State Engineer indicate a well was drilled and casing was set and cemented in place in late 1981, pursuant to and at the approximate location described under Permit 42576.¹

III.

The owner of record under Permit 42576 is Hydrothermal Energy Corporation. The proof of completion has been filed and the proof of beneficial use is due on or before August 9, 1986.¹

IV.

The State Engineer's office conducted a field investigation in the matter of the actual status and location of the well drilled under Permit 42576. It was determined at the field investigation that the well was the subject of the drilling records described in Finding of Fact II and at a point approximately 40 feet east of the point of diversion described under Permit 42576. Furthermore, the well was found to be at the approximate location described under Application 48016.¹

¹ Public record in the office of the State Engineer.

V.

Pursuant to NRS 533.375, a public administrative hearing was held before the State Engineer to clarify the various discrepancies regarding the ownership of the subject well. A significant portion of the record developed at the hearing disclosed that a certain contract between the United States Department of Energy and Hydrothermal Energy Corporation had been terminated.² However, upon cross-examination the United States Department of Energy representative testified that no decision had been made on the final close-out of the contract with Hydrothermal Energy Corporation.³ The record further reflects the fact that the drilling of the well was accomplished, all or in part, with the United States Department of Energy funds obtained by Hydrothermal Energy Corporation.⁴ Testimony on behalf of the United States Department of Energy reflects the position that Permit 42576 is the property of the United States government.⁴

VI.

The record establishes that the well drilled under Permit 42576 and for which Application 48016 has been filed, is located on property owned by Salem Plaza Condominium Association.⁵

VII.

Testimony on behalf of Salem Plaza Condominium Association, the same entity as the applicant under Application 48016,⁶ established the fact that no conveyance of a right-of-way has been granted to Hydrothermal Energy Corporation by Salem Plaza Condominium Association.⁷ The undisputed record establishes that Hydrothermal Energy Corporation has been prohibited from entering the Salem Plaza property.⁸

² Transcript of public administrative hearing before the State Engineer, June 25, 1985, p. 69; p. 70, ll. 1-8; p. 76, ll. 3-13; p. 81, ll. 19-26; p. 82; p. 83, ll. 1-10. See also Applicant's Exhibits "4", "5" and "9".

³ Transcript of public administrative hearing before the State Engineer, June 25, 1985, p. 90; p. 91, ll. 1-13.

⁴ Transcript of public administrative hearing before the State Engineer, June 25, 1985, pp. 62-105, specifically, p. 104, ll. 12-14.

⁵ Transcript of public administrative hearing before the State Engineer, June 25, 1985, p. 36, ll. 6-17; p. 47, ll. 8-10.

⁶ Transcript of public administrative hearing before the State Engineer, June 25, 1985, p. 47, ll. 8-18.

⁷ Transcript of public administrative hearing before the State Engineer, June 25, 1985, p. 36, ll. 18-21.

⁸ Transcript of public administrative hearing before the State Engineer, June 25, 1985, p. 36, l. 26; p. 37, ll. 1-2.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:¹⁰

- A. The proposed use conflicts with existing rights, or
- B. The proposed use threatens to prove detrimental to the public interest.

III.

The owner of record under Permit 42576 remains Hydrothermal Energy Corporation. Permit 42576 remains in good standing with the proof of beneficial use due on or before August 9, 1986. Any application for extension of time on the above-mentioned proof due date will be considered upon its own merit, pursuant to Nevada law.

IV.

Based on the record of evidence and testimony, the State Engineer concludes that the ownership of the well that is the subject of both Application 48016 and Permit 42576 remains undetermined.

V.

The record establishes the fact that no conveyance of a right-of-way has been granted to Hydrothermal Energy Corporation by Salem Plaza Condominium Association and Hydrothermal Energy Corporation has been prohibited from entering the property upon which the well is located. The State Engineer concludes that the granting of Application 48016, subject to existing rights, will not conflict with existing rights nor threaten to prove detrimental to the public interest.

⁹ NRS 533.025, 533.030, 533.325 and 534.020(1).

¹⁰ NRS 533.370(3).

RULING

Application 48016 will be granted subject to existing rights, upon receipt of statutory fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a horizontal line. The signature is stylized and somewhat cursive.

PETER G. MORROS
State Engineer

PGM/TKG/bl

Dated this 11th day of

June, 1986.