

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 53753 )  
FILED TO APPROPRIATE UNDERGROUND )  
WATER WITHIN THE FERNLEY AREA, LYON )  
COUNTY NEVADA. )

RULING

GENERAL

I.

Application 53753 was filed with the State Engineer by V.T. McCold on August 10, 1989, to appropriate 1.0 c.f.s. of underground water for quasi-municipal purposes within the NE1/4 of the NE1/4 Section 26, T.20N., R.24E., M.D.B.&M., Lyon County, Nevada.<sup>1</sup>

II.

Application 53753 was timely protested<sup>1</sup> by Fernley Town Utilities on November 14, 1989, on the following grounds, to wit: "Water to this proposed development could be served by Fernley Town Utilities new 2.5 M.G.D. tank. Quasi-Municipal Water permits of this size can be best managed by a preferred user in the Fernley Designated Water Basin. The proposed well could adversely affect our present and future production well field in the area of both quality and quantity. Fernley Town Utilities is better suited to provide the future treatment needs of E.P.A. regulations and quality needs."

Protestant Fernley Town Utilities requested that Application 53753 be denied.

Application 53753 was timely protested<sup>1</sup> by the Truckee Carson Irrigation District on November 16, 1989, for the following reasons and on the following grounds, to wit: "This application, if granted, will tend to adversely affect existing water rights since the diversion will consumptively use water from a groundwater basin which has been fully appropriated and designated by the State Engineer."

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<sup>1</sup> Public record in the office of the State Engineer under Application 53753.

FINDINGS OF FACT

I.

Application 53753 proposes to divert underground water for beneficial use in the Fernley Area.

II.

The Fernley Area has been designated by the State Engineer as a basin in need of additional administration.<sup>2</sup>

III.

Application 53753 does not lie within that portion of the Fernley Area designated for preferred use.<sup>3</sup>

IV.

Application 51924 was filed with the State Engineer by V.T. McCold on March 16, 1988, to appropriate 1.0 c.f.s. of underground water for quasi-municipal purposes within the NE1/4 of the NE1/4 Section 26, T.20N., R.24E., M.D.B.&M., Lyon County, Nevada.<sup>4</sup>

Application 51924 was not protested<sup>4</sup> and was subsequently permitted for 1.0 c.f.s. and 33.058 million gallons annually on July 22, 1988.

V.

It is the intent of the applicant to use the subject application as a supplemental source for the water granted under Permit 51929.

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<sup>2</sup> Public record in the office of the State Engineer: Order No. 699, December 30, 1977. NRS Chapter 534.

<sup>3</sup> Public record in the office of the State Engineer: Order No. 1011, November 21, 1989. NRS Chapter 534.

<sup>4</sup> Public record in the office of the State Engineer under Permit 51924.

CONCLUSIONS

I.

Pursuant to NRS Chapter 533 and 534, the State Engineer has jurisdiction of the parties and of the subject matter of this action.

II.

The State Engineer shall not approve an application to appropriate if<sup>5</sup>:

- A. There is no unappropriated water in the proposed source of supply;
- B. The proposed use conflicts with existing rights;
- C. The proposed use threatens to prove detrimental to the public interest.

III.

As an express condition of each appropriation of groundwater acquired pursuant to Chapters 533 and 534, the right of the appropriator shall relate to a specific quantity of water and that right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion.<sup>6</sup>

IV.

The approval of Application 53753 will not be detrimental to the public interest.

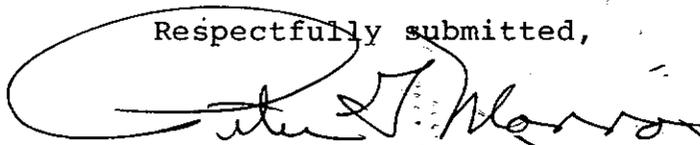
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5 NRS 533.370 (3).

6 NRS 534.110 (4).

RULING

The protests to Application 53753 are herewith overruled on the grounds that the proposed appropriation will not conflict with existing rights nor prove detrimental to the public interest. A permit will be issued upon receipt of the statutory fees. The State Engineer does not waive the right to regulate and restrict the groundwater withdrawal under this permit. In addition application 53753 is approved with the express understanding that the total combined annual duty between application 53753 and permit 51924 shall not exceed 33.058 million gallons annually.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/MA/pm

Dated this 29th day of

December, 1989