

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 54302)
AND 54303 FILED TO APPROPRIATE)
UNDERGROUND WATER WITHIN THE DIXIE)
CREEK-TENMILE CREEK AREA)
GROUNDWATER BASIN, ELKO COUNTY,)
STATE OF NEVADA.)

RULING

GENERAL

I.

Application 54302 was filed on January 9, 1990, by the Elko County School District to appropriate 0.5 c.f.s. of water from an underground source for municipal and domestic purposes. The point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3, T.33N., R.56E., M.D.B.&M.¹

Application 54303 was filed on January 9, 1990, by the Elko County School District to appropriate 0.5 c.f.s. of water from an underground source for municipal and domestic purposes. The point of diversion is described as being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2, T.33N., R.56E., M.D.B.&M.¹

The place of use under Applications 54302 and 54303 is described as being portions of the W $\frac{1}{2}$ of Section 2 and portions of the E $\frac{1}{2}$ Section 3, all in T.33N., R.56E., M.D.B.&M.¹

The subject applications propose to furnish water to a public school serving grades Kindergarten through 12. Total estimated consumptive use is 100 acre-feet/year.¹

II.

Application 54302 was timely protested¹ by Spring Creek Utilities Company on April 10, 1990, on the following grounds, to wit:

"Protestant is fearful that granting of this application will cause a local depletion of the resource, endangering the capability of two of its wells (permits 45915, 45917, 45919, 45923 combined) to provide for the future demand within its place of use."

¹ Public record in the State Engineer's office under Applications 54302 and 54303.

Protestant requested that Application 54302 be denied.

Application 54303 was timely protested¹ by Spring Creek Utilities Company on April 10, 1990, on the following grounds, to wit:

"Protestant is fearful that granting of this application will cause a local depletion of the resource, endangering the capability of two of its wells (permits 45915, 45917, 45919, 45923 combined) to provide for the future demand within its place of use."

Protestant requested that Application 54303 be denied.

III.

A formal field investigation was held at 10:00 A.M. on June 21, 1990, at the site of the proposed school. Representatives of the Elko County School District, Spring Creek Utilities Company and the Division of Water Resources were present. Information and engineering data were presented by the interested parties supporting their respective positions. This information is on file as a Report of Formal Field Investigation.²

FINDINGS OF FACT

I.

Applications 54302 and 54303 propose to divert underground water for beneficial use within the Dixie Creek-Tenmile Creek Area Groundwater Basin.

II.

The Dixie Creek-Tenmile Creek Area Groundwater Basin has been designated by the State Engineer as a basin in need of additional administration.³

III.

The proposed point of diversion under Application 54302 is over 4,000 feet from Spring Creek Utility Company's well #1 holding Permits 45917 and 45919. Application

² Public record in the State Engineer's field investigation files.

³ Public record in the State Engineer's office, Order 848, September 6, 1984, NRS Chapter 534.

54302 is over 9,000 feet from the source under Spring Creek Utility Company's well #3 holding Permits 45915 and 45923.

The proposed point of diversion under Application 54303 is over 5,000 feet distant from Spring Creek well #1 and approximately 10,000 feet from the utilities' well #3.

IV.

The Elko County School District submitted engineering data predicting minimal water level decline at a radius of influence of 3,155 feet.²

V.

The protestant did not submit engineering data supporting its request for denial of the subject applications and in fact concurred with the applicant's computer modeled drawdowns.

VI.

The applicant's place of use is outside the protestant's service area.

VII.

Applicant proposes to place the water to beneficial use serving a public school.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and of the subject matter of this action.⁴

II.

The State Engineer shall not approve an application to appropriate water if:⁵

A. There is no unappropriated water in the proposed source of supply;

⁴ NRS 533 and 534.

⁵ NRS 533.370(3).

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

III.

The approval of Applications 54302 and 54303 will not conflict with the protestant's existing rights and the State Engineer considers water for a school to be in the public interest.

RULING

The protests to Applications 54302 and 54303 are hereby overruled on the grounds that the protestant did not furnish any evidence that granting of Applications 54302 and 54303 would endanger the production capability of their wells and Applications 54302 and 54303 are hereby approved:

1. Payment of the statutory fees.
2. Subject to existing rights specifically those of the protestants.
3. For 100 acre-feet per year diversion with the express understanding that the total combined annual duty of Applications 54302 and 54303 shall not exceed 100 acre-feet per year.
4. Subject to the wells being sealed with cement grout, concrete grout or neat cement from ground level to 100 feet of depth.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JSF/bk

Dated this 13th day of
July, 1990.