

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 47665,)
49331, 50063, 50064, 50065, 50596,)
57409, 64318 AND 64319 FILED TO)
APPROPRIATE THE PUBLIC WATER FROM AN)
UNDERGROUND SOURCE WITHIN THE PLEASANT)
VALLEY GROUNDWATER BASIN (88), WASHOE)
COUNTY, NEVADA.)

RULING

4757

GENERAL

I.

Application 47665 was filed on February 8, 1984, by the Mount Rose Development Company to appropriate 1.00 cubic foot per second of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for quasi-municipal purposes within portions of the NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of Section 19, T.17N., R.19E., M.D.B. & M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 19.¹ The water was to be used to develop 400 multi-family townhouse units with a total requirement of 160 acre-feet annually.

II.

Application 49331 was filed on September 3, 1985, by Harry P. and Violet M. Callahan to appropriate 1.00 cubic foot per second of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for quasi-municipal purposes within portions of the E $\frac{1}{2}$ of Section 3, T.17N., R.19E., M.D.B. & M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 3.² The water was to be used to develop 280 single family dwellings with a total requirement of 320 acre-feet annually.

Application 49331 was timely protested by the Truckee-Carson Irrigation District on the grounds that additional appropriation of ground water in the designated basin would tend to impair the value

¹ File No. 47665, official records in the office of the State Engineer.

² File No. 49331, official records in the office of the State Engineer.

of existing water rights and be detrimental to the public interest and the welfare of downstream users.² Application 49331 was also timely protested by the Mt. Rose Service Company on the grounds that the ground water has long been and is currently fully appropriated or subject to pending applications which would result in full appropriation, would conflict with and impair existing water rights.²

III.

Application 50063 was filed on August 12, 1986, by the Mt. Rose Service Company to appropriate 5.00 cubic feet per second of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for quasi-municipal purposes within the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 25, the S $\frac{1}{2}$ of Section 34, the S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, the W $\frac{1}{2}$ of Section 36, all within T.18N., R.19E., M.D.B. & M., all of Sections 1, 10, 11 and 12, the N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, a portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 2, the E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, the S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, the E $\frac{1}{2}$, and the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 9, all within T.17N., R.19E., M.D.B. & M., The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T.17N., R.19E., M.D.B. & M.³

Application 50063 was timely protested by the Truckee-Carson Irrigation District on the grounds that the groundwater basin is fully appropriated and the appropriation would reduce and adversely affect adjacent surface waters of Galena Creek.³

Application 50063 was assigned in the records of the State Engineer to Washoe County.³

IV.

Application 50064 was filed on August 12, 1986, by the Mt. Rose Service Company to appropriate 5.00 cubic feet per second of water from the underground waters of the Pleasant Valley

³ File No. 50063, official records in the office of the State Engineer.

Groundwater Basin, Washoe County, Nevada, for quasi-municipal purposes within the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 25, the S $\frac{1}{2}$ of Section 34, the S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, the W $\frac{1}{2}$ of Section 36, all within T.18N., R.19E., M.D.B. & M., all of Sections 1, 10, 11 and 12, the N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, a portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 2, the E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, the S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, the E $\frac{1}{2}$ and the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 9, all within T.17N., R.19E., M.D.B. & M., The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T.17N., R.19E., M.D.B. & M.⁴

Application 50064 was timely protested by the Truckee-Carson Irrigation District on the grounds that the groundwater basin is fully appropriated and the appropriation would reduce and adversely affect adjacent surface waters of Galena Creek.⁴

Application 50064 was assigned in the records of the State Engineer to Washoe County.⁴

V.

Application 50065 was filed on August 12, 1986, by the Mt. Rose Service Company to appropriate 5.00 cubic feet per second of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for quasi-municipal purposes within the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 25, the S $\frac{1}{2}$ of Section 34, the S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, the W $\frac{1}{2}$ of Section 36, all within T.18N., R.19E., M.D.B. & M., all of Sections 1, 10, 11 and 12, the N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, a portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 2, the E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, the S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, the E $\frac{1}{2}$ and the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 9, all within T.17N., R.19E., M.D.B. & M. The proposed point of diversion is

⁴ File No. 50064, official records in the office of the State Engineer.

described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T.17N., R.19E., M.D.B. & M.⁵

Application 50065 was timely protested by the Truckee-Carson Irrigation District on the grounds that the groundwater basin is fully appropriated and the appropriation would reduce and adversely affect adjacent surface waters of Galena Creek.⁵

Application 50065 was assigned in the records of the State Engineer to Washoe County.⁵

VI.

Application 50596 was filed on February 13, 1987, by Jack M. Callahan to appropriate 0.25 cubic foot per second of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for quasi-municipal purposes within a portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, T.17N., R.19E., M.D.B. & M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, T.17N., R.19E., M.D.B. & M.⁶

VII.

Application 57409 was filed on April 9, 1992, by Washoe County to appropriate 1.00 cubic foot per second, not to exceed 300 acre-feet annually, of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for municipal purposes within the S $\frac{1}{2}$ of Section 5, the SE $\frac{1}{4}$ of Section 6, Section 7 and the W $\frac{1}{2}$ of Section 8, T.17N., R.20E., M.D.B. & M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.17N., R.20E., M.D.B. & M.⁷

Application 57409 was timely protested by the Truckee-Carson Irrigation District on the grounds that the groundwater basin is

⁵ File No. 50065, official records in the office of the State Engineer.

⁶ File No. 50596, official records in the office of the State Engineer.

⁷ File No. 57409, official records in the office of the State Engineer.

fully appropriated and the appropriation would adversely affect existing water rights.⁷

VIII.

Application 64318 was filed on July 17, 1998, by Washoe County and World Properties, Inc. to appropriate 400 acre-feet annually of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for commercial purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 13, T.17N., R.19E., the NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and portions of the SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.17N., R.20E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.17N., R.19E., M.D.B.&M.⁸

Application 64318 was timely protested by Mark Eric Tracey on the grounds that a geothermal lease was issued prior to the application being filed, and the amount of water applied for would severely diminish the geothermal reservoir and potentially limit the recharge of the aquifer. Application 64318 was timely protested by Zonal Corporation on the grounds that a geothermal lease is in close proximity, that the applicant seeks to use the water miles away from the point of diversion and has a permit from a location much closer to the development, the appropriation would have a critical adverse impact on geothermal development and adversely impact the recharge process, and by virtue of the geothermal lease it has a superior right in the subsurface fluids. Application 64318 was also timely protested by James P. Miner, Jay Fiondella and Charles G. Callahan, Jr., on the grounds that Zonal Corporation's geothermal lease has been assigned to them among other grounds similar to those recited above.⁸

⁸ File No. 64318, official records in the office of the State Engineer.

IX.

Application 64319 was filed on July 17, 1998, by Washoe County and World Properties, Inc. to appropriate 400 acre-feet annually of water from the underground waters of the Pleasant Valley Groundwater Basin, Washoe County, Nevada, for commercial purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 13, T.17N., R.19E., the NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and portions of the SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.17N., R.20E., M.D.B. & M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.17N., R.19E., M.D.B. & M.⁹

Application 64319 was timely protested by Mark Eric Tracey on the grounds that a geothermal lease was issued prior to the application being filed, and the amount of water applied for would severely diminish the geothermal reservoir and potentially limit the recharge of the aquifer. Application 64319 was timely protested by Zonal Corporation on the grounds that a geothermal lease is in close proximity, that the applicant seeks to use the water miles away from the point of diversion and has a permit from a location much closer to the development, the appropriation would have a critical adverse impact on geothermal development and adversely impact the recharge process, and by virtue of the geothermal lease it has a superior right in the subsurface fluids. Application 64319 was also timely protested by James P. Miner, Jay Fiondella and Charles G. Callahan, Jr., on the grounds that Zonal Corporation's geothermal lease has been assigned to them among other grounds similar to those recited above.⁹

FINDINGS OF FACT

I.

The State Engineer initially described and designated the Pleasant Valley Groundwater Basin on March 1, 1978, under the

⁹ File No. 64319, official records in the office of the State Engineer.

provisions of NRS § 534.030, as a groundwater basin in need of additional administration.¹⁰ The State Engineer finds the proposed points of diversion under Applications 47665, 49331, 50063, 50064, 50065, 50596, 57409, 64318 and 64319 are located within the boundaries of the designated Pleasant Valley Groundwater Basin.

II.

Pursuant to State Engineer's Ruling No. 2989 dated July 18, 1984, the State Engineer made the following findings of fact:

1. The Galena Creek drainage basin encompasses an area of approximately 18 square miles which consists of what is known as the "Mountain Block" or mountain slopes (11.6 square miles) and the alluvial fan areas (6.4 square miles). The Galena Creek groundwater basin is a sub-basin element of the Pleasant Valley Groundwater Basin, which is additionally considered a physiographic element of the Truckee River Basin. The groundwater basin is generally coincident with the area of the alluvial fans within the drainage basin. In addition, there are two other identified sub-basin areas within the Pleasant Valley Groundwater Basin; the Pleasant Valley groundwater sub-basin and the Steamboat area sub-basin.¹¹

2. The source of all water in the Galena Creek drainage basin is precipitation which deposits a high of 65 inches at the upper elevations to a low of 15 inches at the point of lowest altitude for an average mean-annual precipitation of 33 inches or about 32,000 acre-feet. Primary evapotranspiration within the Galena Creek drainage basin is on the order of 22,000 acre-feet annually dependent on how much water enters

¹⁰ State Engineer's Order No. 709, dated March 1, 1978, official records in the office of the State Engineer.

¹¹ State Engineer's Order No. 2989, Finding of Fact I, dated July 18, 1984, official records in the office of the State Engineer.

the fracture system at the bedrock contact.¹²

3. Mean annual water budgets were entered into the record of that administrative hearing for both the Galena Creek drainage basin and groundwater basin which set forth the water yield of the system. Those budgets additionally quantified by detailed appraisal the surface water and groundwater inflows to the basin and respective outflow components.

Natural primary groundwater recharge to the Galena alluvial fan area is on the order of 3,000 acre-feet annually and is derived principally from the streambed of Galena Creek and its tributaries with minimal contribution from precipitation within the fan area.¹³

Pursuant to State Engineer's Ruling No. 2968 dated May 23, 1984, the State Engineer made the following findings of fact:

1. The Steamboat Springs area is a sub-basin of the Pleasant Valley system where there is very little recharge. The lack of recharge is because of the characteristically low altitude within that sub-area within that drainage system, as compared to the Galena Creek drainage as a whole.
2. There is a clear hydrologic interconnection between the surface water sources and the groundwater system within the Pleasant Valley Hydrographic Basin.
3. The record clearly defined and identified the potential interconnection of the shallow groundwater aquifer and the geothermal system that exists in the Steamboat area.

¹² State Engineer's Order No. 2989, Finding of Fact II, dated July 18, 1984, official records in the office of the State Engineer.

¹³ State Engineer's Order No. 2989, Findings of Fact III and IV, dated July 18, 1984, official records in the office of the State Engineer. Katzer, T., Durbin, T.J., Maurer, D.K., Water-Resources Appraisal of the Galena Creek Basin, Washoe County, Nevada, Open File Report 84-433, U.S.G.S., p. 41.

4. The record clearly established that existing water rights within both the Galena Creek groundwater basin and the Steamboat Springs area sub-basin at that time exceeded the groundwater recharge and that approval of additional appropriations within the Pleasant Valley groundwater system would adversely affect existing rights.

5. Secondary groundwater recharge to the Galena fan area is closely connected to and influenced by the activity of man, and cannot be considered a long term reliable source of groundwater recharge or perennial yield.¹⁴

The total inflow and outflow to the entire Pleasant Valley hydrographic area is 11,000 acre-feet.¹⁵ All 8,000 acre-feet of surface water outflow is committed to surface water uses under the Truckee River Decree,¹⁶ leaving the same 3,000 acre-feet as described above as the natural primary groundwater recharge for the entire hydrographic basin.

The State Engineer finds no information has been presented to the Division of Water Resources since 1984 which would change the State Engineer's opinion as to the primary natural recharge of the Pleasant Valley Groundwater Basin.

¹⁴ State Engineer's Order No. 2989, Findings of Fact VII, dated July 18, 1984, official records in the office of the State Engineer.

¹⁵ Van Denburgh, A.S., Lamke, R.D., and Hughes, J.L., A Brief Water-Resources Appraisal of the Truckee River Water Basin, Western Nevada, Water Resources -Reconnaissance Series Report 57, State of Nevada, Department of Conservation and Natural Resources, Division of Water Resources and United States Geological Survey, U.S. Department of Interior, 1973, p. 57.

¹⁶ Final Decree in United States v. Orr Water Ditch Company, In Equity Docket No. A-3 (D.Nev. 1944).

III.

Existing groundwater permits and certificates within the Pleasant Valley Groundwater Basin exceed 5,700 acre-feet annually.¹⁷ Other water rights have been issued for industrial (geothermal) purposes. In addition, there are presently in excess of several hundred domestic wells within the boundaries of the basin.¹⁸ The State Engineer finds that the quantity of underground water already appropriated from the Pleasant Valley Groundwater Basin exceeds the natural recharge, therefore, granting of additional water rights would interfere with existing water rights and threaten to prove detrimental to the public interest.

IV.

The State Engineer finds that applications to appropriate ground water within the Pleasant Valley Groundwater Basin have previously been denied.¹⁹

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action.²⁰

¹⁷ Hydrographic Basin Abstract, April 20, 1998, official records in the office of the State Engineer.

¹⁸ State Engineer's Ruling No. 2989, Findings of Fact V, found that as of July 18, 1984, over 370 domestic wells existed within the boundaries of the basin and the well log data base indicates that since that time over 245 additional domestic wells have been drilled or deepened, official records in the office of the State Engineer. Domestic wells are exempt from the permitting process pursuant to NRS § 534.180.

¹⁹ State Engineer's Ruling Nos. 2968 and 2969, dated May 23, 1984, State Engineer's Ruling No. 3008, dated August 13, 1984, State Engineer's Ruling No. 3616, dated June 19, 1989, official records in the office of the State Engineer.

²⁰ NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:²¹

- 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 interest.

III.

The State Engineer concludes that to grant permits under Applications 47665, 49331, 50063, 50064, 50065, 50596, 57409, 64318 and 64319 in a basin where the quantity of water under existing appropriations and existing and potential use by domestic wells exceeds the natural recharge would conflict with existing rights and threaten to prove detrimental to the public interest.

RULING

Applications 47665, 49331, 50063, 50064, 50065, 50596, 57409, 64318 and 64319 are hereby denied on the grounds that granting the applications would interfere with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJT/cl

Dated this 29th day of
July, 1999.

²¹ NRS 533.370.