

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

IN THE MATTER OF APPLICATIONS)
66384, 66385, 66386 AND 66387 FILED)
TO CHANGE THE POINT OF DIVERSION,)
PLACE OF USE AND THE MANNER OF USE)
OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE PREVIOUSLY)
APPROPRIATED UNDER PERMITS 56046)
AND 56047 WITHIN THE CARSON VALLEY)
HYDROGRAPHIC BASIN, (105) DOUGLAS)
COUNTY, NEVADA.)

RULING

4985

GENERAL

I.

Application 66384 was filed on May 18, 2000, by Kim and Debbie Posnien to change the point of diversion, place of use and manner of use of 0.0173 cubic feet per second (cfs), not to exceed 4.0 acre-feet annually, of underground water a portion of the water right previously appropriated under Permit 56046. The proposed manner and place of use is for irrigation and domestic purposes within a portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26, T.12N., 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 said Section 26. The existing manner of use was for quasi-municipal purposes within the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 20, the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 21, Sections 27, 28, 33, 34, the E $\frac{1}{2}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29, all contained within T.14N., R.20E., M.D.B.&M. The existing point of diversion was located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T.14N., R.20E., M.D.B.&M.¹

II.

Application 66385 was filed on May 18, 2000, by Kim and Debbie Posnien to change the point of diversion, place of use and manner of use of 0.0345 cfs, not to exceed 8.0 acre-feet annually, of underground water a portion of the water right previously appropriated under Permit 56047. The proposed manner and place of

¹ File No. 66384, official records in the office of the State Engineer.

use is for irrigation and domestic purposes within a portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26, T.12N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 26. The existing place of use and manner of use are identical to those described under Application 66384. The existing point of diversion was located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T.14N., R.20E., M.D.B.&M.²

III.

Application 66386 was filed on May 18, 2000, by Kim and Debbie Posnien to change the point of diversion, place of use and manner of use of 0.0173 cfs, not to exceed 4.0 acre-feet annually, of underground water a portion of the water right previously appropriated under Permit 56047. The proposed manner and place of use is for irrigation and domestic purposes within a portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26, T.12N., 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 said Section 26. The existing place of use and manner of use are identical to those described under Application 66384. The existing point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T.14N., R.20E., M.D.B.&M.³

IV.

Application 66387 was filed on May 18, 2000, by Kim and Debbie Posnien to change the point of diversion, place of use and manner of use of 0.0345 cfs, not to exceed 8.0 acre-feet annually, of underground water a portion of the water right previously appropriated under Permit 56046. The proposed manner and place of use is for irrigation and domestic purposes within a portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26, T.12N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 26. The existing place of use and manner of use are identical to those described under Application 66384. The

² File No. 66385, official records in the office of the State Engineer.

³ File No. 66386, official records in the office of the State Engineer.

existing point of diversion is described as being within the SE¼ NE¼ of Section 33, T.14N., R.20E., M.D.B.&M.⁴

V.

Information contained within the remarks section of Applications 66384, 66385, 66386 and 66387 indicates that the combined annual duty requested under these applications would not exceed 12.0 acre feet.^{1,2,3,4}

VI.

All of the subject applications were timely protested by Charles Paya on the grounds that the change applications could have a potential adverse effect on levels of ground water used by the protestant and neighbors.^{1,2,3,4}

FINDINGS OF FACT

I.

Applications 66384, 66385, 66386 and 66387 were filed under the names of Kim and Debbie Posnien and request transfers of portions of Permits 56046 and 56047 that currently stand in the name of AC Houston Lumber Company, Inc. Any assignment of water rights must be accomplished within the guidelines set forth by the Nevada Revised Statutes and the policies of the office of the State Engineer. An attempt was made by the applicants' agent to establish title to portions of these permits into his clients' names through the submittal of several unrecorded deeds to the office of the State Engineer. Due to noncompliance with the established guidelines and policies, these unrecorded transfer documents could not be used to complete a valid assignment of title. The State Engineer finds that before any consideration regarding the issuance of permits under the subject applications is given, the applicants must establish title in the office of the State Engineer to those portions of Permits 56046 and 56047 that they have requested for transfer.

II.

By letter dated August 14, 2000, the protestant's counsel requested the office of the State Engineer to advise him of the date, time and location of any hearing that was scheduled in the matter of protested Applications 66384, 66385, 66386 and 66387. Nevada Revised Statutes NRS § 533.365, provides that the State Engineer may consider a protest without the necessity of conducting a hearing. The State Engineer finds that the grounds upon which the protests to Applications 66384, 66385, 66386 and 66387 are based can be evaluated without an administrative hearing.

III.

Applications 66384, 66385, 66386 and 66387 if approved would transfer 12.0 acre feet of underground water rights to two existing wells, one of which is currently being utilized by the applicants as their domestic source of water. The proposed place of use requested under the subject applications is comprised of 4.57 acres of land contained within Douglas County Assessors Parcel Number 19-310-260 with the existing wells located near the parcel's southern boundary.¹ The State Engineer finds that the approval of the subject applications would allow the applicants to divert a maximum of 12.0 acre feet annually of underground water for the irrigation of their property.

IV.

All of the subject applications were protested on the grounds that the proposed appropriation of 12.0 acre feet of water would adversely affect the protestant's domestic well. Although there is no well driller's report for the protestant's domestic well on file within the office of the State Engineer, it was determined through an informal field investigation conducted on July 5, 2000, that the protestant's domestic well is located within the southern portion of his property. This domestic well is separated from the applicants' closest point of diversion by a distance of

approximately 1,400 feet and by the main channel of Luther Creek.¹ The State Engineer finds that the applicants' and protestant's wells are separated by significant distances and by the hydrologic influences generated by the Luther Creek.

v.

All of the proposed points of diversion are located within the SE¼ of Section 26, T.12N., R.19E., M.D.B.&M. This portion of the Carson Valley occupies the transition zone between the consolidated units represented by the Carson Range and the alluvial fill underlying the valley floor. An examination of geologic records specific to this area indicates that the applicants' and protestant's respective properties reside upon younger to intermediate alluvial fan deposits.^{5,6} This type of deposition is characterized by large boulder rich gravels with finer gravels, sand and clay strata occurring at depth. In general terms, the groundwater flow assumes an easterly path with the subject well sites oriented along an approximate north-south axis, therefore, the applicants' proposed points of diversion are not positioned to intercept any portion of the groundwater flow that is available for capture by the protestant's domestic well.⁶ The State Engineer finds that there is sufficient geologic and hydraulic information available to conduct an analysis of the degree of interference, if any, that the cumulative appropriation of underground water under Applications 66384 through 66387; inclusive, might have on the protestant's domestic well.

⁵ USGS Geologic Map of the Freel Peak 15-minute Quadrangle, California and Nevada 1983.

⁶ Well log Index Book Number 16, official records in the office of the State Engineer.

VI.

The State Engineer has estimated an average transmissivity value for the target aquifer to be 5,000 square feet per day with the storage coefficient estimated to be 0.0007. These values are based on a previous hydrologic study conducted in the western portion of the Carson Valley ground water basin.⁷ The State Engineer prepared estimated water level drops that can be expected to occur because of the pumping of a well completed in an aquifer with these characteristics. The projected water levels were generated using the standard Cooper-Jacob straight-line approximation of the Theis non-equilibrium equation for water level declines that occur when a well is pumped. The quantity of water used in the equation to project the decline in the water levels was the 1,432 cubic feet per day that would be produced if the subject applications were approved. This method assumed a homogeneous and isotropic aquifer, infinite in areal extent, with no recharge. This analysis was also performed with a range of transmissivity values (950 - 1,500 - 3,000 - 5,000 square feet per day) that were purposely skewed towards those that would favor water-level declines. The projected water-level decline at a distance of 1,400 feet from the applicant's southern most well, after continuous pumping for 20 years was zero.¹ The State Engineer finds that the method of analysis employed in this determination is completely adequate for estimating water level response especially for long periods of pumping.

VII.

The granting of Applications 66384, 66385, 66386 and 66387 was protested on the grounds that if an appropriation of underground water was to occur under these permits, the resultant drawdown would be of such a magnitude that the protestant's

⁷ Ground Water Test Wells, Genoa Lakes Project, HLA Project Number 11665, 014, Harding Lawson Associates, July 31, 1992, official records of the State Engineer, File Number 57327.

domestic well would experience an unreasonable water level decline. By employing an industry standard method, the office of the State Engineer was able to evaluate the degree of interference that the proposed pumpage would have on the protestant's domestic well. The State Engineer finds that although this analysis was performed with variables that were conducive to producing a worst-case scenario, no negative effect was found to occur in the protestant's domestic well.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁸

II.

The State Engineer is prohibited by law from granting a permit under an application that requests a change in the public waters where:⁹

- A. the proposed change conflicts with existing rights;
or
- B. the proposed change threatens to prove detrimental to the public interest.

III.

Applications 66384, 66385, 66386 and 66387 if approved would transfer 12.0 acre feet of underground water to two new points of diversion, the closest of which is located in excess of 1,400 feet from the protestant's domestic well. The potential drawdown effect that this amount of pumpage would have on the protestant's domestic well was evaluated by employing a standard analytical method. This analysis indicated that the approval of the subject change applications would have no effect upon the protestant's domestic well, therefore, the State Engineer concludes that the

⁸ NRS chapter 533 and 534.

⁹ NRS § 533.370(2).

protests to Applications 66384, 66385, 66386 and 66387 can be over ruled.

IV.

All of the subject applications request the transfer of existing appropriations of water to new locations. The State Engineer has previously determined that these changes in places of use and points of diversion would not conflict with the protestant's water use from his domestic well. The State Engineer concludes that if no decline in the water level is experienced at the protestant's well, the potential drawdown expected at well sites that are located at greater distances will also be zero. Therefore, the State Engineer concludes that the approval of the subject applications will not adversely affect any existing water rights.

RULING

The protests to Applications 66384, 66385, 66386 and 66387 are overruled and Applications 66384, 66385, 66386, and 66387 are hereby approved subject to existing rights, the receipt of the statutory permit fees and the assignment of title into the applicants' names of those portions of Permits 56046 and 56047 requested for transfer.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/MDB/cl

Dated this 20th day of
December, 2000.