

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

IN THE MATTER OF APPLICATION )  
67037 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE NEWCOMB LAKE )  
VALLEY HYDROGRAPHIC BASIN (96), )  
WASHOE COUNTY, NEVADA. )

RULING

# 5165

GENERAL

I.

Application 67037 was filed on December 22, 2000, by Intermountain Pipeline, Ltd., to appropriate 0.5 cubic feet per second, not to exceed 300 acre-feet annually (afa), of underground water for municipal and domestic purposes within Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, all in T.21N., R.19E., M.D.B.&M., Section 36, T.21N., R.18E., M.D.B.&M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, all in T.20N., R.19E., M.D.B.&M., Sections 1 and 12, T.20N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 20, T.25N., R.19E., M.D.B.&M.<sup>1</sup>

II.

Application 67037 was timely protested by Lassen County, California, on the following grounds:<sup>1</sup>

1. There is no unappropriated water in the proposed source.
2. Approval of the subject application will, on information and belief, have an impact on flows of Long Valley Creek and, accordingly, will adversely impact existing rights.

<sup>1</sup> File Number 67037, official records in the Office of the State Engineer.

3. Approval of the subject application will, on information and belief, adversely impact existing water sources presently utilized by livestock and wildlife in the forms of springs and seeps.
4. Approval of the subject application is not in the public interest as numerous public entities, including Congress with the passage of P.L. 101-618, have determined that more viable sources are available to meet the municipal needs of the area that includes the proposed place of use.
5. Approval of the subject application is not in the public interest, because, on information and belief, pumping of this magnitude of groundwater when combined with existing rights will ultimately result in a water-mining situation and long-term detrimental impact on the aquifer.

The protestant requested the State Engineer deny the subject application.

#### **FINDINGS OF FACT**

##### **I.**

The Newcomb Lake Valley Hydrographic Basin has no permitted or certificated water rights,<sup>2</sup> and is situated entirely within the State of Nevada.

##### **II.**

The perennial yield of a groundwater reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural recharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded groundwater levels will decline.<sup>3</sup>

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<sup>2</sup> Nevada Division of Water Resources Water Right Permit database June 26, 2002, official records of the Office of the State Engineer.

<sup>3</sup> State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, October. 1971.

Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of groundwater gradients which could result in significant changes in the recharge-discharge relationship. The United States Geological Survey estimates that the perennial yield of the Newcomb Lake Valley Groundwater Basin is approximately 200 afa.<sup>4</sup> Granting of said application for 200 afa would not exceed the 200 acre-feet perennial yield of the basin.

### III.

The State Engineer finds no evidence that the approval of the subject application would be detrimental to the public interest, since, no other active rights exist in the Newcomb Lake Valley Basin.

### IV.

In determining whether an application for interbasin transfer of ground water must be rejected, the State Engineer shall consider:<sup>5</sup>

- (a) Whether the applicant has justified the need to import the water from another basin;
- (b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;
- (c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

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<sup>4</sup> F. Rush & P. Glancy, Water Resources - Reconnaissance Series Report 43, Water-Resources Appraisal of the Warm Springs-Lemmon Valley Area, Washoe County, Nevada. Nevada Dept. of Conservation and Natural Resources and U.S.G.S., p. 49, November 1967.

<sup>5</sup> NRS § 533.370(4).

- (d) Whether the proposed action is an appropriate long-term use which the water is exported; and
- (e) Any other factor the State Engineer determines to be relevant.

**V.**

Portions of the following hydrographic basins are included in the place of use for Application 67037: Lemmon Valley A and B, Warms Springs Valley and Antelope Valley. All of the hydrographic basins listed above are designated basins restricting new appropriation of underground water rights.<sup>6</sup> These restrictions either prohibit or severely limit new appropriations of underground water from these groundwater basins, for most purposes, including municipal.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>7</sup>

**II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>8</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

**III.**

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<sup>6</sup> State Engineer's Order No. 391, dated July 14, 1971, Order No. 533, dated March 10, 1975, Order No. 607, dated January 18, 1977, Order No. 708, dated March 1, 1978 & Order No. 718 dated August 3, 1978, official records in the Office of the State Engineer.

<sup>7</sup> NRS chapters 533 & 534.

<sup>8</sup> NRS § 533.370(3).

The State Engineer concludes since the subject application is limited to the perennial yield of the basin, the question of adversely impacting existing water sources within the Newcomb Lake Valley Basin is not an issue.

**IV.**

The State Engineer concludes the importation of ground water to the place of use under Application 67037 to be a viable resource and not prove to be detrimental to the public interest.

**V.**

The State Engineer concludes the granting of Application 67037 will not conflict with any existing rights at the proposed point of diversion and proposed place of use nor threaten to prove detrimental to the public interest.

**RULING**

The protest to Application 67037 hereby is overruled. Application 67037 is hereby approved in the amount of 200 afa subject to payment of statutory permit fees.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TCPJ/jm

Dated this 21st day of  
October, 2002.