

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

IN THE MATTER OF APPLICATION 54149)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE PAHRUMP VALLEY)
ARTESIAN BASIN (162), NYE COUNTY,)
NEVADA.)

RULING

#5280

GENERAL

I.

Application 54149 was filed on November 8, 1989, by James M. Porter to appropriate 0.15 cubic feet per second (cfs) of water from an underground source within the Pahrump Valley Artesian Basin, Nye County, Nevada. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, T.19S., R.53E., M.D.B.&M. The application was filed for residential and commercial purposes to provide water to a warehouse and caretaker's quarters within a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, T.19S., R.53E., M.D.B.&M.¹

II.

Application 54149 was timely protested on May 18, 1990, by Theodore L. Blosser on the following grounds:

James M. Porter made application to the State Engineer of Nevada for permission to appropriate .15 of a second foot of the public waters of the State of Nevada. Diversion is to be made from the underground source at a point located within the SW quarter, NE quarter, Section 34, T19S, R. 53E, M.D.B. &M., or at a point from which the N one-quarter corner of said Section 34 bears N6', 59' 02"W at a distance of 1535.64 feet. Water will be used for residential and commercial purposes from January 1st to December 31st of each year.

1) According to the legal description, this application is for a protesting permit and it has been the policy of the State Engineer for many years not to appropriate any more water on the Pahrump Fan.

2) This well has been drilled and is located less than one-quarter mile from my well (Permit No. 14576, Certificate No. 5329), and will interfere with my appropriation.

3) It is less than 200 feet from Rancho Del Sol Subdivision Unit 3 - S2, NW4, Sec. 34, T19S [sic], R.53E, which has been approved by the State Engineer

¹ File No. 54149, official records in the Office of the State Engineer.

for the drilling of approximately 60 domestic wells, and therefore, the water has already been appropriated.

III.

By State Engineer's Order No. 176, dated March 11, 1941, Order No. 193, dated January 15, 1948, Order No. 205, dated January 23, 1953, Order No. 955, dated October 26, 1987, and Order No. 1107, dated November 8, 1994, the State Engineer designated the Pahrump Valley Artesian Basin and further restricted the appropriation of water under the provisions of NRS § 534.030.² Pursuant to State Engineer's Order No. 955, the State Engineer ordered that all applications filed to appropriate water from the Pahrump Valley Artesian Basin on the east side of the basin on the Pahrump and Manse Fans would be denied and all applications except small commercial uses on the valley floor, would be denied.

FINDINGS OF FACT

I.

The State Engineer finds that Application 54149 has its point of diversion located within the area described as the Pahrump Valley Artesian Basin and the area designated as the Pahrump Fan.^{1,3}

II.

The State Engineer finds that by State Engineer's Order No. 955, the State Engineer declared that all applications filed to appropriate ground water from the Pahrump Valley Artesian Basin, which are located "on the fan", would be denied.

III.

The State Engineer has previously denied several applications to appropriate ground water from points of diversion located on the Pahrump or Manse fans within the Pahrump Valley Artesian Basin. The State Engineer finds the granting of Application 54149 would conflict with existing rights and threaten to prove detrimental to the public interest.⁴

² Official records in the Office of the State Engineer.

³ United States Geological Survey Water Supply Paper 1832, Plate 1.

⁴ See, State Engineer's Ruling Nos. 1854, 1897, 1919, 2836, 3216, 3248, 3462, 3486, 3496, 3505, 3607, and 3758, official records in the Office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁶

- 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.

The State Engineer concludes he must deny all applications to appropriate ground water within the Pahrump Valley Artesian Basin for all manners of use located on the fan.

IV.

The State Engineer concludes that Application 54149 was filed to appropriate water for a use that does not comply with the provisions of the State Engineer's Order No. 955.

V.

The State Engineer concludes that previous applications for appropriation with points of diversion located on the fan have been denied because their approval would conflict with existing rights and threaten to prove detrimental to the public interest.

VI.

The State Engineer concludes that the approval of Application 54149 would similarly conflict with existing rights and threaten to prove detrimental to the public interest.

⁵ NRS chapters 533 and 534.

⁶ NRS § 533.370(3).

RULING

Application 54149 is hereby denied on the grounds that it would conflict with existing rights and threaten to prove detrimental to the public interest. The protest to the application is upheld.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/CB/jm

Dated this 10th day of
September, 2003.