

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

IN THE MATTER OF APPLICATION 61881 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE GRASS VALLEY HYDROGRAPHIC )  
BASIN (071), HUMBOLDT COUNTY, NEVADA. )

RULING

**#5680**

GENERAL

I.

Application 61881 was filed on January 30, 1996, by Chris J. and Sonja C. Mitchell, in addition to Walter J. and Verna Burrus, to appropriate 0.134 cubic feet per second of underground water from the Grass Valley Hydrographic Basin. The proposed manner and place of use are stated on the application form as being for quasi-municipal purposes within the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , the SW $\frac{1}{4}$  SE $\frac{1}{4}$  and the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 3, T.35N., R.38E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 3. Information contained within the remarks section of the application indicates that the Applicants intend to serve 12 residential units with an annual consumptive use of 24.24 acre-feet of water.<sup>1</sup>

FINDINGS OF FACT

I.

Nevada Revised Statute (NRS) § 534.120 provides that within an area that has been designated by the State Engineer where, in his judgment, the groundwater basin is being depleted, the State Engineer in his administrative capacity is empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved. The application of this provision of the NRS to the Grass Valley Hydrographic Basin is evidenced by State Engineer's Order No. 464, which was issued on July 24, 1972.<sup>2</sup> This

<sup>1</sup> File No. 61881, official records in the Office of the State Engineer.

<sup>2</sup> State Engineer's Order No. 464, official records in the Office of the State Engineer.

initial order described and designated the Grass Valley Hydrographic Basin as a groundwater basin in need of additional administration.

By designating the Grass Valley Hydrographic Basin, the State Engineer set the stage for further restrictions relating to the appropriation of underground water from this area. State Engineer's Order No. 1171, issued on August 7, 2003, denied new appropriations of groundwater from the Grass Valley Hydrographic Basin with the exception of water right applications filed for commercial, industrial, stockwater or wildlife purposes. In addition, all permits issued under these exceptions would be restricted to 1,800 gallons per day or less. An exception was also made for water right applications that were filed for environmental remediation projects, pursuant to NRS § 533.437.<sup>3</sup> The State Engineer finds that the quasi-municipal use proposed under Application 61881 does not qualify for exception under State Engineer's Order No. 1171; therefore, it must be considered for denial.

## II.

The State Engineer has previously denied water right applications that requested new appropriations of underground water for quasi-municipal purposes from the Grass Valley Hydrographic Basin.<sup>4</sup> Under the provisions established under Nevada Revised Statute § 533.370(5), the State Engineer may deny an application that requests a new appropriation of underground water if previous applications for the same manner of use have been denied within the same groundwater basin. The State Engineer finds that Application 61881 can be considered for denial in accordance with NRS § 533.370(5).

## CONCLUSIONS

### I.

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

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<sup>3</sup> State Engineer's Order No. 1171, official records in the Office of the State Engineer.

<sup>4</sup> File Nos. 42173 and 42174, official records in the Office of the State Engineer.

<sup>8</sup> NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>9</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.

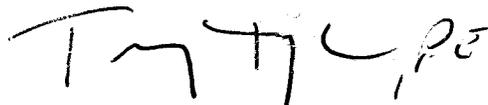
III.

Water right applications that request new appropriations of underground water for quasi-municipal purposes from the Grass Valley Hydrographic Basin are to be denied pursuant to State Engineer's Order No. 1171. The State Engineer concludes that the approval of Application 61881 would violate the provisions of State Engineer's Order No. 1171 and would threaten to prove detrimental to the public interest.

RULING

Application 61881 is hereby denied on the grounds that its approval would violate State Engineer's Order No. 1171 and thereby would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/MB/jm

Dated this 30th day of  
November, 2006.

<sup>9</sup> NRS § 533.370(5).