

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

IN THE MATTER OF APPLICATION 73818 FILED )  
TO APPROPRIATE THE PUBLIC WATERS OF )  
AN UNDERGROUND SOURCE WITHIN THE )  
NEWARK VALLEY HYDROGRAPHIC BASIN )  
(154), WHITE PINE COUNTY, NEVADA. )

**RULING**

**#5925**

**GENERAL**

**I.**

Application 73818 was filed on February 10, 2006, by Warren Scoppettone to appropriate 0.78 cubic feet per second (cfs) of underground water in the Newark Valley Hydrographic Basin for the irrigation of 40 acres of land that are described as being located within portions of the S $\frac{1}{2}$  SE $\frac{1}{4}$  and SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 18, T.17N., R.55E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 18.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

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 discharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded, groundwater levels will decline.<sup>2</sup> 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, increase in cost due to 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 the perennial yield of the Newark Valley Hydrographic Basin to be approximately 18,000 acre-feet annually.<sup>3</sup> The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water

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<sup>1</sup> File No. 73818, official records in the Office of the State Engineer.

<sup>2</sup> State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

<sup>3</sup> Nowlin, Jon, Groundwater Quality in Nevada – A Proposed Monitoring Program, Open File Report 78-768, U.S. Geological Survey, p. 201.

from the Newark Valley Hydrographic Basin currently exceeds 27,000 acre-feet annually.<sup>4</sup> The State Engineer finds that existing groundwater rights in the Newark Valley Hydrographic Basin exceeds the perennial yield of the groundwater basin.

## II.

Applications that request an appropriation of underground water for irrigation purposes within the Newark Valley Hydrographic Basin have been previously denied by the State Engineer. These denials were based on the grounds that the appropriation of underground water for irrigation purposes would conflict with existing water rights and threaten to prove detrimental to the public interest.<sup>5</sup>

The State Engineer finds that Application 73818 has the effect of appropriating water for a similar use and within the same basin as applications that have been denied in the past.

## III.

The "Remarks" section of Application 73818 indicates that the point of diversion is a well previously permitted under Permit 49095. The owner of record for Permit 49095 is Warren W. Scoppettone. Permit 49095 was cancelled on May 18, 2001, for failure to comply with permit terms by not submitting Proof of Beneficial Use. An examination of records in the Office of the State Engineer reveals that no other active permit is utilizing the point of diversion under cancelled Permit 49095; therefore, in accordance with NAC § 534.427 this well should have been plugged in the manner prescribed in NAC § 534.420 when the permit was cancelled on May 18, 2001. The State Engineer finds that if there is no permitted water right for the point of diversion well under Application 73818 or cancelled Permit 49095, the well must to be plugged and abandoned per NAC § 534.427.

## IV.

The State Engineer finds that there are no special provisions within Nevada water law to replace cancelled Permit 49095 by the filing of an application later in time; Application 73818 must meet the requirements of NRS § 533.370(5) and its priority date is February 10, 2006, as determined by the date it was filed.

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<sup>4</sup> Special Hydrologic Basin Abstract, Water Rights Database, Basin 154, January 31, 2006, official records within the Office of the State Engineer.

<sup>5</sup> See, State Engineer Rulings for Applications 69597, 69598, 71601 and 71602, official records in the Office of the State Engineer.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.<sup>6</sup>

### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>7</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.

Application 73818 requests the appropriation of underground water for irrigation purposes from the Newark Valley Hydrographic Basin where there is no water remaining to be appropriated. The State Engineer concludes that the approval of Application 73818 would adversely affect existing water rights within the groundwater basin and threaten to prove detrimental to the public interest; therefore, Application 73818 must be denied.

### IV.

The State Engineer concludes that previous applications to appropriate water for the same manner of use as Application 73818 were denied in the Newark Valley Hydrographic Basin; therefore, Application 73818 may be considered for denial.

### V.

The State Engineer concludes that, in accordance with NAC § 534.427, there is no permitted water right for the well under Application 73818 and the well should be plugged and abandoned per NAC § 534.427.

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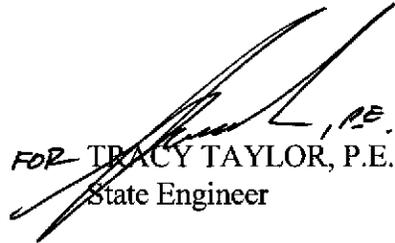
<sup>6</sup> NRS chapters 533 and 534.

<sup>7</sup> NRS § 533.370(5).

**RULING**

Application 73818 is hereby denied on the grounds that its approval would conflict with existing water rights and threaten to prove detrimental to the public interest. With the denial of Application 73818, the State Engineer hereby orders the existing well plugged and abandoned per NAC § 534.427.

Respectfully submitted,

  
FOR TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 4th day of  
February, 2009.