

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

IN THE MATTER OF APPLICATION 75957)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE WINNEMUCCA)
SEGEMENT HYDROGRAPHIC BASIN)
(70), HUMBOLDT COUNTY, NEVADA.)

RULING
5983

GENERAL

I.

Application 75957 was filed on June 27, 2007, by Donald L. and Carole A. Weins to appropriate 0.15 cubic feet per second of underground water from the Winnemucca Segment Hydrographic Basin for commercial and domestic purposes. The proposed place of use is described as being located within 3.19 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 2. The remarks section of the application indicates that total annual consumptive use would not exceed 2.0 acre-feet annually. A record of conveyance is pending to change ownership of Application 75957 into the name of Robert and Beverly Shell, but it has not been formally processed as of the date of this ruling.¹

II.

Application 75957 was timely protested by the Pershing County Water Conservation District of Nevada on the following grounds:

That the granting of said application will effect [sic] the water table and drainage and adversely effect [sic] the decreed waters of the Humboldt River.¹

FINDINGS OF FACT

I.

Nevada Revised Statute § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State

¹ File No. 75957, official records in the Office of the State Engineer.

Engineer finds that in the case of protested Application 75957 there is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on this matter is not required.

II.

Pursuant to State Engineer's Order No. 464, the State Engineer initially described and designated a portion of the Winnemucca Segment Hydrographic Basin on July 24, 1972, under the provision of NRS § 534.030 as a basin in need of additional administration. Pursuant to State Engineer's Order No. 534, the State Engineer extended the designated area of the Winnemucca Segment Hydrographic Basin on May 6, 1975. Finally, pursuant to State Engineer's Order No. 1170, dated August 7, 2003, the State Engineer restricted the appropriation of ground water within the Winnemucca Segment Hydrographic Basin with certain exceptions, one of those exceptions being for applications filed for commercial purposes that seek to appropriate 1,800 gallons per day or less and where the property is zoned for commercial purposes. The State Engineer finds the proposed point of diversion under Application 75957 is within the designated area, the property is zoned for commercial purposes and the Applicant is requesting an amount of water that complies with the provisions of Order No. 1170; therefore, the Application can be considered for approval.

III.

The State Engineer finds the 2.0 acre-feet applied for is a de minimis amount of water and is within the exception provided for under Order No. 1170. The State Engineer finds the use of this de minimis amount of ground water is highly unlikely to impact the water rights of the users of the Humboldt River.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

² NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:³

- 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.

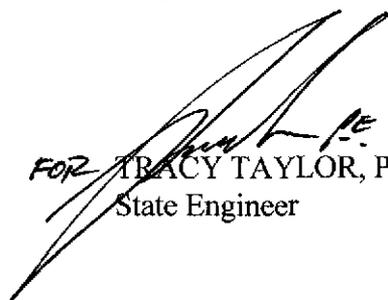
III.

The State Engineer concludes that pumping this minimal amount of water would have an insignificant affect on existing water rights or the overall hydrologic health of the ground-water basin.

RULING

The protest to Application 75957 is hereby overruled and the Application is granted subject to existing rights and the payment of statutory permit fees.

Respectfully submitted,


FOR TRACY TAYLOR, P.E.
State Engineer

TT/SJT/jm

Dated this 20th day of
April, 2009.

³ NRS § 533.370(5).