

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

IN THE MATTER OF APPLICATIONS 81102 )  
AND 81196 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE CLOVER VALLEY )  
HYDROGRAPHIC BASIN (177), LOCATED )  
WITHIN ELKO COUNTY, NEVADA. )

**RULING**  
**#6181**

**GENERAL**

**I.**

Application 81102 was filed on August 22, 2011, by Tommy, LLC to appropriate 0.25 cubic feet per second (cfs) of water from an underground source in the Clover Valley Hydrographic Basin for commercial and domestic purposes within portions of the SE $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  of Section 12, the N $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 13, T.33N., R.61E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 12, T.33N., R.61E., M.D.B.&M.<sup>1</sup>

**II.**

Application 81196 was filed on September 27, 2011, by Tommy, LLC to appropriate 2.0 cfs of water from an underground source in the Clover Valley Hydrographic Basin for irrigation and domestic purposes within portions of the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Lot 1 and Lot 2 of Section 18, T.33N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within Lot 2, of Section 18, T.33N., R.62E., M.D.B.&M.<sup>2</sup> The remarks section of the application indicates the water use will be supplemental to Warm Creek and Warm Spring surface water rights.

**III.**

Application 81102 was timely protested by Martha P. Hoots on the grounds that the Clover Valley Hydrographic Basin is committed for agriculture, not commercial uses and is dedicated to non-commercial uses.

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<sup>1</sup> File No. 81102, official records in the Office of the State Engineer.

<sup>2</sup> File No. 81196, official records in the Office of the State Engineer.

**IV.**

Application 81196 was timely protested by Martha P. Hoots on the grounds that underground permits in this area have previously affected her existing water rights. The Protestant also asserts that State Engineer's Ruling Nos. 3215 and 6156 have previously denied applications in the Clover Valley Hydrographic Basin.

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute (NRS) § 533.365(4) 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 Engineer finds that in the case of protested Applications 81102 and 81196 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.**

Application 81102 was protested on the grounds that the Clover Valley Hydrographic Basin is committed for agriculture, not commercial uses. A determination was made after an examination of the records of the Office of the State Engineer that there are currently no rulings or orders restricting the use of the public waters of the Clover Valley Hydrographic Basin to any specific uses.<sup>3</sup> The State Engineer finds that commercial use of water within the Clover Valley Hydrographic Basin is a beneficial use of water.

**III.**

Nevada Revised Statute (NRS) § 533.365(1) provides that any person may file "...a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest..." Application 81196 was protested in part on the grounds that the permitting of underground water has previously affected the Protestant's existing water rights and that the State Engineer's Ruling Nos. 3215 and 6156 have previously denied applications in the Clover Valley Hydrographic Basin. A determination was made, after an examination of the records of the Office of the State Engineer, that there are no water right permits, proofs or claims filed by the Protestant

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<sup>3</sup> Official records in the Office of the State Engineer.

that are within eight miles of the proposed point of diversion of Application 81196.<sup>4</sup> The Protestant has offered no proof that her water rights have been affected in the past near the proposed point of diversion of Application 81196. Also the records of the Office of the State Engineer show that Application 81196 is outside of the area of concentrated pumpage defined by State Engineer's Ruling Nos. 3215 and 6156.<sup>5</sup> The State Engineer finds that there are no reasonable grounds demonstrated for the denial of Application 81196.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the 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 protectable 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 there is unappropriated water available within the Clover Valley Hydrographic Basin. No rulings or orders currently restrict the use of the public waters of the Clover Valley Hydrographic Basin to any specific use. The Protestant has no water permits within eight miles of the proposed point of diversion of Application 81196. The State Engineer also concludes that the proposed point of diversion of Application 81196 is outside of the area of concentrated pumpage defined by Ruling Nos. 3215 and 6156. Therefore, the State Engineer

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<sup>4</sup> Water Rights Township Plats, Township 33 North, Range 61 and 62 East, M.D.B.&M., official records in the Office of the State Engineer.

<sup>5</sup> Official records in the Office of the State Engineer.

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

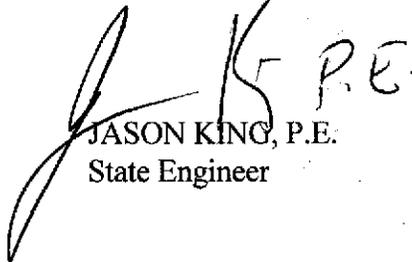
<sup>7</sup> NRS § 533.370(2).

concludes that there are no reasonable grounds demonstrated for the denial of Applications 81102 and 81196.

**RULING**

The protests are overruled and Applications 81102 and 81196 approved for commercial and irrigation purposes, respectively, subject to existing rights and the payment of the statutory permit fees.

Respectfully submitted,



JASON KING, P.E.  
State Engineer

Dated this 23rd day of  
May, 2012.