

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

IN THE MATTER OF APPLICATIONS 52374)
AND 52375 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE BLACK MOUNTAINS)
AREA GROUND WATER BASIN, CLARK)
COUNTY, NEVADA.)

RULING

GENERAL

I.

Applications 52374 and 52375 were filed by Charles Heisen on August 4, 1988 to appropriate 3.0 c.f.s., respectively, of underground water for mining purposes, within the Black Mountains Area Ground Water Basin.¹

II.

Applications 52374 and 52375 were published for the statutory period and subsequently no protests were filed.²

III.

After all of the subject parties had been duly notified as required under NRS 533.365(3), an administrative hearing was held on March 19, 1990 for taking evidence and testimony deemed necessary by the State Engineer for a full understanding of the above referenced applications. The State Engineer took administrative notice of certain matters more fully set forth in the transcript of the hearing.³

FINDINGS OF FACT

I.

Charles Heisen reduced the amount of water requested in Application 52374 to one third of a c.f.s., by letter dated March 7, 1990 and received at the Office of the State Engineer on March 9, 1990.⁴

1 States Exhibit No's. 3, 4.

2 Records in the Office of the State Engineer.

3 Transcript of March 19, 1990.

4 States Exhibit No. 10.

II.

Application 52375 was withdrawn by the applicant, Charles Heisen, at the hearing.⁵

III.

The point of diversion of the subject application lies within the boundaries of what is generally referred to as Government Wash, a north/south trending drainage which adjoins Lake Mead to the south.⁶

IV.

Testimony by the applicant revealed the location of the proposed point of diversion to be approximately 4-5 miles north of Lake Mead at an elevation 300 feet above the level of the lake.⁷

V.

Two additional wells previously owned by the applicant under pending Applications 52254 and 52614 are located within a quarter mile radius of Application 52374.⁸

VI.

Water Resources-Reconnaissance Series Report 50, "Water Resources Appraisal of the Lower Moapa-Lake Mead Area, Clark County, Nevada." (hereinafter, "Report 50") was prepared by the United States Geological Survey in cooperation with the Nevada Department of Conservation and Natural Resources. The State Engineer takes administrative notice of Report 50 and recognizes it as a reconnaissance level compilation of hydrologic data, from which preliminary estimates were made regarding the amount of ground water available for appropriation. Report 50 estimates the annual recharge within the Black Mountains Area Ground Water Basin is less than 100 acre feet.⁹

5 Transcript, pgs. 35, 39.

6 Records in the Office of the State Engineer.

7 Transcript, pgs. 31-32.

8 States Exhibits 6, 7.

9 Water Resources Bulletin No. 50, Table 6.

VII.

The applicant, Charles Heisen provided testimony that challenged said Report's estimate of groundwater recharge within the Black Mountain Area Ground Water Basin, more specifically the Government Wash subregion. Heisen testified that the general geology of the Government Wash main drainage channel is characterized by alluvial deposits of sand and gravel which overlie a network of fault zones. Subsequently the majority of the precipitation that the region receives penetrates through these deposits and structures to recharge the aquifer at depth, with only a very small percentage moving laterally towards Lake Mead.¹⁰

VIII.

The applicant contends that the existence of significant quantities of groundwater above and beyond previous estimates was confirmed by the flows encountered during the construction of the wells completed under Applications 52254 and 52614. After penetrating approximately 300 feet of volcanic rocks, both of these wells progressed an additional 4-5 feet into a zone of stream rounded gravels, where a "large flow of water" was encountered. Additional testimony by Heisen indicated that the static water level for both of these wells is approximately 90-120 feet.¹¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.¹²

¹⁰ Transcript pgs. 35-37.

¹¹ Transcript pgs. 40-41, 51.

¹² NRS Chapter 533.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:¹³

1. There is no unappropriated water at the proposed source, or
2. The proposed use conflicts with existing rights or
3. The proposed use threatens to prove detrimental to the public interest.

III.

The record of evidence and testimony provides substantial evidence to support the finding that there is unappropriated underground water in the proposed source of supply under Application 52374.

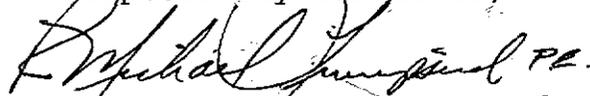
IV.

Application 52374 should be approved on condition that the total depth of the well may not exceed 300 feet or progress beyond the present surface elevation of Lake Mead.

RULING

The instant application will be approved subject to payment of statutory fees and the condition set forth in Conclusion IV hereinabove.

Respectfully submitted,



R. MICHAEL TURNIPSEED P.E.
State Engineer

RMT/MB/pm

Dated this 31st day of

July, 1990

13 NRS Chapter 533.370.