

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

IN THE MATTER OF APPLICATIONS 55375)
AND 55376 FILED TO CHANGE THE POINT)
OF DIVERSION, MANNER OF USE AND PLACE)
OF USE HERETOFORE APPROPRIATED UNDER)
PERMIT 16844, CERTIFICATE 4542, AND)
PERMIT 16845, CERTIFICATE 4543,)
RESPECTIVELY, OF THE WATER OF AN)
UNDERGROUND SOURCE IN THE TRUCKEE)
MEADOWS GROUND WATER BASIN, WASHOE)
COUNTY, NEVADA.)

RULING

3844

GENERAL

I.

Application 55375 was filed October 12, 1990, by George Karadanis and Robert Maloff to change the point of diversion, manner of use and place of use of 1.5 cubic feet per second (cfs) of water heretofore appropriated under Permit 16844, Certificate 4542. The proposed use is for commercial purposes within a portion of SE1/4 NW1/4 Section 11, T.19N., R.19E., M.D.M. The proposed point of diversion is within the SE1/4 NW1/4 Section 11, T.19N., R.19E., M.D.M. The Mapes Hotel Corporation is the owner of record of Permit 16844, Certificate 4542, which is requested to be changed by Application 55375. No protests were received on this application.¹

II.

Application 55376 was filed October 12, 1990, by George Karadanis and Robert Maloff to change the point of diversion, manner of use and place of use of 2.0 cfs of water heretofore appropriated under Permit 16845, Certificate 4543. The proposed use is for commercial purposes within a portion of SE1/4 NW1/4 Section 11, T.19N., R.19E., M.D.M. The proposed point of diversion is within the SE1/4 NW1/4 Section 11, T.19N., R.19E.,

¹ Public record of the State Engineer, Application 55375 and Permit 16844, Certificate 4542.

M.D.M. The Mapes Hotel Corporation is the owner of record of Permit 16845, Certificate 4543, which is requested to be changed by Application 55376. No protests were received on this application.²

III.

Application 16844 was filed on January 25, 1956 by the Mapes Hotel, to appropriate 1.5 cfs (673 gallons per minute, (gpm)) of water from an underground source for air conditioning (cooling and heating) and domestic purposes within a portion of the N1/2 SE1/4, Section 11, T.19N., R.19E., M.D.B.&M. The point of diversion was described as being within the NW1/4 SE1/4 Section 11, T.19N., R.19E., M.D.M. A permit was issued on May 28, 1956 and Certificate 4542 was issued on June 14, 1957 for 1.5 cfs of water for air conditioning and domestic purposes within the aforementioned place of use. No annual duty was specified on Certificate 4542 as to the amount of water placed to beneficial use.³

IV.

Application 16845 was filed on January 25, 1956 by the Mapes Hotel Corporation, to appropriate 2.0 cfs (898 gpm) of water from an underground source for quasi-municipal (Hotel) and domestic purposes within a portion of the N1/2 SE1/4, Section 11, T.19N., R.19E., M.D.B.&M. The point of diversion was described as being within the NW1/4 SE1/4 Section 11, T.19N., R.19E., M.D.B.&M. A permit was issued on May 28, 1956 and Certificate 4543 was issued on June 14, 1957 for 2.0 c.f.s. of water for quasi-municipal and domestic purposes within the aforementioned place of use. No annual duty was specified on Certificate 4543 as to the amount of water placed to beneficial use.⁴

² Public record of the State Engineer, Application 55376 and Permit 16845, Certificate 4543.

³ Public record of the State Engineer, See file 16844.

⁴ Public record of the State Engineer, See file 16845.

V.

Pursuant to NRS 534.090 applications for extension of time to prevent the working of a forfeiture were granted for Permit 16844, Certificate 4542 and Permit 16845, Certificate 4543 to March 8, 1990 based on evidence and testimony presented at a hearing held August 18, 1989 which stated that water under the two aforementioned certificates had been put to beneficial use.^{3, 4}

VI.

An authorization to discharge was granted by the Nevada Division of Environmental Protection (NDEP) to the Mapes Hotel and Casino Corporation for discharge of water from the Mapes Hotel to the Truckee River under Permit NV 0020630-001 and NV 0020630-002. This permit took effect on October 6, 1978 and was to expire at midnight on June 30, 1983.⁵

FINDINGS OF FACT

I.

The State Engineer finds that in Nevada beneficial use shall be the basis, the measure and the limit of the right to the use of water.⁶ The State Engineer records were incomplete as to the volume of the water beneficially used in the Mapes Hotel prior to 1983. Therefore, the applicant was asked to quantify the limit and extent of Certificate 4542 and Certificate 4543.⁷

⁵ Nevada Division of Environmental Protection records under Permit NV 0020630.

⁶ NRS 533.035.

⁷ An affidavit of Merle B. Winburn was received on April 2, 1991 which included a five page document entitled "Estimate of Beneficial Water Use". This document will hereinafter be referred to Winburn's Estimate.

II.

The State Engineer finds that the total amount of water beneficially used within the areas of the hotel that would go to a sanitary sewer was 47.10 acre feet per year.⁸ This amount of water would not be returned to the Truckee River as allowed under NDEP discharge Permit NV 0020630.

III.

The State Engineer finds that the reported beneficial use of water in Winburn's Estimate from the major equipment use (air conditioning and refrigeration equipment) would be 1654.30 acre-feet per year (1025.6 gpm) on the assumptions used.⁹ This amount of water would be non-consumptive and is assumed to be discharged back to the Truckee River under NDEP Permit NV 0020630.

IV.

The State Engineer finds that a miscellaneous use in Winburn's Estimate from a hose bib would be 12.90 acre feet per year.¹⁰ This amount of water is assumed to stay within the hotel area and not return to the river as authorized under NDEP Permit NV 0020630.

V.

The State Engineer finds that the total amount of water the two wells under Permits 16844 and 16845 could pump was 600 and 800 gpm, respectively.¹¹

⁸ Items II. A., B. and C; III.A.; IV. A., B., C. and D.; V. A.; VI. C.; and VII. A. of Winburn's Estimate.

⁹ Items II. D (1) and (2); III. B.; IV. E.; VI. A and B.; and VII. B. of Winburn's Estimate.

¹⁰ Item II. D. (3) of Winburn's Estimate.

¹¹ Item IX. A. (1) and (2) of Winburn's Estimate.

VI.

The State Engineer finds that water use figures in Winburn's Estimate were based on the two wells pumping 1400 gallons per minute and a reduction of 40 percent used for the calculations of the major equipment to account for down time, reduced requirements and varying weather conditions. The calculation for large equipment states the forty percent reduction represents "...the average percent of use of the maximum capacity of this equipment..."¹²

VII.

The State Engineer finds that NDEP Permit NV 0020630 allowed two discharge limitations back to the Truckee River. Serial No. 001 of Permit NV 0020630 allowed a daily maximum discharge of 0.04 million gallons per day (mgd) for non contact cooling water and boiler blow down. Serial No. 002 of Permit NV 0020630 allowed a daily maximum discharge of 0.7 mgd for excess well water.⁵ The total maximum daily discharge allowed, therefore, is 0.74 mgd which expanded over a period of one year is 270.10 million gallons annually (mga) or 828.91 acre feet annually.

VIII.

The State Engineer finds that the rights under Permit 16844, Certificate 4542 and Permit 16845, Certificate 4543 have been granted extensions of time to prevent the working of a forfeiture. The approvals of these extensions never specified the amount of water under either of the permits that was being extended nor the amount of water that had previously been put to beneficial use.^{3, 4}

CONCLUSIONS

I.

The State Engineer has authority of the subject matter of this action.¹³

¹² Item IX. C. of Winburn's Estimate.

¹³ NRS 533.370; 533.035; 534.050 and 534.090.

II.

The State Engineer concludes that the appropriations underlying Applications 55375 and 55376 have been previously approved under Permits 16844 and 16845, respectively and no additional water would be appropriated in the instant matter. The State Engineer further concludes that the issuance of a permit under Applications 55375 and 55376 does not conflict with existing rights and would not prove to be detrimental to the public interest.

III.

The State Engineer concludes that if the major equipment required 1025.6 gpm assuming a 40 percent reduction applied, the total amount of water required at full capacity would be 2564 gpm. This exceeds that amount of water the wells were capable of producing according to Winburn's Estimate (1400 gpm) and the amount of diversion allowed under Permit 16844, Certificate 4542 of 673 gpm and Permit 16845, Certificate 4543 of 898 gpm, a total of 1571 gpm.

IV.

The State Engineer concludes that a discharge in excess of 0.74 mgd would constitute a violation of the NDEP Permit NV 0020630. If the maximum daily discharge rate was just met and not exceeded the annual amount would be 270.10 million gallons or 828.91 acre feet.

V.

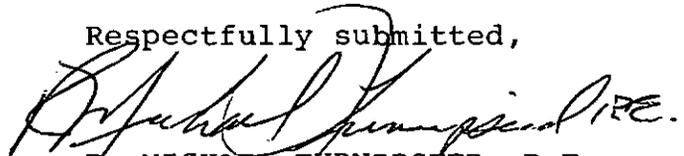
The State Engineer concludes that the maximum daily discharge rate expanded which is 828.91 acre feet, could be added to the amount of water used within the hotel, that being 47.10 acre feet annually and the water used from the hose bib, that being 12.90 acre feet annually thus allowing for a total of a maximum of 888.91 acre feet that was put to beneficial use and extensions granted to prevent the working of a forfeiture under Permit 16844, Certificate 4542 and Permit 16845, Certificate 4543.

RULING

The State Engineer rules that the amount of water placed to beneficial use under Permit 16844, Certificate 4542 and Permit 16845, Certificate 4543 was no more than 888.91 acre feet annually and this amount has been granted extensions of time to prevent the working of a forfeiture.

The State Engineer further rules that a decision on Applications 55375 and 55376 will be held pending a clear chain of title transferring Permit 16844, Certificate 4542 and Permit 16845, Certificate 4543 in the present ownership of the Mapes Hotel Corporation to George Karadanis and Robert Maloff.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/HR/pm

Dated this 15th day of
November, 1991.