

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

IN THE MATTER OF APPLICATION 56827)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE OREANA SUBAREA OF THE LOVELOCK)
VALLEY GROUNDWATER BASIN, PERSHING)
COUNTY, NEVADA.)

RULING
#3857

FINDINGS OF FACT

I.

Application 56827 was submitted October 11, 1991, by Richard J. Cotter to appropriate 0.1 cubic feet per second (cfs) or 2.5 acre-feet per year from an underground source for domestic (QM) purposes within "Rye Patch Ranch Estates Phase 'A' my Lot #27 (Pershing County)." The point of diversion was not described as being within a 40 acre legal subdivision with a tie by bearing and distance to an established section corner or quarter-section corner. The application proposes water use for four one bedroom one bath rental units and one two bedroom two bath domestic unit. A supporting map was not received with the application.¹

Application 56827 was returned for correction for proper completion of the point of diversion and place of use description and for submittal of a supporting map by November 6, 1991. An amended application was received December 9, 1991, but without a supporting map.¹

II.

The State Engineer finds that Rye Patch Ranch Estates was proposed as a recreational subdivision, and that there is nothing in the subdivision proposal for Phase A that requests or makes allowances for water quantity for multiple-residential units or commercial activities on lots in Phase A.²

¹ Public record of the State Engineer, filed under Application 56827.

² Public record of the State Engineer. Subdivision Review No. 2826 F-A including letter dated July 23, 1983 from Summit Engineering Corporation.

III.

The State Engineer finds that 290.70 acre-feet (94.72 million gallons) of water rights under Permit 19668, Certificate 6945 were relinquished by the developer, R.J.B. Development Company, for approval of the Phase A final map.^{2, 3} This quantity of water will provide 511 lots with 500 gallons per day for each lot.

The State Engineer approved the final map for Rye Patch Ranch Estates - Phase A Subdivision as to water quantity on November 6, 1985, for 0.56 acre-feet per year per lot for 511 lots described as being within portions of Sections 9, 15, 16, 21 and 22, T.30N., R.33E., M.D.B.&M.²

IV.

The State Engineer estimates that the volume of water required for four one bedroom one bath rental units and one two bedroom two bath domestic unit will be 1500 gallons per day or 0.55 million gallons per year for that lot.⁴ This is three times the amount of water that was approved for each lot of Phase A.

V.

The State Engineer finds that quasi-municipal or commercial use in Rye Patch Ranch Estates - Phase A cannot be permitted in accordance with NRS 533.030 and NRS 534.050 if the volume exceeds the 500 gallons per day per lot (0.1825 million gallons or 0.56 acre-feet per year) approved by Subdivision Review No. 2826 F-A.

VI.

The State Engineer has denied applications of a similar nature in the Lovelock Valley Groundwater Basin and in this particular subdivision.⁵

³ Public record of the State Engineer, filed under Permit 19668, Certificate 6945.

⁴ The State Engineer has many years of metered records for similar applications and can use a per-fixture basis for estimating water use.

⁵ Public record of the State Engineer, Ruling No. 3856, Application 55238.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁶

II.

The State Engineer is authorized by law to deny applications prior to publication.⁷

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

IV.

The State Engineer concludes that 290.70 acre-feet of water rights were relinquished to provide water for Rye Patch Ranch Estates - Phase A Subdivision, which was approved as to water quantity for individual wells on 511 lots with a daily draught of 500 gallons per day for each lot.

V.

The State Engineer concludes that Rye Patch Ranch Estates - Phase A Subdivision was intended to be a recreational subdivision and was not intended to include multiple-residential lots because the amount of water relinquished by the developer for Phase A, 500 gallons per day per lot, will not provide the requirements for multiple-residential uses.

⁶ NRS Chapter 533.025 and NRS 533.030, subsection 1.

⁷ NRS Chapter 533.370 subsection 3.

VI.

The State Engineer concludes that the volume of water for multiple-residential units on individual lots will exceed the 500 gallon per day per lot duty approved by Subdivision Review No. 2826 F-A.

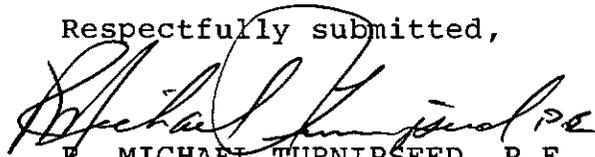
VII.

The State Engineer concludes that to approve permits in Rye Patch Ranch Estates - Phase A Subdivision for more than 500 gallons per day per lot would conflict with existing rights, and threaten to prove detrimental to the public interest and welfare.

RULING

Application 56827 is denied on the grounds that the appropriation of additional ground water from the area described in the application would impair the value of existing rights and be otherwise detrimental to the public interest and welfare.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CB/pm

Dated this 3rd day of
January, 1992.