

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

IN THE MATTER OF APPLICATIONS 46692, 46693)
AND 46694 FILED TO APPROPRIATE THE WATERS)
OF UPPER, MIDDLE AND LOWER INDIAN SPRINGS,))
RESPECTIVELY, IN OASIS VALLEY (228), NYE)
COUNTY, NEVADA.)

RULING

4174

GENERAL

I.

Application 46692 was filed March 3, 1983 by Beatty Water and Sanitation District to appropriate 0.004 cubic feet per second (cfs) of water for municipal purposes from a spring described as Upper Indian Springs. The point of diversion is described as being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, T.11S., R.46E., M.D.B.&M. The place of use is the service area of Beatty Water and Sanitation District, within Section 7, T.12S., R.47E., M.D.B.&M. The period of use will be from January 1 to December 31 of each year. Application 46692 became ready for the State Engineer's action July 17, 1983.¹

Application 46693 was filed March 3, 1983 by Beatty Water and Sanitation District to appropriate 0.0032 cfs of water for municipal purposes from a spring described as Middle Indian Springs. The point of diversion is described as being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, T.11S., R.46E., M.D.B.&M. The place and period of use is the same as that described under Application 46692. Application 46693 became ready for the State Engineer's action July 17, 1983.²

Application 46694 was filed March 3, 1983 by Beatty Water and Sanitation District to appropriate 0.0051 cfs of water for municipal purposes from a spring described as Lower Indian Springs. The point of diversion is described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$

¹ Public record in the Office of the State Engineer, Application 46692.

² Public record in the Office of the State Engineer, Application 46693.

Section 26, T.11S., R.46E., M.D.B.&M. The place and period of use is the same as that described under Application 46692. Application 46694 became ready for the State Engineer's action July 17, 1983.³

FINDINGS OF FACT

I.

The State Engineer previously denied Applications 35900, 35902 and 36461, filed to appropriate the waters of Upper Indian Springs, Middle Indian Springs and Lower Indian Springs for mining and domestic uses, on the grounds that the granting thereof would conflict with existing rights, that there is no unappropriated water at the sources, and that the approval of these applications would be detrimental to the public interest.⁴ The State Engineer's decision was appealed to the Fifth Judicial District Court and the case was dismissed for want of prosecution.⁵ The State Engineer finds that the conditions at the three spring areas have not changed since the denial of these earlier applications. The State Engineer further finds that the use contemplated under Applications 46692, 46693 and 46694 (municipal) is similar to that of the denied applications.

II.

With regard to the Upper Indian Springs, Middle Indian Springs and Lower Indian Springs, the State Engineer has ruled that there is insufficient water available at these sources to support existing rights as well as wildlife needs.⁶ The State Engineer

³ Public record in the Office of the State Engineer, Application 46694.

⁴ State Engineer's Ruling No. 2531, dated April 11, 1980 and State Engineer's Ruling No. 2827, dated September 13, 1983.

⁵ Order of Dismissal for Want of Prosecution, in Lee Ward Bolman v. William J. Newman, Nevada State Engineer, and the State of Nevada, Case No. 8961, Fifth Judicial District Court of Nevada, October 20, 1988.

⁶ State Engineer's Ruling No. 2827, dated September 13, 1983.

finds that the conditions have not changed and that there is insufficient water available to support existing rights and wildlife needs.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action.⁷

II.

The State Engineer is prohibited by statute from approving an application where:

- 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.

Where a previous application for a similar use of water within the same basin had been rejected on these grounds, the new application may be denied without publication.⁸

III.

Before a person may obtain a right to the use of water from a spring, he must ensure that wildlife which customarily uses the water, will have access to it.⁹

IV.

The State Engineer concludes that there is insufficient water available at the subject sources to support existing rights and to support wildlife needs.

V.

The State Engineer concludes that to issue permits for Applications 46692, 46693 and 46694 would conflict with existing

⁷ NRS 533.025 and 533.030(1).

⁸ NRS 533.370(3).

⁹ NRS. 533.367.

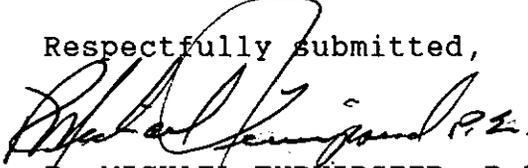
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rights at the source, would be detrimental to the public interest, and that there is no unappropriated waters at the source.

RULING

Applications 46692, 46693 and 46694 are hereby denied on the grounds that granting permits for the applications would conflict with existing rights, would be detrimental to the public interest and there is no unappropriated water at the source.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/pm

Dated this 24th day of
March, 1995.