

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

IN THE MATTER OF APPLICATIONS 62098)
THROUGH 62101, INCLUSIVE, FILED TO)
CHANGE THE POINTS OF DIVERSION AND)
PLACES OF USE OF THE UNDERGROUND WATERS)
OF THE LAS VEGAS ARTESIAN BASIN (212),)
CLARK COUNTY, NEVADA.)

RULING

4463

GENERAL

I.

Application 62098 was filed on May 6, 1996, by Thomas Jarrett to change the point of diversion and place of use of 0.1 cubic foot per second (cfs), not to exceed 1.46 million gallons annually (MGA), of water heretofore appropriated under Permit 57621. The proposed use is for quasi-municipal purposes to serve four homes located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, T.19S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 24.¹

II.

Application 62099 was filed on May 6, 1996, by Charles Jarrett to change the point of diversion and place of use of 0.1 cfs, not to exceed 1.46 MGA, of water heretofore appropriated under Permit 57637. The proposed use is for quasi-municipal purposes to serve four homes located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, T.19S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 24.²

III.

Application 62100 was filed on May 6, 1996, by Mary Hardy to change the point of diversion and place of use of 0.1 cfs, not to exceed 1.46 MGA, of water heretofore appropriated under Permit 57638. The proposed use is for quasi-municipal purposes to serve

¹File No. 62098, official records in the Office of the State Engineer.

²File No. 62099, official records in the Office of the State Engineer.

four homes located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, T.19S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 24.³

IV.

Application 62101 was filed on May 6, 1996, by Thomas Jarrett to change the point of diversion and place of use of 0.1 cfs, not to exceed 1.46 MGA, of water heretofore appropriated under Permit 57639. The proposed use is for quasi-municipal purposes to serve four homes located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, T.19S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 24.⁴

V.

The State Engineer initially described and designated a portion of the Las Vegas Artesian Basin on January 10, 1941, under the provisions of NRS 534.030 as a basin in need of additional administration.⁵ The State Engineer subsequently extended the boundaries of the designated area of the Las Vegas Artesian Basin on February 29, 1944,⁶ November 22, 1946,⁷ April 18, 1961,⁸ May 25, 1964,⁹ and December 27, 1983¹⁰. Since March 24, 1955, new permits

³File No. 62100, official records in the Office of the State Engineer.

⁴File No. 62101, official records in the Office of the State Engineer.

⁵State Engineer's Order No. 175, dated January 10, 1941, official records in the Office of the State Engineer.

⁶State Engineer's Order No. 182, dated February 29, 1944, official records in the Office of the State Engineer.

⁷State Engineer's Order No. 189, dated November 22, 1946, official records in the Office of the State Engineer.

⁸State Engineer's Order No. 249, dated April 18, 1961, official records in the Office of the State Engineer.

⁹State Engineer's Order No. 275, dated May 25, 1964, official records in the Office of the State Engineer.

issued within the designated boundaries of the Las Vegas Artesian Basin are revocable water rights for the temporary use of ground water, and subject to revocation when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water.¹¹

VI.

The State Engineer is empowered under the authority of NRS 534.120(1) to make rules, regulations and orders deemed essential for the welfare of an area that has been designated as a basin in need of additional administration. After taking notice of Nevada's allocation of Colorado River water, revocable groundwater permits, groundwater pumpage, declining groundwater levels and land subsidence in parts of the basin, the State Engineer issued Order No. 1021 on March 2, 1990, to limit new revocable permits for ground water in the Las Vegas Artesian Basin to not more than 4,000 gallons per day for commercial, industrial, quasi-municipal, recreational, wildlife, or environmental uses.¹²

Again, on March 23, 1992, after taking notice of the above, and of other indicators of impact to the groundwater basin, the State Engineer issued Order No. 1054, to halt new appropriations of ground water in the Las Vegas Artesian Basin.¹³ After holding public hearings concerning Order No. 1054, the State Engineer

¹⁰State Engineer's Order No. 833, dated December 27, 1983, official records in the Office of the State Engineer.

¹¹NRS 534.120(3)(a).

¹²State Engineer's Order No. 1021, dated March 2, 1990, official records in the Office of the State Engineer.

¹³State Engineer's Order No. 1054, dated March 23, 1992, official records in the Office of the State Engineer.

issued Amended Order No. 1054, having three exceptions, or special cases, whereby new revocable permits for ground water would be allowed.¹⁴ One exception stated:

Applicants who began the process of filing an application before March 23, 1992, may file the application which will be processed according to NRS Chapter 533. The applicant must demonstrate that the process began before March 23, 1992 by attaching a copy of a contract or agreement with a licensed water right surveyor. The application and copy of the contract must be received in the office of the State Engineer no later than 5:00 p.m. May 1, 1992.

VII.

Permits 57621, 57637, 57638 and 57639, the base permits which support change Applications 62098 through 62101, inclusive, were issued under the exception noted above.

FINDINGS OF FACT

I.

The perennial yield of the Las Vegas Artesian Basin is estimated to be 25,000 acre-feet annually (AFA).¹⁵ In addition, about 16,000 AFA of secondary recharge enters the groundwater from wastewater disposal and treatment and from irrigation of lawns, golf courses, and parks. The source of much of this water is the Southern Nevada Water Project, which imports water from the Colorado River.¹⁶

The quantity of water pumped from the groundwater basin in 1992 was 67,972 acre-feet, and in 1995 72,538 acre-feet.¹⁷ The

¹⁴State Engineer's Amended Order No. 1054, dated April 15, 1992, official records in the Office of the State Engineer.

¹⁵United States Geological Survey Water Supply Paper No. 1780, Glenn T. Malmberg, 1965.

¹⁶Water Resources Bulletin No. 44, Office of the State Engineer and the United States Geological Survey, 1976.

¹⁷Data collected by the Division of Water Resources, State of Nevada, Las Vegas Branch. Pumpage inventories are maintained by meter readings and data provided by local water companies. Water

1995 amount gives an overdraft of about 31,000 AFA. Over the years, the overdraft of ground water has caused a lowering of the water table which in turn has caused as much as five feet of land subsidence in some areas of Las Vegas.¹⁸

Revocable quasi-municipal permits issued pursuant to Amended Order No. 1054 allow for temporary groundwater appropriations for growth and development in the Las Vegas Valley until Colorado River water is available from municipal utilities. These revocable permits are then subject to revocation when municipal water is available to the permitted places of use. To allow revocable permits to be the subject of applications to change the point of diversion and place of use, would allow revocable permits to be frequently changed, always remaining beyond the bounds of municipal water service. The State Engineer finds it is the policy of this office not to allow revocable permits to be the subject of change applications in that this would conflict with the program for revocation of permits in an attempt to reduce the amount of groundwater overdraft in the groundwater basin.

II.

The State Engineer finds that the proposed place of use under Applications 62098 through 62101, inclusive, is a parcel identified by Assessor Parcel Number (APN) 125-24-601-007 with an area of approximately 8.56 acres. The State Engineer also finds that a Rex Jarrett filed Applications 57633, 57634, 57635 and 57636 in May

levels of selected wells within the Las Vegas Valley Basin are measured periodically. The State Engineer's Office and U.S. Geological Survey have cooperatively maintained groundwater level monitoring networks in the Las Vegas Valley since 1945. This record is substantial and conclusive evidence of deteriorating groundwater conditions.

¹⁸Nevada Bureau of Mines and Geology Bulletin No. 95, John W. Bell, 1981.

1992 with proposed places of use being within APN 125-24-601-007.¹⁹ The State Engineer denied Applications 57633, 57634 and 57635 on the grounds that the applications did not meet any of the exceptions as outlined in Amended Order No. 1054.²⁰ Application 57636 was cancelled on August 11, 1992, for failure to submit a corrected supporting map.²¹ The State Engineer finds that Ruling No. 4068 concluded that one domestic well as outlined in NRS 534.180, which does not require a permit, could supply the domestic needs of the undeveloped 8.56 acre parcel identified as APN 125-24-601-007.

III.

Permits 57621, 57637, 57638 and 57639 are each appurtenant to parcels of approximately 2.5 acres.²² The total combined duty allowed under combined Permits 57621, 57637, 57638 and 57639 is 5.84 MGA. Pursuant to Ruling No. 4068, APN 125-24-601-007, the 8.56 acre parcel could have one domestic well for a duty of 0.66 MGA. The total combined duty for the place of use under Permits 57621, 57637, 57638, 57639 and for the one domestic well allowed to be developed at APN 125-24-601-007 is 6.50 MGA.

If permits were granted under Applications 62098 through 62101, inclusive, APN 125-24-601-007 would be parcelled and the four parcels would have a permitted duty of 5.84 MGA. The four 2.5 acre parcels, currently the places of use of Permits 57621, 57637, 57638 and 57639, would each be allowed one domestic well as outlined in NRS 534.180, for a total combined duty of 2.63 MGA.

¹⁹File Nos. 57633, 57634, 57635 and 57636, official records in the Office of the State Engineer.

²⁰State Engineer's Ruling No. 4068, dated December 23, 1993, official records in the Office of the State Engineer.

²¹File No. 57636, official records in the Office of the State Engineer.

²²State of Nevada Exhibits Nos. 2 & 3, public administrative hearing before the State Engineer, May 6, 1993.

The effect of allowing the transfer would increase the total combined duty for the existing place of use and the proposed place of use from 6.50 MGA to 8.47 MGA. The State Engineer finds to allow the change applications would increase the total combined duty which could be appropriated from the existing place of use and the proposed place of use in an amount equal to 1.97 MGA or 6.05 acre feet annually. The State Engineer finds that the granting of permits for Applications 62098, 62099, 62100 and 62101 would cause additional pumpage, would further aggravate the basinwide overdraft and declining static water levels, and, thus, would conflict with existing rights and be detrimental to the public interest.

IV.

Applications 62098 and 62099, inclusive, have identical points of diversion, meaning that both applications propose to use a common well for water supply to the places of use.^{1,2} Applications 62100 and 62101 also have identical points of diversion, indicating a common well for water supply to both places of use.^{3,4}

Applications 62098 through 62101 were filed to change revocable permits and were filed after the State Engineer issued Order No. 1021 limiting ground water appropriations to 4,000 gallons per day per permit, and further were filed after Amended Order No. 1054 which does not allow for any appropriation for quasi-municipal purposes. A quasi-municipal permit for 4,000 gallons per day provides water to four houses from a point of diversion (well) that is unique to the revocable permit. Revocable permits can not be stacked at a point of diversion allowing one well to serve more than one permitted place of use. The State Engineer finds that the use of common wells proposed by Applications 62098 and 62099, and by Applications 62100 and 62101 is an attempt to circumvent Order No. 1021, and would threaten to prove detrimental to the public interest.

V.

One mile north of the proposed points of diversion of Applications 62098 through 62101, in Section 13, T.19 S., R.60 E., M.D.B.& M., several wells near the center $\frac{1}{4}$ corner have experienced drawdowns of more than 100 feet in recent months and some people living in this area have had to haul water to their storage tank to supplement the production from their well.²³

The State Engineer finds that to approve applications which will have as a result an adverse effect on drawdown in this area by an increase in pumpage, and have an adverse effect on basinwide overdraft, would conflict with existing rights and be detrimental to the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.²⁴

II.

The State Engineer is prohibited by law from granting a permit where:²⁵

- 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.

²³Field investigation dated August 30, 1996, in File No. 51943, official records in the Office of the State Engineer.

²⁴NRS Chapters 533 and 534.

²⁵NRS 533.370(3).

III.

Granting revocable permits for Applications 62098, 62099, 62100 and 62101 would allow domestic wells on four 2.5 acre parcels which currently are the places of use of revocable Permits 57621, 57637, 57638 and 57639. Also, approval of the Applications would allow the 8.56 acre parcel, APN 125-24-601-007, to be developed into four approximately 2.0 acre parcels, which are proposed to be the place of use of each Application. The State Engineer concludes that approval of the Applications will allow an additional three domestic wells in this area, resulting in additional pumpage of 1.97 MGA or 6.05 AFA. The State Engineer concludes that the additional pumpage which would result from granting revocable permits for Applications 62098, 62099, 62100 and 62100 would allow for additional appropriation of water from the immediate area and from the Las Vegas Artesian Basin thereby threatening to be detrimental to the public interest, and conflicting with existing rights.

IV.

Revocable permits are issued to allow temporary groundwater appropriations with the condition that permits would be subject to revocation when water is available from municipal utilities. The State Engineer manages a program to reduce the amount of groundwater pumpage in the basin by revoking permits in areas that can be served water by municipal utilities. The State Engineer concludes that a policy of granting applications which propose to change revocable permits repudiates the temporary nature of appropriations and repudiates the program to reduce groundwater pumpage by revoking permits when water service can be provided by municipal utilities. The State Engineer concludes that to grant revocable permits for Applications 62098, 62099, 62100 and 62101, which propose to change revocable permits, would conflict with and would tend to impair the value of existing rights and threaten to prove detrimental to the public interest and welfare.

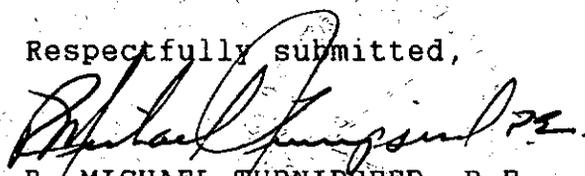
v.

Applications 62098 and 62099 propose to have the same point of diversion by sharing a common well, and Applications 62100 and 62101 propose to have the same point of diversion by sharing a common well. The State Engineer concludes that granting revocable permits which will place more than one point of diversion in a single well is an attempt to circumvent State Engineer's Order No. 1021 and threatens to prove detrimental to the public interest and welfare.

RULING

Applications 62098, 62099, 62100 and 62101 are hereby denied on the grounds that changing the points of diversion and places of use of revocable Permits 57621, 57637, 57638 and 57639 would conflict with and would tend to impair the value of existing rights, and would be otherwise detrimental to the public interest and welfare.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P. E.
State Engineer

RMT/CAB/ab

Dated this 13th day of
December, 1996.