

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

IN THE MATTER OF APPLICATIONS 64083, )  
64084 AND 64085 FILED TO CHANGE THE )  
PLACE OF USE AND THE MANNER OF USE )  
OF THE WATERS OF AN UNDERGROUND SOURCE, )  
HERETOFORE APPROPRIATED UNDER PERMITS )  
57310, 46908, AND 52763, RESPECTIVELY, )  
WITHIN THE DODGE FLAT GROUNDWATER BASIN )  
(082), WASHOE COUNTY, NEVADA. )

RULING

# 4656

GENERAL

I.

Application 64083 was filed on May 6, 1998, by Nevada Land and Resource Co., LLC, to change the place and manner of use of 0.864 cubic feet per second (cfs), not to exceed 203.758 million gallons annually (mga), of water from an underground source heretofore appropriated under Permit 57310. The proposed manner of use is for municipal purposes. The existing manner of use is for mining, milling and domestic purposes within Sections 20, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34, and 35, all within T.21., R.23E., and Sections 19 and 31, both in T.21N., R.24E., M.D.B. & M. The point of diversion remains unchanged and is located in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 24, T.21N., R.23E., M.D.B. & M.<sup>1</sup> No proposed place of use is identified in the application.

II.

Application 64084 was filed on May 6, 1998, by Nevada Land and Resource Co., LLC, to change the place and manner of use of 4.0 cfs, not to exceed 943.6 mga, of water from an underground source heretofore appropriated under Permit 46908. The proposed manner of use is for municipal purposes. The existing manner of use is for mining, milling and domestic purposes within the same place of use described under Application 64083. The point of diversion remains unchanged and is located in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 19, T.21N.,

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<sup>1</sup> File No. 64083, official records in the office of the State Engineer.

R.24E., M.D.B.& M.<sup>2</sup> No proposed place of use is identified in the application.

III.

Application 64085 was filed on May 6, 1998, by Nevada Land and Resource Co., LLC, to change the place and manner of use of 4.0 cfs, not to exceed 943.6 mga, of water from an underground source heretofore appropriated under Permit 52763. The proposed manner of use is for municipal purposes. The existing manner of use is for mining, milling and domestic purposes within the same place of use described under Application 64083. The point of diversion remains unchanged and is located in the NE¼ NE¼ of Section 25, T.21N., R.23E., M.D.B.& M.<sup>3</sup> No proposed place of use is identified in the application.

FINDINGS OF FACT

I.

Applications 64083, 64084 and 64085 seek to change the manner of use of Permits 57310, 46908, and 52763, respectively. Permits 57310, 46908, and 52763 were filed to provide underground water for a precious metals mining and milling project located within the Olinghouse Mining District. The permits were issued with the understanding that the appropriation of water for mining and milling purposes was, by its nature, a temporary appropriation of water which would terminate with the cessation of the mining and milling operations. A permit term in Permits 46908 and 52763 reflects this understanding, as does a similar permit term issued for Permit 45042 which was changed by Permits 46910 and 57310:

The manner of use of water under this permit is by nature of its activity a temporary use and any application to change the manner of use granted under this permit will be subject to additional determination and evaluation

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<sup>2</sup> File No. 64084, official records in the office of the State Engineer.

<sup>3</sup> File No. 64085, official records in the office of the State Engineer.

with respect to the permanent effects on existing rights and the resource within the ground water basin.<sup>4</sup>

Given the above permit term, the State Engineer finds that Applications 64083, 64084 and 64085 must be reviewed to determine their potential effects on existing water rights and to determine the availability of water for appropriation in the Dodge Flat Groundwater Basin. The State Engineer further finds that the temporary nature of these mining and milling permits makes them unsuitable for changes to a permanent manner of use such as municipal use.

## II.

The magnitude of the Dodge Flat Groundwater Basin's groundwater resource can be determined by an evaluation of the groundwater basin's recharge and discharge components. Sources of groundwater recharge which contribute to the amount of groundwater which is available for appropriation consist of precipitation, subsurface inflow of groundwater from adjacent basins, infiltration of water from surface sources and return flows generated from man-developed activities. Under developed conditions, groundwater discharges from the Dodge Flat Groundwater Basin by evaporation, transpiration, and pumpage from domestic and permitted wells. Currently an imbalance exists between the perennial yield of the Dodge Flat Groundwater Basin and its committed groundwater resource.

The perennial yield of a hydrologic basin is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural recharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded, groundwater levels will

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<sup>4</sup> File Nos. 45042, 46908, 52763, and 57310, official records in the office of the State Engineer.

decline until the groundwater reservoir is depleted. Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased uneconomic pumping lifts, land subsidence and possible reversal of groundwater gradients which could result in significant changes in the recharge-discharge relationship.<sup>5</sup> The United States Geological Survey estimates that the perennial yield of the Dodge Flat Groundwater Basin is approximately 2,100 acre-feet.<sup>6</sup> The committed groundwater resource in the form of permits and certificates issued by the State Engineer's office to appropriate underground water from the Dodge Flat Groundwater Basin currently exceeds 5,400 acre-feet annually.<sup>7</sup> The State Engineer finds that the current committed groundwater resource of the Dodge Flat Groundwater Basin exceeds the estimated perennial yield of the groundwater basin.

III.

Permits 46908, 52763, and 57310 were issued to appropriate water for a finite period of time which would conclude with the cessation of the mining and milling operation. Applications 64083, 64084 and 64085 request a change in the manner of use which existed under the base right permits to municipal use which is by its nature a permanent use. The State Engineer finds that the change of use proposed by Applications 64083, 64084 and 64085 would replace a temporary appropriation of water with a permanent appropriation and would adversely contribute to the imbalance which

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<sup>5</sup> State Engineer's Office, Water for Nevada, State of Nevada Planning Report No. 3, p. 13, Oct. 1971.

<sup>6</sup> Nowlin, Jon, Groundwater Quality in Nevada - A Proposed Monitoring Program, Open File Report 78-768, U.S. Geological Survey, p. 195.

<sup>7</sup> Special Hydrologic basin Abstract, Water Rights Database, July 21, 1998, official records in the office of the State Engineer.

currently exists between the committed groundwater resource and the perennial yield of the groundwater basin.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>8</sup>

**II.**

The State Engineer is prohibited by law from granting a permit under an application to change the public waters where:<sup>9</sup>

- A. the proposed use conflicts with existing rights; or
- B. the proposed use threatens to prove detrimental to the public interest.

**III.**

The appropriation of water under Permits 46908, 52763 and 57310 was for mining and milling purposes which is by the nature of its activities a temporary use. Applications 64083, 64084 and 64085 propose to change this manner of use to municipal use. The State Engineer concludes that the proposed change would replace a temporary use with a permanent use and would as such represent an additional appropriation of underground water within a groundwater basin where the committed groundwater resource exceeds the groundwater basin's perennial yield. The State Engineer further concludes that to approve such applications would adversely affect existing rights and be detrimental to the public interest.

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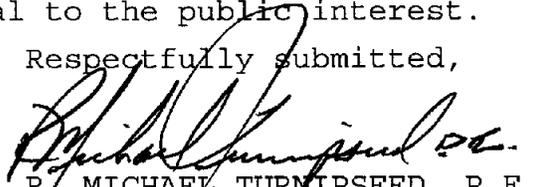
<sup>8</sup> NRS § Chapters 533 and 534.

<sup>9</sup> NRS § 533.370(3).

**RULING**

Applications 64083, 64084 and 64085 are hereby denied on the grounds that the granting thereof would adversely affect existing rights and be detrimental to the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/cl

Dated this 13th day of  
August, 1998.