

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

IN THE MATTER OF APPLICATIONS 64453,)
64454, AND 64455 FILED TO APPROPRIATE)
THE UNDERGROUND WATERS OF THE THREE)
LAKES VALLEY GROUNDWATER BASIN)
SOUTHERN PORTION (211), CLARK COUNTY,)
NEVADA.)

RULING

4704

GENERAL

I.

Application 64453 was filed on September 17, 1998, by the Nevada State Lands Division to appropriate 3.0 cubic feet per second (cfs) of underground water for quasi-municipal (penal institution) purposes within Sections 31, 32, and 33, T.16S., R.57E., M.D.B.& M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T.16S., R.57E., M.D.B.&M.¹

II.

Application 64454 was filed on September 17, 1998, by the Nevada State Lands Division to appropriate 3.0 cfs of underground water. The proposed manner and place of use are identical to those described under Application 64453. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T.16S., R.57E., M.D.B.&M.²

III.

Application 64455 was filed on September 17, 1998, by the Nevada State Lands Division to appropriate 3.0 cfs of underground water. The proposed manner and place of use are identical to those described under Applications 64453 and 64454. The proposed point

¹ File No. 64453, official records in the office of the State Engineer.

² File No. 64454, official records in the office of the State Engineer.

of diversion is described as being located within the NW¼ NW¼ of Section 33, T.16S., R.57E., M.D.B.&M.³

IV.

Applications 64453, 64454, and 64455 were all protested by the United States Department of Interior National Park Service on various grounds as if they were new appropriations of water.¹⁻³

V.

Information contained within the remarks section of the subject applications indicates that the intent of the filings was to secure additional points of diversion only, with the total duty remaining the same as that established under Permit 38655, Certificate 12656; Permit 42636, Certificate 11635; and Permits 55421, 56135 and 56136.¹⁻³

FINDINGS OF FACT

I.

By State Engineer's Order No. 745, the State Engineer described and designated the Three Lakes Valley Southern Portion Groundwater Basin as a groundwater basin in need of additional administration.⁴ The appropriation of underground water from said groundwater basin for quasi-municipal purposes (penal institution) was declared to be a preferred use of water by State Engineer's Ruling No. 4177, issued on March 29, 1995. The State Engineer finds that the subject applications request a preferred use of water for points of diversion and a common place of use which are located within the Three Lakes Valley Southern Portion Groundwater Basin.

II.

The preferred use designation allows the State Engineer to safeguard a limited underground water resource from any adverse

³ File No. 64455, official records in the office of the State Engineer.

⁴ State Engineer's Order No. 745, issued May 28, 1980, official records in the office of the State Engineer.

effects which may occur as a result of new appropriations of underground water for non-preferred uses. The committed groundwater resource of the Three Lakes Valley Southern Portion Groundwater Basin consists almost entirely of permits and certificates issued to appropriate water for quasi-municipal (penal institution) use and currently exceeds 1,584 acre-feet annually.⁵ The perennial yield of the Three Lakes Valley Southern Portion Groundwater Basin is estimated by the U.S. Geological Survey to be 5,000 acre-feet.⁶ This State Engineer finds that the committed groundwater resource of the Three Lakes Valley Southern Portion does not exceed the groundwater basin's perennial yield.

III.

Previous applications which requested appropriations of underground water for quasi-municipal purposes (penal institution) from the Three Lakes Valley Southern Portion Groundwater Basin have been approved by the State Engineer.⁷ The total combined duty of these permits and certificates is limited by the State Engineer to 1,574.92 acre-feet annually.⁸ Applications 64453, 64454, and 64455 if approved would be incorporated into this pre-established combined annual duty and would not represent an additional appropriation above or beyond this level. The State Engineer finds that the approval of Applications 64453, 64454, and 64455 would not increase the amount of underground water appropriated on an annual

⁵ Nevada Division of Water Resources, Water Rights Database, Hydrographic Basin Summary of Basin 211, January 26, 1999, official records in the office of the State Engineer.

⁶ Nowlin, Jon, Groundwater Quality in Nevada-A Proposed Monitoring Program, Open-File Report 78-768, U.S. Geological Survey, p. 203.

⁷ File Nos. 38655, 42636, 55421, 56135, and 56136, official records in the office of the State Engineer.

⁸ State Engineer's Ruling No. 4177, issued March 29, 1995, official records in the office of the State Engineer.

basis from the Three Lakes Valley Southern Portion Groundwater Basin, therefore, it would have no adverse effect upon the groundwater basin's recharge-discharge relationship.

IV.

Before an application which requests a new appropriation of water can be approved, it must be determined that its approval would not conflict with existing water rights which appropriate water from the same source. Within the Three Lakes Valley Groundwater Basin, this evaluation is limited to a single water right permit, Permit 62502, which is held by the U.S. Air Force to appropriate 0.33 cfs from a point of diversion which is located approximately one mile north of the closest point of diversion proposed under the subject applications. This closest point of diversion is also located in the immediate vicinity of the existing points of diversion which service the penal institution. The State Engineer finds that the locations of the proposed points of diversion described under the subject applications do not significantly differ from those well sites already in existence, therefore, there would be no adverse effect on existing water rights.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁹

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:¹⁰

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or

⁹ NRS § Chapter 533.

¹⁰ NRS § 533.370(3).

- C. the proposed use threatens to prove detrimental to the public interest.

III.

The committed groundwater resource of the Three Lakes Valley Groundwater Basin consists almost entirely of permits and certificates issued to appropriate underground water for quasi-municipal (penal institution) purposes. The total combined annual duty of these appropriations is currently limited by the State Engineer to 1,574.92 acre-feet. Applications 64453, 64454, and 64455 if approved would be incorporated into this pre-established annual duty and would not increase the amount of underground water removed from the groundwater basin each year. The National Park Service's protest to the subject applications is based on the premise that their approval would result in additional appropriations of underground water from the Three Lakes Valley Southern Portion Groundwater Basin. The State Engineer concludes that the absence of any new appropriations of underground water under the subject applications removes the grounds of the National Park Service's protests from consideration.

IV.

Applications 64453, 64454, and 64455 were filed for a manner of use which is considered by the State Engineer to be a preferred use of water. The State Engineer concludes that the granting of the subject applications would be in the public interest and would not conflict with existing preferred use water rights.

RULING

The protests to Applications 64453, 64454, and 64455 are overruled and Applications 64453, 64454 and 64455 will be approved subject to existing rights, the payment of the statutory permit fees and the following conditions:

1. That a totalizing meter be installed near the point of diversion and monthly records be kept of the amount of water pumped and submitted to the State Engineer on a quarterly basis within 15 days after the end of each calendar quarter; and

2. That the total combined duty of Permits 38655, Certificate 12656; Permit 42636, Certificate 11635; Permits 55421, 56135, 56136 and the permits issued under 64453, 64454, and 64455 shall not exceed 513.19 million gallons annually (1,574.92 acre-feet annually).

Respectfully submitted,



R/ MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 12th day of
February, 1999.