

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

IN THE MATTER OF APPLICATIONS 65038, )  
65039, 65040, 65041, 65042, 65043, )  
65044, 65045, 65046, 65047, 65048, )  
64049, 65050, 65051, 65052, 65053, )  
AND 65054 FILED TO CHANGE THE PLACES )  
OF USE AND SOME OF THE POINTS OF )  
DIVERSION OF THE PUBLIC WATERS PREVIOUSLY )  
APPROPRIATED FROM AN UNDERGROUND SOURCE )  
WITHIN THE COLD SPRINGS VALLEY )  
GROUNDWATER BASIN (100), WASHOE COUNTY, )  
NEVADA. )

RULING

# 4766

GENERAL

I.

Application 65038 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 0.15 cubic feet per second (cfs), not to exceed 14.99 million gallons annually (mga), for quasi-municipal and domestic purposes of water previously appropriated under Permit 59150.<sup>1</sup> The proposed place of use is described as being located within all of Section 9, the W½ and portions of the NW¼ NE¼, SW¼ NE¼ of Section 15, all of Section 16, the S½ SE¼, S½ SW¼ and a portion of the N½ SE¼ of Section 17, portions of the NE¼ NE¼ (Lot 9), the SE¼ NE¼ (Lot 10), the NE¼ SE¼ (Lot 11), the SE¼ SE¼ (Lot 12) of Section 19, the NE¼ and portions of the NE¼ SW¼, SW¼ SW¼ and the NW¼ SW¼ of Section 20, the N½ NW¼, SE¼ NW¼, NE¼, N½ SE¼, SE¼ SE¼, and portions of the SW¼ SE¼, SW¼ NW¼, NE¼ SW¼ of Section 21, portions of the NE¼ NE¼, SE¼ NE¼ of Section 28, the SW¼ SW¼ and portions of the SE¼ SW¼, NW¼ SW¼, NE¼ SW¼, SW¼ NW¼, NW¼ NW¼, NE¼ NW¼, SE¼ NW¼, NW¼ SE¼ of Section 29, a portion of the E½ E½ (Lots 9, 10, 11 and 12) of Section 30, the SW¼ SW¼ and portions of the NW¼ SW¼, NE¼ SW¼, NW¼ NW¼, SW¼ NW¼, SE¼ SW¼ of Section 34, all in T.21N., R.18E., M.D.B.& M. The point of diversion is described as being located within the Cold Springs

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<sup>1</sup> File No. 65038, official records in the office of the State Engineer.

Valley Groundwater Basin in the NW¼ NW¼ of Section 21, T.21N., R.18E., M.D.B. & M. (Well No. 1).

The existing place of use under Permit 59150 is described as being located within the Cold Springs Valley Groundwater Basin in all of Section 9, the W½ of Section 15, the SW¼, S½ SE¼ of Section 16, the S½ SE¼, S½ SW¼ of Section 17, portions of the SE¼ SE¼ (Lot 12), the NE¼ SE¼ (Lot 11) of Section 19, the NE¼ and portions of the SW¼ of Section 20, the N½ NW¼, SE¼ NW¼, NE¼, N½ SE¼, SE¼ SE¼, and portions of the SW¼ SE¼, SW¼ NW¼, NE¼ SW¼ of Section 21, portions of the NE¼ NE¼, SE¼ NE¼ of Section 28, the SW¼ SW¼ and portions of the SE¼ SW¼, NW¼ SW¼, NE¼ SW¼, SW¼ NW¼, NW¼ NW¼, NE¼ NW¼, SE¼ NW¼, NW¼ SE¼ of Section 29, a portion of the E½ E½ (Lots 9, 10, 11 and 12) of Section 30, the SW¼ SW¼ and portions of the NW¼ SW¼, NE¼ SW¼, NW¼ NW¼, SW¼ NW¼, SE¼ SW¼ of Section 34, all in T.21N., R.18E., M.D.B. & M.

## II.

Application 65039 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 0.75 cfs, not to exceed 176.93 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59151.<sup>2</sup> The proposed place of use is the same as described under Application 65038. The existing point of diversion (Well No. 1) and existing place of use are the same as described under Permit 59150 in the Cold Springs Valley Groundwater Basin.

## III.

Application 65040 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 0.75 cfs, not to exceed 176.93 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59152.<sup>3</sup> The proposed

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<sup>2</sup> File No. 65039, official records in the office of the State Engineer.

<sup>3</sup> File No. 65040, official records in the office of the State Engineer.

place of use is the same as described under Applications 65038 and 65039. The point of diversion is described as being located within the Cold Springs Valley Groundwater Basin in the NE¼ SW¼ of Section 16, T.21N., R.18E., M.D.B.& M. (Well No. 2). The existing place of use is the same as described under Permit 59150.

IV.

Application 65041 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 0.50 cfs, not to exceed 117.95 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59153.<sup>4</sup> The proposed place of use is the same as described under Applications 65038, 65039 and 65040. The point of diversion is the same as described under Application 65040 (Well No. 2). The existing place of use is the same as described under Permit 59150.

V.

Application 65042 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 3.00 cfs, not to exceed 162.93 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59154.<sup>5</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040 and 65041. The point of diversion is described as being located within the Long Valley Groundwater Basin in the NE¼ SE¼ (Lot 11) of Section 30, T.21N., R.18E., M.D.B.& M. (Well No. 6). The existing place of use is the same as described under Permit 59150.

VI.

Application 65043 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 1.50 cfs, not to exceed 81.46 mga, for quasi-municipal and domestic purposes of

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<sup>4</sup> File No. 65041, official records in the office of the State Engineer.

<sup>5</sup> File No. 65042, official records in the office of the State Engineer.

water previously appropriated under Permit 59155.<sup>6</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041 and 65042. The point of diversion is the same as described under Application 65042 (Well No. 6). The existing place of use is the same as described under Permit 59150.

**VII.**

Application 65044 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 1.50 cfs, not to exceed 81.46 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59156.<sup>7</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042 and 65043. The point of diversion is described as being located within the Long Valley Groundwater Basin the SE¼ SE¼ (Lot 12) of Section 30, T.21N., R.18E., M.D.B. & M. (Well No. 7). The existing place of use is the same as described under Permit 59150.

**VIII.**

Application 65045 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 3.00 cfs, not to exceed 65.17 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59157.<sup>8</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043 and 65044. The point of diversion is the same as described under Application 65044 (Well No. 7). The existing place of use is the same as described under Permit 59150.

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<sup>6</sup> File No. 65043, official records in the office of the State Engineer.

<sup>7</sup> File No. 65044, official records in the office of the State Engineer.

<sup>8</sup> File No. 65045, official records in the office of the State Engineer.

IX.

Application 65046 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the place of use of 2.50 cfs, not to exceed 142.35 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59158.<sup>9</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044 and 65045. The point of diversion is described as being located within the Cold Springs Valley Groundwater Basin in the SE¼ SW¼ of Section 9, T.21N., R.18E., M.D.B. & M. (Well No. 8). The existing place of use is the same as described under Permit 59150.

X.

Application 65047 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.25 cfs, not to exceed 59.00 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59159.<sup>10</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045 and 65046. The proposed point of diversion is described as being located within the Cold Springs Valley Groundwater Basin in the NW¼ NW¼ of Section 34, T.21N., R.18E., M.D.B. & M. (Well No. 9). The existing point of diversion is described as being located within the Cold Springs Valley Groundwater Basin in the NW¼ NW¼ of Section 34, T.21N., R.18E., M.D.B. & M. The existing place of use is the same as described under Permit 59150.

XI.

Application 65048 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.25 cfs, not to exceed 59.00 mga, for quasi-municipal and

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<sup>9</sup> File No. 65046, official records in the office of the State Engineer.

<sup>10</sup> File No. 65047, official records in the office of the State Engineer.

domestic purposes of water previously appropriated under Permit 59160.<sup>11</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046 and 65047. The proposed point of diversion is the same as described under Application 65047 (Well No. 9) within the Cold Springs Valley Groundwater Basin. The existing point of diversion is within the Cold Springs Valley Groundwater Basin. The existing place of use is the same as described under Permit 59150.

**XII.**

Application 65049 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.10 cfs, not to exceed 2.628 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59161.<sup>12</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047 and 65048. The proposed point of diversion is the same as described under Applications 65047 and 65048 (Well No. 9). The existing point of diversion is within the Cold Springs Valley Groundwater Basin. The existing place of use is the same as described under Permit 59150.

**XIII.**

Application 65050 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.10 cfs, not to exceed 8.29 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59162.<sup>13</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044,

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<sup>11</sup> File No. 65048, official records in the office of the State Engineer.

<sup>12</sup> File No. 65049, official records in the office of the State Engineer.

<sup>13</sup> File No. 65050, official records in the office of the State Engineer.

65045, 65046, 65047, 65048 and 65049. The proposed point of diversion is the same as described under Applications 65047, 65048 and 65049 (Well No. 9). The existing point of diversion is within the Cold Springs Valley Groundwater Basin. The existing place of use is the same as described under Permit 59150.

**XIV.**

Application 65051 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.0297 cfs, not to exceed 1.84 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59163.<sup>14</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047, 65048, 65049 and 65050. The proposed point of diversion is the same as described under Applications 65047, 65048, 65049 and 65050 (Well No. 9). The existing point of diversion is within the Cold Springs Valley Groundwater Basin. The existing place of use is the same as described under Permit 59150.

**XV.**

Application 65052 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.0297 cfs, not to exceed 1.51 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59164.<sup>15</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047, 65048, 65049, 65050 and 65051. The proposed point of diversion is the same as described under Applications 65047, 65048, 65049, 65050 and 65051 (Well No. 9). The existing point of diversion is within the Cold Springs Valley Groundwater

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<sup>14</sup> File No. 65051, official records in the office of the State Engineer.

<sup>15</sup> File No. 65052, official records in the office of the State Engineer.

Basin. The existing place of use is the same as described under Permit 59150.

**XVI.**

Application 65053 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.0435 cfs, not to exceed 8.745 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59165.<sup>16</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047, 65048, 65049, 65050, 65051 and 65052. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 19, T.21N., R.18E., M.D.B. & M. (Well No. 12) within the Cold Springs Valley Groundwater Basin. The existing point of diversion is within the Cold Springs Valley Groundwater Basin. The existing place of use is the same as described under Permit 59150.

**XVII.**

Application 65054 was filed on April 15, 1999, by Utilities, Inc., of Nevada to change the point of diversion and place of use of 0.03 cfs, not to exceed 1.51 mga, for quasi-municipal and domestic purposes of water previously appropriated under Permit 59166.<sup>17</sup> The proposed place of use is the same as described under Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047, 65048, 65049, 65050, 65051, 65052 and 65053. The proposed point of diversion is the same as described under Application 65053 (Well No. 12). The existing point of diversion is within the Cold Springs Valley Groundwater Basin. The existing place of use is the same as described under Permit 59150.

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<sup>16</sup> File No. 65053, official records in the office of the State Engineer.

<sup>17</sup> File No. 65054, official records in the office of the State Engineer.

**XVIII.**

Applications 65038 through 65054, inclusive, were timely protested by Nan Nesbitt on the following grounds (the protestant requested the State Engineer to only address Items 1, 3 and 4 listed in the protest):

1. Changing the place of use by adding approximately 450 acres on the north side of Winite [sic] Lake, will impact the ground water table which is currently rising and, in addition, this importation will directly and indirectly aggravate the levels of the White Lake, which is also rising.
3. The previously published perenial [sic] yields for this area is [sic] far less than the total acre feet of the sum of all these permits. Washoe County is currently doing a water study, which may prove the validity of this number. However, this change should not be approved until such time as the study does show that more water or sufficient water is available to satisfy the needs of these permits.
4. Continuing to change these permits because of the above reasons is contrary to the public interest, health and safety.

**FINDINGS OF FACT**

**I.**

Pursuant to Nevada Revised Statute § 533.365 it is within the State Engineer's discretion to determine whether an administrative hearing is necessary on a protested water right application. The State Engineer finds that a hearing is not necessary for a full understanding of the issues presented by the protests.

**II.**

Applications 65038 through 65054, inclusive, are for the most part (there is one application which changes a manner of use) merely to change the points of diversion and/or the places of use of water already appropriated. Nevada Revised Statute § 533.345(1) provides that an application can be filed to change the point of diversion, manner or place of use of water already appropriated. Water already appropriated, in reference to a change application,

refers to water represented by a water right permit or certificate in good standing.<sup>18</sup> The State Engineer finds that Permits 59150, 59151, 59152, 59153, 59154, 59155, 59156, 59157, 59158, 59159, 59160, 59161, 59162, 59163, 59164, 59165, and 59166 are in good standing and available to be changed pursuant to Applications 65038 through 65054, inclusive.

### III.

The protestant alleges that by changing the place of use and adding approximately 450 acres on the north side of White Lake will impact the groundwater table which is currently rising, and in addition, this importation will directly and indirectly aggravate the water level of the White Lake, which is also rising.

The existing places of use for the permits which Applications 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047, 65048, 65049, 65050, 65051, 65052, 65053, and 65054 seek to change are already on the north side of White Lake. Applications 65038 through 65054, inclusive, only slightly reconfigure the existing place of use under the existing water right permits which support those change applications. The State Engineer finds this protest claim is a non-issue as the water rights which support change Applications 65038 through 65054, inclusive, are already permitted for nearly the identical place of use requested under the current change applications.

The water right permits which support change Applications 65042, 65044, and 65045, while having a point of diversion in the Long Valley Groundwater Basin, likewise are water rights that have their existing place of use in the area which is the proposed place of use under change Applications 65042, 65044, and 65045. Therefore, the State Engineer finds this is also a non-issue as the base water rights which support the change applications are already permitted for use in the nearly identical area.

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<sup>18</sup> NRS § 533.324.

The State Engineer recognizes that the issue of rising groundwater levels has been a matter of concern for the residents of Cold Springs and the Nevada Division of Environmental Protection because of its effects on the ability of septic tanks to function properly. However, all of the residential development contemplated under these change applications is within the service area of Utilities, Inc., of Nevada and will be sewerred to the Cold Springs Wastewater Facility and will not be using septic tanks in the area where the houses are being developed.

While the Cold Springs Wastewater Facility contemplates the use of rapid infiltration basins to recharge its treated wastewater to the groundwater system under the primary permit held in the name of Washoe County, the rule of thumb used by the Division of Water Resources is that 50% of the water diverted is consumed for household use and outside watering and 50% requires treatment. Any groundwater recharge at the present time is contemplated to be sufficiently north of the area where existing housing is concentrated and any mounding of the recharged water will be localized in that area with a minimal amount actually contributing to any rising water levels in the area where housing is located. The State Engineer finds that the problems associated with rising water tables in this area will continue whether additional housing is added or not and is a separate issue that the citizens of the area will face. The recharge of the groundwater away from the area contemplated for additional housing will not change the issue of rising groundwater levels in the area where housing is now located. The State Engineer further finds that by the very fact that Washoe County filed for a primary permit for the Cold Springs Wastewater Facility contemplates a secondary permit for use of said treated wastewater. The State Engineer finds, based on this scenario, that there will be minimal impact to the groundwater table in relation to rising water tables.

IV.

The protestant alleged that the previously published perennial yield for this area is far less than the total acre-feet of the sum of all these permits, and that Washoe County is currently doing a water study which may prove the validity of this number. Stated another way, it is the State Engineer's understanding that the protestant alleges that Washoe County is in the process of studying this groundwater basin in order to confirm or modify the perennial yield number and the protestant is concerned that the total amount of water applied to be changed under Applications 65038 through 65054, inclusive, exceeds that perennial yield number. The protestant requested that these change applications not be approved until such time as the Washoe County study confirms there is more water or sufficient water available to support the quantities of water under these change applications. On the one hand, the protestant voices a concern over too little water in the basin and on the other a concern of too much water in the basin, these two concerns are contradictory in nature.

Nevada Revised Statute § 533.345(1) provides that an application can be filed to change the point of diversion, manner or place of use of water already appropriated. Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing,<sup>19</sup> and includes water for whose appropriation the State Engineer has issued a permit, but which has not been applied to the intended beneficial use before an application to change is made.

The State Engineer finds that Applications 65038 through 65054, inclusive, requested changes to water rights that are presently valid, existing, permitted water rights which are allowed to be changed pursuant to NRS § 533.345.

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<sup>19</sup> NRS § 533.324.

V.

The protestant alleges that continuing to change these permits because of the above reasons is contrary to the public interest, health and safety. The State Engineer finds that most of these applications are merely expanding the place of use of the area of the utility which serves water to many of the citizens in Cold Springs Valley and does not find such changes would threaten to prove detrimental to the public interest.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.<sup>20</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to change the public waters where<sup>21</sup>:

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

III.

The State Engineer concludes that changing the place of use to add additional housing when those houses are going to be sewerred cannot interfere with existing water rights particularly in an area with rising water tables.

IV.

The State Engineer concludes that to allow the changes requested under change Applications 65038 through 65054, inclusive, does not threaten to prove detrimental to the public interest.

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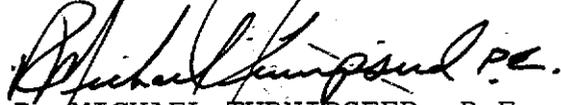
<sup>20</sup> NRS Chapters 533 and 534.

<sup>21</sup> NRS Chapter 533.370(3).

RULING

The protests to Applications 65038 through 65054, inclusive, are overruled and Applications 65038 through 65054, inclusive, are hereby granted subject to existing rights and payment of the statutory fees.

Respectfully submitted, -

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SJT/cl

Dated this 25th day of  
August, 1999.