

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

IN THE MATTER OF APPLICATION 61502 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND THE MANNER OF USE OF )  
A PORTION OF THE UNDERGROUND WATER )  
PREVIOUSLY APPROPRIATED UNDER )  
PERMIT 17776, CERTIFICATE 8372 )  
WITHIN THE PAHRUMP VALLEY )  
GROUNDWATER BASIN (162), NYE )  
COUNTY, NEVADA. )

RULING

**#5042**

GENERAL

I.

Application 61502 was filed on September 8, 1995, by Paul D. and Alice M. Kitzman to change the point of diversion and the manner of use of 0.0092 cubic feet per second, not to exceed 4.04 acre feet annually of water, that being a portion of the water right previously granted under Permit 17776, Certificate 8372. The proposed manner and place of use is for quasi-municipal purposes within a portion of the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 33, T.19S., R.53E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 33.<sup>1</sup>

FINDINGS OF FACT

I.

Application 61502 requests a change in the point of diversion and the manner of use of a portion of Permit 17776, Certificate 8372 and does not seek to change the existing place of use. The State Engineer finds that the two individual lots representing the place of use under Application 61502 are contained within the larger existing place of use originally granted under Permit 17776, Certificate 8372.<sup>2</sup>

<sup>1</sup> File Number 61502, official records in the office of the State Engineer.

<sup>2</sup> File Number 17776, Certificate 8372, official records in the office of the State Engineer.

**II.**

An attachment to Application 61502 identifies the proposed place of use as lots 15 and 16 of the Rancho Del Sol Subdivision.<sup>1</sup> The State Engineer finds that the place of use described under Application 61502 is comprised of two separate residential lots that came into existence when the land irrigated under Permit 17776, Certificate 8372 was subdivided for the creation of Unit 1 of the Rancho Del Sol Subdivision.

**III.**

Nevada Revised Statutes Chapter 278.335 requires a copy of all tentative subdivision maps to be submitted to the office of the State Engineer for review. On July 26, 1977, the permittee submitted a tentative subdivision map for the Rancho Del Sol Subdivision to the office of the State Engineer. This tentative map showed 165 lots within the N $\frac{1}{2}$  SW $\frac{1}{4}$ , the S $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 33 and the S $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 34, T.19S., R.53E., M.D.B. & M. Final subdivision maps for the Rancho Del Sol Subdivision Units 1 through 7 were signed by the office of the State Engineer on February 24, 1981, with Unit 1 encompassing the place of use issued under Permit 17776, Certificate 8372. Water service for the residential lots created within Unit 1 was to be provided by a domestic well on each lot.<sup>2</sup> The State Engineer finds that water service to the place of use under the subject application will be provided by two separate domestic wells, each of which is limited to the domestic allowance of 1800 gallons per day, not to exceed 2.02 acre feet annually.

**IV.**

Under the provisions established under Nevada Revised Statutes 534.013, the domestic use of water is limited to culinary and household purposes, within a single-family dwelling. The State Engineer finds that this definition does not allow an individual domestic well to be drilled and used for quasi-municipal purposes for commercial development.

V.

On December 19, 1980, Judge Beko in the Fifth Judicial District Court issued a Memorandum of Decision and Order in the matter of the Rancho Del Sol Subdivision. Judge Beko in this decision stated that, "To prevent excessive draught by a subsequent application of the agricultural right to other lands. Change of point of diversion of an underground source and change in place of beneficial use continue to require approval by the State Engineer. This court would expect that the State Engineer would refuse permission to change the point of diversion or place of beneficial use where the developer has utilized the exemptions of domestic wells in a subdivision of agricultural lands and then attempted to change diversion or use to other lands and thus increase the draught on a designated basin".<sup>3</sup> The State Engineer finds that although a formal relinquishment was not a condition for approval of the Rancho Del Sol Subdivision, Judge Beko's decision supports the State Engineer's requirement that 2.02 acre-feet per lot of water must be committed to each lot within the Rancho Del Sol Subdivision to satisfy the domestic allowance.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.<sup>4</sup>

II.

The State Engineer is prohibited by law from granting an application to change the public waters where:<sup>5</sup>

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

---

<sup>3</sup> Memorandum of Decision and Order, Case No. 9037, in the District Court of the Fifth Judicial District, Nye County, Nevada, December 19, 1980, copy of which is filed within Permit file 17776.

<sup>4</sup> NRS chapters 533 and 534.

<sup>5</sup> NRS § 533.370(3).

**III.**

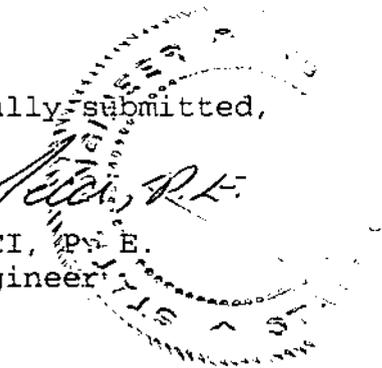
Application 61502 requests a change in the point of diversion and place of use of water that has already been committed to the domestic allowance. The State Engineer concludes that there is no water available for change under the subject application.

**RULING**

Application 61502 is hereby denied on the grounds that there is no uncommitted water right remaining within the existing place of use to support the changes requested under the subject application.

Respectfully submitted,

  
HUGH RICCI, P.E.  
State Engineer



HR/MDB/df1

Dated this 19th day of  
June, 2001.