

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

IN THE MATTER OF APPLICATION )  
66952 FILED TO CHANGE THE POINT )  
OF DIVERSION, PLACE OF USE, AND )  
MANNER OF USE OF THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE PREVIOUSLY APPROPRIATED )  
UNDER PERMIT 52005 WITHIN THE )  
CHURCHILL VALLEY HYDROGRAPHIC )  
BASIN (102), LYON COUNTY, NEVADA.)

RULING

# 5053

GENERAL

I.

Application 66952 was filed on November 17, 2000, by Talapoosa Mining, Inc., to change the point of diversion, manner of use, and place of use of 1.0 cubic feet per second (cfs) of the underground water within the Churchill Valley Hydrographic Basin, previously appropriated under Permit 52005. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 25, T.18N., R.24E., M.D.B.&M. The proposed manner and place of use is for irrigation and temporary airport facility construction within 77.0 acres of land located within portions of the S $\frac{1}{2}$  NW $\frac{1}{4}$  and the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 19, T.18N., R.25E.; the S $\frac{1}{2}$  S $\frac{1}{2}$ , portions of the N $\frac{1}{2}$  SE $\frac{1}{4}$  and SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, portions of the N $\frac{1}{2}$  NW $\frac{1}{4}$  and SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 25, the N $\frac{1}{2}$  NE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NW $\frac{1}{4}$ , S $\frac{1}{2}$  NW $\frac{1}{4}$ , portions of the NW $\frac{1}{4}$  SW $\frac{1}{4}$  and the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 26, all within T.18N., R.24E., M.D.B.&M., and portions of the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 23, T.18N., R.24E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

The State Engineer finds that Application 52005 was filed to appropriate water from an underground source within the Churchill Valley groundwater basin, Lyon County, Nevada, as designated and described by order of the State Engineer issued August 23, 1977.<sup>2</sup>

<sup>1</sup> File No. 66952, official records in the office of the State Engineer.

<sup>2</sup> State Engineer's Order No. 689, dated August 23, 1977, official records in the office of the State Engineer.

**II.**

The State Engineer finds that applications to appropriate underground water to irrigate additional land have been denied in Churchill Valley prior to the issuing of Permit 52005.<sup>3</sup>

**III.**

The State Engineer finds that the designated Churchill Valley groundwater basin is in a subbasin of the larger Carson River Basin in western Nevada.

**IV.**

The perennial yield of a groundwater reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately 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 decline.<sup>4</sup>

**V.**

Permits and certificates have been issued under groundwater applications prior to when Application 52005 was filed on April 13, 1988, which could be exercised to divert in excess of 10,959 acre-feet of water, which is in excess of the estimated basin recharge from the Churchill Valley groundwater basin.<sup>5</sup>

**VI.**

Permit 52005 was issued under the preferred use provisions of NRS chapter 534. The manner of use of water under Permit 52005 was considered to be by the nature of its activity - milling and mining - to be a temporary use; therefore, any application filed

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<sup>3</sup> See, denied Applications 31130, 31156, 31314, 31649, 31650, 31651, 31652, 31741, 31743, 32444, 32549, 32550, 32551, 32552, 32553, 34625, 35628, 35629, 36191, 37546, 39379, 38015, 38016, 39953, and 41419, official records in the office of the State Engineer.

<sup>4</sup> State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

<sup>5</sup> Official records in the office of the State Engineer.

to change the manner of use was subject to additional evaluation and determination with respect to the permanent effects on existing rights and the resource within the groundwater basin.<sup>6</sup>

The State Engineer finds when Permit 52005 was issued as a preferred use it was with the recognition that the use would be temporary, and was issued at a time when applications for irrigation were being denied, as they are still being denied today.

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 economic pumping lifts, land subsidence, and possible reversal of groundwater gradients which could result in significant changes in the recharge-discharge relationship. The United States Geological Survey estimates the perennial yield of the Churchill Valley groundwater basin is approximately 1,600 acre-feet.<sup>7</sup> The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Churchill Valley groundwater basin currently exceeds 10,959 acre-feet annually.<sup>8</sup> The State Engineer finds that existing groundwater rights in the Churchill Valley groundwater basin exceed 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>9</sup>

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<sup>6</sup> File No. 52005, official records in the office of the State Engineer.

<sup>7</sup> Glancy, P.A., Katzer, T.L., Water-Resources Appraisal of the Carson River Basin, Western Nevada, Water Resources Reconnaissance Series Report 59, U.S. Geological Survey and State of Nevada, Department of Conservation and Natural Resources, Division of Water Resources, pp. 47-48 (1975).

<sup>8</sup> Hydrographic basin abstract, basin 10-149, official records in the office of the State Engineer, dated May 2001.

<sup>9</sup> NRS chapters 533 and 534.

**II.**

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:<sup>10</sup>

- A. the proposed use or change conflicts with existing rights;
- B. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.<sup>11</sup>

**III.**

Existing water rights for the Churchill Valley groundwater basin exceed the estimated potential recharge from precipitation. This same condition existed when Permit 52005 was issued as a preferred use for milling and mining. The potential exists for additional pumpage under existing groundwater rights which have not yet been developed. To grant water rights for additional irrigation from this limited groundwater resource would adversely affect existing rights and threaten to prove detrimental to the public interest.

**IV.**

The State Engineer is authorized and directed to designate preferred uses of water within designated ground water areas such as Churchill Valley.<sup>12</sup> The consumptive use of additional ground water to irrigate additional land is not considered to be a preferred use of limited groundwater resources of the Churchill Valley groundwater basin.

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<sup>10</sup> NRS § 533.370.

<sup>11</sup> NRS § 533.370(3).

<sup>12</sup> NRS § 534.120(2).

**RULING**

Application 66952 is hereby denied on the grounds that the granting of said application for irrigation as applied for would tend to impair the value of existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



Hugh Ricci, P.E.  
State Engineer

HR/KC/hf

Dated this 10th day of  
August, 2001.