

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

IN THE MATTER OF APPLICATIONS)
68202 AND 68203 FILED TO CHANGE)
THE MANNER AND PLACE OF USE OF)
WATER FROM AN UNDERGROUND SOURCE)
PREVIOUSLY APPROPRIATED UNDER)
PERMIT 41973, CERTIFICATE 12220)
AND PERMIT 51107, CERTIFICATE)
13242, RESPECTIVELY, WITHIN THE)
LEMMON VALLEY - WESTERN PART)
HYDROGRAPHIC BASIN (92A), WASHOE)
COUNTY, NEVADA.)

RULING

#5302

GENERAL

I.

Application 68202 was filed on November 16, 2001, by the Truckee Meadows Water Authority (TMWA) to change the manner and place of use of 0.245 cubic feet per second (cfs), not to exceed 2.0 million gallons annually, of water previously appropriated under Permit 41973, Certificate 12220, from the underground waters of the Lemmon Valley - Western Part Hydrographic Basin, Washoe County, Nevada. The proposed use of water is for municipal and domestic purposes, and the previous use of water was identified as quasi-municipal. The proposed place of use is identified as Sections 1, 2, 11-13, and portions of Sections 3, 10, 14, 15, 23-25, T.20N., R.18E., M.D.B.&M.; Sections 2-11, 16-19, and portions of Sections 1, 12-15, 20-22, 29, 30, T.20N., R.19E., M.D.B.&M.; Sections 1, 12, 13, 23-25, 36, and portions of Sections 2, 11, 14, 15, 22, 26, 27, 35, T.21N., R.18E., M.D.B.&M.; Sections 3-10, 13-35, and portions of Sections 2, 11, 12, 36, T.21N., R.19E., M.D.B.&M.; Sections 19, 30, and portions of Sections 17, 18, 20, 29, 31, T.21N., R.20E., M.D.B.&M.; Sections 23-25, 36, and portions of Sections 12-15, 22, 26, 27, 35, T.22N., R.18E., M.D.B.&M.; Sections 17, 19, 20, 29-33, and portions of Sections 7-9, 16, 18, 21, 27, 28, 34, 35, T.22N., R.19E., M.D.B.&M. The point of diversion is described as being located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, T.21N., R.19E., M.D.B.&M.¹

¹ File No. 68202, official records in the Office of the State

II.

Application 68203 was filed on November 16, 2001, by the TMWA to change the manner and place of use of 0.245 cfs, not to exceed 5.0 million gallons annually, of water previously appropriated under Permit 51107, Certificate 13242 from the underground waters of the Lemmon Valley - Western Part Hydrographic Basin, Washoe County, Nevada. The proposed use of water is for municipal and domestic purposes, and the previous use of water was identified as quasi-municipal. The proposed place of use is the same as identified under Application 68202. The point of diversion is described as being located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, T.21N., R.19E., M.D.B.&M.²

FINDINGS OF FACT

I.

When Application 41973 was filed by the University of Nevada the applicant specifically indicated that the water was to be used for educational purposes at the University of Nevada Fire Training Facility at Stead. The water was to be pumped from a well into storage tanks and then used to put out a fire. The runoff was to be recaptured in a holding pond for reuse and supplemented by additional water from the well for the next lesson.

When Application 51107 was filed by the University of Nevada the applicant specifically indicated that the application was being made in the public interest to expand the training field at the Fire Protection Training Academy. The permit issued under the application specifically provides that it was issued under the provisions allowing for granting permits to preferred uses, that it is issued for fire training purposes only and with the understanding that every attempt would be made to minimize the use of water. The State Engineer retained the right to reduce the amount of water granted under the permit if he felt the conditions in the groundwater basin warranted reduction.

Engineer.

² File No. 68203, official records in the Office of the State Engineer.

When Applications 41973 and 51107 were filed in August 1980 and July 1987, the State Engineer had consistently been denying water right applications in Lemmon Valley due to the fact that the annual recharge was not adequate to meet the demands of existing water rights, much less new appropriations.³ In State Engineer's Ruling No. 2209 the State Engineer recognized the critical nature of the groundwater resource development in Lemmon Valley and pursued a policy of strict regulation of water rights, and Ruling 2271 reflected that by Order No. 388 the State Engineer in May 1971 issued a moratorium on the issuance of permits in Lemmon Valley. The State Engineer finds when the applications that are requested for change were granted, as noted in the permit conditions under Application 51107, they were granted solely for the firefighting training purposes as a public interest preferred use. The State Engineer finds they were never issued to become a water right available for transfer for general municipal use.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under a change application to appropriate the public waters where:⁵

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

³ See, State Engineer's Ruling Nos. 1837 and 1838, dated April 26, 1972; Ruling No. 2209, dated April 15, 1977; Ruling No. 2271, dated November 8, 1976; Ruling 2385, dated August 7, 1978; 2540, dated May 2, 1980; 2570, dated July 11, 1980; 2638, dated April 27, 1981; 2708, dated August 24, 1981, 2748, dated February 3, 1982; 3044, dated September 28, 1984; 3179, dated April 22, 1985, official records in the Office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that to grant permanent rights for municipal use under these specific applications would interfere with existing rights and threaten to prove detrimental to the public interest.

RULING

Applications 68202 and 68203 are hereby denied on the grounds that they would interfere with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/SJT/jm

Dated this 17th day of
October, 2003.