

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

IN THE MATTER OF APPLICATION)
71671 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE LAS VEGAS)
ARTESIAN BASIN (212), CLARK)
COUNTY, NEVADA.)

RULING

5683

GENERAL

I.

Application 71671 was filed on September 8, 2004, by Richard S. Hudgens to appropriate 0.1 cubic feet per second (cfs) of underground water from the Las Vegas Artesian Basin. The proposed point of diversion is within the SE¼ SE¼ of Section 12, T.22S., R.60E., M.D.B.&M. The manner and place of use is for commercial purposes within the NE¼ NE¼ SE¼ SE¼ of Section 12, T.22S., R.60E., M.D.B.&M.¹

Application 68668 was filed on April 1, 2002, by Richard Hudgens/Hudgens Palms to appropriate 0.1 cfs not to exceed 2.0 acre-feet annually, of underground water from the Las Vegas Artesian Basin. The proposed point of diversion is within the SE¼ NW¼ SE¼ SE¼ of Section 12, T.22S., R.60E., M.D.B.&M. The manner and place of use is for commercial purposes within the SE¼ NW¼ SE¼ SE¼ of Section 12, T.22S., R.60E., M.D.B.&M.²

FINDINGS OF FACT

I.

On November 4, 2002, Permit 68668 was granted to provide water service for commercial purposes to one lot as indicated on the Map to Accompany the Application to Appropriate Water. This lot was further described as Clark County Assessor's Parcel Number (APN) 176-12-801-012.

On May 26, 2005, the Applicant indicated via telephone to the staff personnel of the Office of the State Engineer that Permit

¹ File No. 71671, official records in the Office of the State Engineer.

² File No. 68668, official records in the Office of the State Engineer.

68668 provided water to a parcel, of which he is not the owner.³ He also indicated that Application 71671 was filed to correct this place of use error and that Permit 68668, which was ultimately cancelled by the State Engineer, should not be reinstated.

On April 8, 2005, staff personnel of the State Engineer's office conducted an informal field investigation of the proposed place of use of Application 71671. The field investigation indicated that a municipal water line is located adjacent to the east side of the proposed place of use. Staff recommended that Application 71671 be denied due to municipal water being available to the proposed place of use.⁴

II.

On April 15, 1992, the State Engineer issued Amended Order 1054, which required that all new applications to appropriate water within the Las Vegas Artesian Basin be denied. An exception to this order allows for the approval of applications for the appropriation of water for commercial and industrial purposes that seek to appropriate 1,800 gallons per day or less and subject to Nevada Revised Statute (NRS) chapters 533 and 534.

Nevada Revised Statute § 534.120(3)(b) authorizes the State Engineer to deny applications to appropriate ground water for any use in an area that can be served by an entity such as a water district or municipality presently engaged in furnishing water to its inhabitants.

The State Engineer finds that a water district has both the means and the capacity to provide water service to the proposed place of use of Application 71671.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

³ File No. 71671, official records in the Office of the State Engineer.

⁴ File No. 71671, official records in the Office of the State Engineer.

⁵ NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁶

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

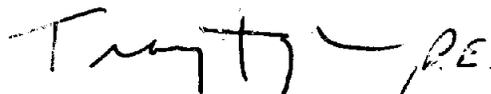
III.

The State Engineer concludes that water service is available within reasonable limits by the local water provided and that NRS 534.120(3)(b) authorizes the denial of applications when the parcel can be served by a local water district or municipality.

RULING

Application 71671 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/BM/jm

Dated this 6th day of
December, 2006.

⁶ NRS § 533.370(5).