

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

IN THE MATTER OF APPLICATION 53039 FILED )  
TO CHANGE THE POINT OF DIVERSION, PLACE )  
OF USE AND THE MANNER OF USE OF A PORTION )  
OF THE WATERS OF AN UNDERGROUND SOURCE )  
HERETOFORE APPROPRIATED UNDER PERMIT )  
19216, CERTIFICATE 6056 AND THE MATTER OF )  
FORFEITURE OF THE WATER RIGHT FROM AN )  
UNDERGROUND SOURCE UNDER PERMIT 19216, )  
CERTIFICATE 6056 WITHIN THE TRUCKEE )  
MEADOWS GROUND WATER BASIN, WASHOE )  
COUNTY, NEVADA. )

RULING

# 3806

GENERAL

I.

Application 19216 was filed on September 22, 1960 by the County of Washoe, to appropriate 1.5 cubic feet per second (c.f.s.) of water from an underground source for air conditioning (cooling) and domestic purposes within portions of the SE1/4 Section 11, T.19N., R.19E., M.D.B.&M. The point of diversion was described as being within the SE1/4 NW1/4 SE1/4 Section 11, T.19N., R.19E., A permit was issued on August 4, 1961 and Certificate 6056 was issued on May 26, 1966 for 0.75 c.f.s. of water for air conditioning and domestic purposes within the aforementioned place of use.<sup>1</sup> No specific annual duty was specified on Certificate 6056 as to the amount of water placed to beneficial use.

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<sup>1</sup> Transcript of hearing held October 5, 1989 in the matter of Permits 19216, et. al., here in after referred to as Transcript or Exhibits. See State's Exhibit 2.

Application 53039 was filed on March 17, 1989 by Washoe County to change the point of diversion, place of use and the manner of use of a portion of the waters from an underground source heretofore appropriated under Permit 19216, Certificate 6056. The amount of water requested to be changed under Application 53039 was for a diversion rate of 0.59 c.f.s. with an annual duty of 425.95 acre feet. The proposed point of diversion is described as being within the NW1/4 NE1/4 Section 12, T.19N., R.18E., M.D.B.&M. and the proposed place of use is within portions of Sections 1 and 12, T.19N., R.18E., M.D.B.&M and the W1/2 of Section 7, T.19N., R.19E., M.D.B.&M. The proposed manner of use is for recreational purposes.<sup>2</sup>

## II.

By letter dated August 25, 1989, the parties of interest were noticed that a hearing in the matter of Application 53039 and the forfeiture of the water right under Certificate 6056 was scheduled for October 5, 1989, in Reno, Nevada.<sup>3</sup>

## III.

The witness appearing on Washoe County's behalf testified that the well constructed under Permit 19216, Certificate 6056, was equipped with a pump, motor and power source to provide a

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<sup>2</sup> State's Exhibit 3.

<sup>3</sup> State's Exhibit No. 1.

cooling system for the courthouse and jail facilities.<sup>4</sup> Witness further testified that it was the applicant's intention to move a portion of the courthouse well water right under Permit 19216, that is not being presently used, to wells near North Gate and Wildcreek golf courses. This water would be used as drought relief during times when the normal supply of Truckee River water is unavailable.<sup>5</sup>

#### IV.

Additional testimony by applicant's witness revealed that the well in question is not equipped with a meter, rendering any estimate of the annual volume of water being put through the system "a best guess situation."<sup>6</sup> The basis of the amount of water requested to be changed by Application 53039, which is 0.59 c.f.s. and 425.95 acre feet annually, was a direct proportion of the diversion rate (0.75 c.f.s.) under Certificate 6056 expanded to a full year pumping at this rate (542.98 acre feet annually).

#### V.

In order to obtain a more precise determination of actual water use under Certificate 6056, the applicant's representative agreed to install a meter at the courthouse well and to provide the figures necessary to produce a current volume of water use.<sup>7</sup>

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4 Transcript pg. 16.

5 Transcript pgs. 28-30.

6 Transcript pg. 20.

7 Transcript pg. 21.

VI.

Consequently, the record of the hearing remained open to allow the introduction of the applicant's meter readings and flow volume calculations at a future date.<sup>8</sup>

VII.

On February 5, 1991 and March 19, 1991, the State Engineer's office received documents containing data relating to water use at the Washoe County Court House.<sup>9</sup>

FINDINGS OF FACT

I.

The State Engineer finds that the existing place of use under Permit 19216, Certificate 6056 represents the Washoe County Courthouse Addition and Jail Complex.<sup>10</sup>

II.

The State Engineer finds that the proposed place of use under Application 53039 represents the North Gate Golf Course.<sup>11</sup>

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8 Transcript pgs. 35 and 36.

9 Applicants late Exhibit 13.

10 Transcript of pgs. 14-16.

11 State's Exhibit No. 3.

III.

The State Engineer finds that Washoe County was issued a discharge permit by the Nevada Division of Environmental Protection under the National Discharge Elimination System under Permit No. NV 0020478 on June 22, 1983. This permit required the permittee to submit among other things the estimated daily flow to the Division of Environmental Protection once per month.

IV.

The State Engineer finds that the well can produce up to the diversion rate of 0.75 c.f.s.<sup>12</sup>

V.

The State Engineer finds that the amount of water put to beneficial use under Permit 19216, Certificate 6056 has been 268 acre feet as recent as 1986, based on the calculation shown on Appendix A attached to the made part of this ruling.

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<sup>12</sup> Late filed Permittee's Exhibit.

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.<sup>13</sup>

II.

Beneficial use shall be the basis, the measure and the limit of the right to the use of water.<sup>14</sup>

The source of water under Permit 19216, Certificate 6056 is underground water,<sup>15</sup> only a portion of which was consumed by domestic uses and the remainder (cooling) was discharged to the surface.

IV.

The water right under Certificate 6056, Permit 19216 is a permitted right and a perfected right as described in NRS 534.090 and is, therefore, subject to the provisions of that statute.

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13 NRS 533.365 and 534.090.

14 NRS 533.035.

15 See State Engineer's file under Permit 19216.

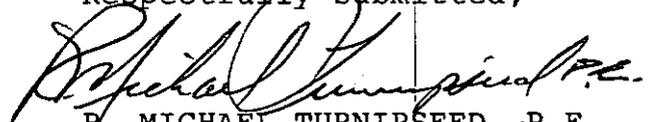
V.

Based upon the evidence and testimony received at the October 5, 1989 hearing and using the information from the late filed Exhibit No. 13 and the reports submitted to the Division of Environmental Protection, the State Engineer has determined the amount of the water right in good standing by the method calculated on Appendix A attached to and made part of this ruling is 275 acre feet annually.

RULING

The State Engineer rules that the record of evidence demonstrates that a portion of the underground right, under Permit 19216, Certificate 6056, that being 275 acre feet annually, has not been placed to beneficial use over a continuous 5 year period. Two hundred seventy five acre feet as evidenced by Permit 19216, Certificate 6056 is hereby declared forfeited under the provision of NRS 534.090. Application 53039 will be approved after notification by the applicant to the State Engineer as to the amount of water right to be changed under the remaining portion of Permit 19216, Certificate 6056.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MB/pm

Dated this 7th day of  
June, 1991.

APPENDIX A

Calculation of Amount of Water not Forfeited under  
Permit 19216 Certificate 6056

Total water used May 1 to November 1, 1990 65,528,000 gallons  
(Shown by Meter reading supplied)  
(by Judy Ramos State's Ex. 13 )

Total water used November 1 to April 30 (any year)  
Assumptions Average daily flow in gallons per day  
(gpd) NPDES Permit NV0020478 for 1986.

November 1 - November 30	230,000 gpd (30 days) =	6,900,000 gallons
December 1 - December 31	230,000 gpd (31 days) =	7,130,000 gallons
January 1 - January 31	36,000 gpd (31 days) =	1,116,000 gallons
February 1 - February 28	36,000 gpd (28 days) =	1,008,000 gallons
March 1 - March 31	36,000 gpd (31 days) =	1,116,000 gallons
April 1 - April 30	150,000 gpd (30 days) =	4,500,000 gallons
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		21,770,000 gallons

Therefore calculated total of water used  
for a one year period is the sum of the  
two periods = 87,298,000 gallons

Using 325,851 gallons per acre foot  
The calculated total is 268 acre feet