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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
BEFORE R. MICHAEL TURNIPSEED, STATE ENGINEER

In the Matter of Applications

9330, 20998, 22541, 22542, 47047,  
47121, 47209, 47264, 48061, 48494.

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TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING  
TUESDAY, MARCH 29, 1994  
WEDNESDAY, MARCH 30, 1994  
CARSON CITY, NEVADA

Reported by: MARY E. BELL, CCR, RPR  
Nevada CCR #98

1 Exhibit 40 is the map supporting 47047. Exhibit 41 is the  
2 map supporting 47421. 42 is the map supporting 47209. 43 is  
3 map supporting 48061, and Exhibit 44 is the map supporting  
4 20998.

5 THE STATE ENGINEER: Would it help if we made  
6 sufficient copies of the exhibit list for everybody? Why  
7 don't we take a break for a few minutes and accomplish that.

8 (A short recess was taken.)

9 THE STATE ENGINEER: We'll be back on the record.  
10 Does anybody need to view any of the exhibits that the State  
11 intends to put in the record? Hearing none, are there any  
12 objections to State's Exhibits 1 through 44? Hearing none,  
13 Exhibits 1 of through 44 are entered into the record.

14 (Exhibits 1 through 44 were admitted into  
15 evidence.)

16 THE STATE ENGINEER: Before we begin, I want to  
17 take administrative notice of all of the records and reports,  
18 et cetera, in the office of the State Engineer, and I think  
19 we will go ahead and see if we can dispose of three of the  
20 applications before we get to the real meat of the hearing.  
21 There has never been a response to any of our written  
22 correspondence to applications 22541, 22542 nor 20998 filed,  
23 the last filed by Cecil R. Kearns and the first two by Robert  
24 Leland.

25 Is there anyone here that is going to represent the

1 applicants on those applications or the protestants?

2 MR. BENESCH: I'm not going to represent the  
3 applicants, but I tried to do a little checking and the best  
4 information I could obtain is that Robert Leland is dead and  
5 I don't know who his successor in interest might be. I don't  
6 know anything about Cecil Kearns. Gary, do you know  
7 anything?

8 THE STATE ENGINEER: Applications 22541 and 22542  
9 were filed on Deep Creek high in the mountains in Nevada, but  
10 Deep Creek is a tributary to the Truckee River right near the  
11 California/Nevada line. One was filed for irrigation of a  
12 tree farm. The other was for quasi-municipal for, was it 500  
13 families. 200 families? 200 homes. There is a distance of  
14 about one and a half miles across U.S. Forest Service land  
15 between the point of diversion and the place of use.

16 Of course the guidelines for approving or rejecting  
17 an application are laid out in NRS 533.370, sub 3, and they  
18 are where there is unappropriated water in the source,  
19 whether the proposed appropriation or change will conflict  
20 with existing rights and number 3, where the appropriation or  
21 change threatens to prove detrimental to the public interest.

22 One of the things that we always consider in the  
23 public interest is whether the applicant has a reasonable  
24 expectation of putting the water to beneficial use, and in  
25 this case I find that applications 22541 and 22542 fail that

1 test. There is nobody here representing the applicant.  
2 Therefore, those two applications will be rejected.

3 As to application 20998, likewise there is nobody  
4 here representing the applicant. We checked with the county  
5 recorder and found that the City of Sparks owns the place of  
6 use. Mr. Isaeff, is there any kind of an assignment that  
7 would transfer that application to the City of Sparks?

8 MR. ISAEFF: None that I'm aware of.

9 THE STATE ENGINEER: That being the case then, the  
10 same criteria applies and application 20998 fails the test of  
11 whether the applicant has a reasonable expectation of putting  
12 the water to beneficial use. Therefore, application number  
13 20998 is therefore rejected.

14 I suppose that we should hear now from the people  
15 that have asked to intervene. We have by way of written  
16 correspondence a letter from the United States asking to  
17 intervene in application 9330 and we have two in the audience  
18 that have asked to intervene in the protest.

19 I would like to hear from you one at a time as to  
20 your reason for intervention and your reason for lack of  
21 protesting the applications during the statutory period.

22 MR. CAMPBELL: Richard G. Campbell on behalf of the  
23 Board of County Commissioners of Churchill County. Obviously  
24 the reason we didn't protest is at that time we had no great  
25 interest in these applications. Since that time we have

1 STATE OF NEVADA, )  
2 CARSON CITY. ) ss.

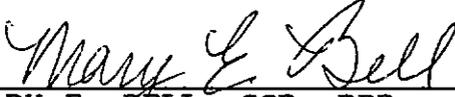
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I, MARY E. BELL, Official Court Reporter for the State of Nevada, Department of Conservation and Natural Resources, Division of Water Resources, do hereby certify:

That on Tuesday and Wednesday, the 29th and 30th days of March, 1994, I was present at 123 West Nye, Carson City, Nevada, for the purpose of reporting in verbatim stenotype notes the within-entitled public hearing;

That the foregoing transcript, consisting of pages 1 through 187, inclusive, includes a full, true and correct transcription of my stenotype notes of said public hearing.

Dated at Carson City, Nevada, this 5<sup>th</sup> day of April, 1994.

  
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MARY E. BELL, CCR, RPR  
Nevada CCR #98