

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

IN THE MATTER OF APPLICATIONS 50950, )  
50951 AND 50952 FILED TO APPROPRIATE )  
THE PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE DUCK LAKE VALLEY )  
GROUNDWATER BASIN (016), WASHOE COUNTY, )  
NEVADA. )

RULING

# 4620

GENERAL

I.

Application 50950 was filed on May 22, 1987, by Spencer Mining, Inc., to appropriate 6.0 cubic feet per second (cfs) of underground water for mining processing purposes within Sections 11, 12, 13, and 14, T.36N., R.19E., M.D.B. & M. The proposed point of diversion is described as being located within the SW¼ SE¼ of Section 11, T.36N., R.19E., M.D.B. & M.<sup>1</sup>

II.

Application 50951 was filed on May 22, 1987, by Spencer Mining, Inc., to appropriate 6.0 cfs of underground water for mining processing and domestic purposes within the same place of use as described under Application 50950. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 13, T.36N., R.19E., M.D.B. & M.<sup>2</sup>

III.

Application 50952 was filed on May 22, 1987, by Spencer Mining, Inc., to appropriate 5.0 cfs of underground water for mining and domestic purposes within the same place of use described under Applications 50950 and 50951. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 14, T.36N., R.19E., M.D.B. & M.<sup>3</sup>

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<sup>1</sup> File No. 50950, official records in the office of the State Engineer.

<sup>2</sup> File No. 50951, official records in the office of the State Engineer.

<sup>3</sup> File No. 50952, official records in the office of the State Engineer.

IV.

The total combined duty of Applications 50950, 50951 and 50952 is not to exceed 216.0 acre-feet annually from any and all sources.<sup>1,2,3</sup>

V.

Applications 50950, 50951, and 50952 were timely protested by Washoe County on the following grounds:<sup>1,2,3</sup> "Application[s] will adversely affect Washoe County's applications 50220 and 50222 located within the same basin and general location."

**FINDINGS OF FACT**

I.

Washoe County's Applications 50220 and 50222 were denied on January 26, 1998, by State Engineer's Ruling No. 4599.<sup>4</sup> No judicial appeal of this decision was filed by Washoe County; therefore, the State Engineer's denial of Applications 50220 and 50222 is final. Washoe County's protest to the granting of Applications 50950, 50951 and 50952 is based entirely upon the negative affect that the granting of these applications may have upon Washoe County's senior Applications 50220 and 50222. The State Engineer finds that the denial of Washoe County's Applications 50220 and 50222 removes the grounds on which the protests were filed and renders them moot.

II.

The perennial yield of a hydrologic basin is the maximum amount of water of usable chemical quantity that can be consumed economically each year for an indefinite period of time.<sup>5</sup> The United States Geological Survey estimates that the perennial yield of the Duck Lake Valley Groundwater Basin is 8,000 acre-feet

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<sup>4</sup> State Engineer's Ruling No. 4599, dated January 26, 1998, official records in the office of the State Engineer.

<sup>5</sup> State Engineer's office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

annually.<sup>6</sup> The committed groundwater resource in the form of permits and certificates issued by the State Engineer's office for groundwater withdrawals within the Duck Lake Valley Groundwater Basin currently exceeds 900.0 acre-feet annually.<sup>7</sup> The State Engineer finds that the committed groundwater resource of the Duck Lake Valley Groundwater Basin is significantly less than the estimated perennial yield of the groundwater basin; therefore, there is underground water available for appropriation within the groundwater basin.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>8</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>9</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

#### III.

Applications 50950, 50951 and 50952 were timely protested by Washoe County on the grounds that the granting of said applications would have a detrimental affect upon Washoe County's senior

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<sup>6</sup> Nowlin, Jon, Ground-Water Quality in Nevada - A Proposed Monitoring Program, Open-File Report 78-768, U.S.G.S., p. 192.

<sup>7</sup> Nevada Division of Water Resources Water Rights Database, March 27, 1998, official records in the office of the State Engineer.

<sup>8</sup> NRS Chapters 533 and 534.

<sup>9</sup> NRS 533.370(3).

existing applications within the Duck Lake Valley Groundwater Basin. These senior water right applications were denied on January 26, 1998, by State Engineer's Ruling No. 4599. The State Engineer concludes that the granting of Applications 50950, 50951 and 50952 would not interfere with or be detrimental to Washoe County's water right applications as they no longer exist.

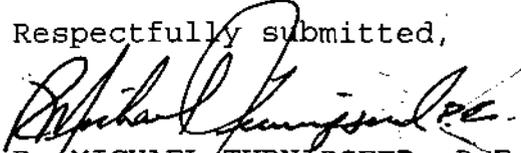
IV.

The committed groundwater resource of the Duck Lake Valley Groundwater Basin is significantly less than the estimated perennial yield of the groundwater basin. The State Engineer concludes that there is underground water currently available for appropriation within the Duck Lake Valley Groundwater Basin.

RULING

The protests to Application 50950, Application 50951 and Application 50952 are hereby overruled and said permits are hereby approved subject to existing rights and the payment of the statutory permit fees.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/cl

Dated this 13th day of  
April, 1998.