

IN THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 49707)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE VIRGIN RIVER VALLEY)
GROUNDWATER BASIN (222), CLARK)
COUNTY, NEVADA.)

RULING

4720

GENERAL

I.

Application 49707 was filed on February 11, 1986, by DeMurren Reber to appropriate 1.0 cubic foot per second of underground water for quasi-municipal purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T.13S., T.71E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 17. Information contained within the remarks section of Application 49707 indicates that it was filed to provide water service to a six house residential development.¹

FINDINGS OF FACT

I.

At the time of its filing within the office of the State Engineer, the proposed point of diversion and place of use described under Application 49707 were located within the defined service area of the Mesquite Farmstead Water Association (MFWA).² As a result of legislative actions this service area was transferred into the control of the Virgin Valley Water District, which now provides municipal water to support the dynamic growth

¹ File No. 49707, official records in the office of the State Engineer.

² Permit Map 55987, Sheet 1, official records in the office of the State Engineer.

of the area.³ The State Engineer finds that Application 49707 requests a new appropriation of underground water from within a service area which is provided municipal water through the Virgin Valley Water District.

II.

The State Engineer may deny applications to appropriate ground water for any purposes in an area where water can be made available by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.⁴ Exceptions to this can only be considered when sufficient information has been provided on the applicant's behalf to demonstrate to the State Engineer that a water service connection to the municipal distribution system would entail the expenditure of extreme amounts of money. On June 20, 1996, the State Engineer was advised by a representative of the MFWA that it would be feasible to provide municipal water service to the applicant's proposed place of use. The State Engineer finds that the place of use described under Application 49707 can be serviced with municipal water through an extension of an existing municipal water distribution system.

III.

Unless sufficient information is provided on the applicant's behalf to justify an exception to the provisions established under NRS § 534.120, Application 49707 must be denied by the State Engineer. By letters of June 25, 1996, and September 5, 1996, the office of the State Engineer requested the applicant and his agent provide any information which would support the granting of an

³ Assembly Bill No. 608, Chapter 266, Sixty-Eighth Session of the Nevada Legislature, approved June 19, 1995.

⁴ NRS § 534.120.

exception to NRS § 534.120. Both parties were cautioned that a failure to respond to the respective notices within a thirty-day time period would result in the denial of Application 49707.

To this date, no response to the requests for additional information has been received in the State Engineer's office.¹ The State Engineer finds that the applicant has failed to provide any information which would justify the granting of an exception to the provisions established under NRS § 534.120. The State Engineer further finds that municipal water can be supplied to the proposed place of use eliminating the need to appropriate the underground water requested under Application 49707.

CONCLUSIONS

I.

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

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 conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

⁵ NRS Chapters 533 and 534.

⁶ NRS § 533.370(3).

III.

Application 49707 requests a new appropriation of underground water for a proposed place of use which can be supplied municipal water through an established water district. The State Engineer concludes that the granting of a permit under Application 49707 would violate the provisions found within NRS § 534.120 and would threaten to prove detrimental to the public interest.

RULING

Application 49707 is hereby denied on the grounds that its approval would violate the provisions found within NRS § 534.120.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 31st day of
March, 1999.