

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

IN THE MATTER OF APPLICATION 64492)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE PREVIOUSLY APPROPRIATED)
UNDER PERMIT 61478 WITHIN THE LAS)
VEGAS VALLEY ARTESIAN HYDROGRAPHIC)
BASIN (212), CLARK COUNTY, NEVADA.)

RULING

5117

GENERAL

I.

Application 64492 was filed on September 29, 1998, by Craig O. and Sonja R. Brooksby to change the point of diversion and the place of use of 1.0 acre-foot of underground water previously permitted for appropriation under Permit 61478. The manner of use is for quasi-municipal and domestic purposes within the W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, T.19S., R.60E., 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 30.¹

II.

Permit 61478 was issued on February 26, 1996, to appropriate 1.0 acre-foot of underground water for quasi-municipal and domestic purposes within the E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, T.19S., R.60E., M.D.B.&M. The point of diversion under Permit 61478 is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 30. The annual duty of water approved under Permit 61478 was combined with that granted under Permit 60646 with this total combined duty of water serving as the basis for a will serve letter that provided water service to nine residential lots. These nine lots are identified as Clark County Assessor's Parcel Numbers (APN) 125-30-610-010 through 125-30-610-018, inclusively and by State

¹ File No. 64492, official records in the Office of the State Engineer.

Engineer's Subdivision Review No. 5403-T/F for Sterling Brook Estates, Block 1.²

FINDINGS OF FACT

I.

Generally, the duty of water for housing units in the Las Vegas Valley groundwater basin is 1,000 gallons per day which equates to an annual duty of 1.12 acre-feet; however, exceptions to this practice have occurred on a case by case basis.

The approval of the Sterling Brook Estates, Block 1, subdivision was based on the condition that the total combined duty of Permits 60646 and 61478 would be allocated to service the nine-lot subdivision. The body of this approval stated that this water service commitment is based upon 893 gallons per day or 1.0 acre-foot annually (afa) per lot.¹ The State Engineer finds, in compliance with these conditions of approval, that the nine lots contained within the subject subdivision have been allocated 1.0 afa per lot for a total water commitment of 9.0 afa.

II.

Permits 60646 and 61478 share a total combined duty of 9.00 afa, which is committed to provide water service to the Sterling Brook Estates Block 1 subdivision. The State Engineer's approval of this subdivision requires that 9.0 afa of underground water be allocated to provide water service to the nine lots contained within the development.² The applicants' request to transfer 1.0 afa under Application 64492 is based upon their presumption that this amount of water is not currently being used within the subdivision. The question as to what, if any, amount of water is available for transfer can be answered by examining the Las Vegas Valley groundwater pumpage inventories. The purpose of the inventories is to gain an accounting of the amount of water that was pumped on an annual basis from a specific permitted well site.

² File No. 61478, official records in the Office of the State Engineer

The basin inventories performed during 1999 indicate that 10.7 afa of underground water was pumped under Permits 60646 and 61478 to satisfy the needs of the nine lots.³ Similarly, the 2000 and 2001 pumpage inventory indicates pumping of 17.1 acre-feet³ and 17.8 acre feet (preliminary data), respectively. Given the fact that this subdivision was restricted to an annual appropriation of water of 9.0 acre feet, the State Engineer finds that the amount of water pumped to service the subdivision's nine lots exceeds its annual permitted duty of water.

III.

Application 64492 requests a transfer of 1.0 afa of water to a new place of use that lies outside the boundaries of the subject subdivision. While the nine residential lots comprising the Sterling Brook subdivision, Block 1, were approved with an annual water allotment derived from Permits 60646 and 61478 of 9.0 acre-feet, actual pumpage to service these lots for the years 1999 through 2001 exceeded this amount. The State Engineer finds that the entire water right issued under Permit 61478 is being used, leaving no water available for transfer under Application 64492.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:⁵

- A. the proposed use or change conflicts with existing rights;

³ Las Vegas Valley 1999 and 2000 Annual Basin Pumpage Inventories, official records in the Office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

- B. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS § 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.

III.

A water right application may be filed to change the point of diversion or the manner of use of water already appropriated. Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate that is considered to be in good standing. A water right cannot be used to support a change application unless the corresponding use of this water under the supporting water right permit ceases simultaneously with the transfer of the water right to a new separate place of use. Currently, the entire annual duty under Permit 61478 is being pumped to provide water to its permitted place of use. The State Engineer concludes that the water right granted under Permit 61478 is fully committed and cannot be transferred until water service to its permitted place of use can be provided from another source.

IV.

The records of the Office of the State Engineer indicate that the 1.0 afa of water issued under Permit 61478 is being used in its entirety to provide water service to the Sterling Brook Estate subdivision; Block 1. The transfer of this water to a new separate place of use, while it is still servicing the subject subdivision, would create a simultaneous use which would expand the amount of water that is allowed under Permit 61478. The State Engineer concludes that this expansion of the water right would in effect represent a new appropriation of water, which conflict with existing water rights and threaten to prove detrimental to the public interest.

RULING

Application 64492 is hereby denied on the grounds that its approval would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 22nd day of
April, 2002.