

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

IN THE MATTER OF APPLICATION 57560 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
IN THE LAS VEGAS ARTESIAN BASIN (212), )  
CLARK COUNTY, NEVADA. )

RULING  
**# 5121**

GENERAL

I.

Application 57560 was filed on May 1, 1992, by Vasilios Tzortzis to appropriate 0.1 cubic feet per second (cfs) of water from an underground source for quasi-municipal purposes to provide water service for a parcel division map to partition one lot into two lots within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, T.22S., R.61E., M.D.B.&M. At the time Application 57560 was filed the proposed place of use was a single parcel owned by the applicant. The proposed point of diversion is described as an existing well located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 17, or specifically at a point which bears North 52° 33' 42" West a distance of 1361 feet to the W $\frac{1}{4}$  of said Section 17. Application 57560 became ready for the State Engineer's action on August 8, 1992.<sup>1</sup>

II.

Permit 57437 was filed on April 15, 1992, in the State Engineer's Las Vegas Office by Aurelio and Cipriana Valle to appropriate 0.0046 cfs of water from an underground source for domestic and quasi-municipal purposes to provide water service for a parcel division map to partition one lot into two lots within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, T.22S., R.61E., M.D.B.&M. At the time Application 57437 was filed the proposed place of use was a single parcel owned by the applicants. The proposed point of diversion is described as an existing well located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 17, or specifically at a point from which the W $\frac{1}{4}$  corner of said Section 17 bears North 55° 32' 25" West a distance of 1461.81 feet. Application 57437 became ready for

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<sup>1</sup> File no. 57560, official records in the Office of the State Engineer.

the State Engineer's action on July 11, 1992. The State Engineer granted a permit for Application 57437 on February 5, 1993.<sup>2</sup>

### III.

The State Engineer initially described and designated a portion of the Las Vegas Artesian Basin on January 10, 1941, under the provisions of Nevada Revised Statute (NRS) chapter 534 as a basin in need of additional administration.<sup>3</sup> The State Engineer subsequently extended the boundaries of the designated area of the Las Vegas Artesian Basin on February 29, 1944, November 22, 1946, April 18, 1961, May 25, 1964, and December 27, 1983.<sup>4</sup>

Pursuant to State Engineer's Amended Order 1054 issued April 15, 1992, all applications filed after March 23, 1992, requesting the use of water from the Las Vegas Artesian Basin would be denied with a few exceptions. One of those exceptions, exception 3, being for applicants who began the process of filing an application before March 23, 1992. Such applications would be processed according to NRS chapter 533 if the applicant could demonstrate that the filing process began before March 23, 1992, as shown by a copy of a contract or agreement with a licensed water rights surveyor. The application and copy of the contract or agreement was to be received in the Office of the State Engineer no later than 5:00 p.m. May 1, 1992.<sup>5</sup>

### FINDINGS OF FACT

#### I.

The State Engineer finds that the proposed points of diversion of Application 57560 and Permit 57437 are within the boundaries of the designated Las Vegas Artesian Basin and that both were filed under exception 3 of Amended Order No. 1054.<sup>1,2,5</sup>

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<sup>2</sup> File no. 57437, official records in the Office of the State Engineer.

<sup>3</sup> State Engineer's Order No. 175 dated January 10, 1941, official records in the Office of the State Engineer.

<sup>4</sup> State Engineer's Order Nos. 182, 189, 249,275, and 883, respectively, official records in the Office of the State Engineer.

<sup>5</sup> State Engineer's Amended Order No. 1054, dated April 15, 1992, official records in the Office of the State Engineer.

## II.

By statute the State Engineer is required to protect existing rights and the public interest when considering an application for a water right.<sup>6</sup> Every water right application that is accepted by the Office of the State Engineer must proceed through a formal permitting process that is governed by the Nevada Revised Statutes and policies of the Office of the State Engineer. Once an application has been filed in its correct form, notice of the application is published once a week for four consecutive weeks.<sup>7</sup> Upon completion of this publication period, the application enters a thirty-day period for public comment. Within this second thirty-day period, the application can be protested.<sup>8</sup> The information presented in the published notice of application for public comment originates directly from information contained in the application. Therefore, the State Engineer finds that no significant changes can be made to applications after the publication stage has been completed.

## III.

At the conclusion of the public comment and protest period, an application that has not been protested is reviewed and considered for approval of a permit. After the publication and public comment period, a review of Applications 57437 and 57560 determined that the place of use for each application was the same parcel of land. A field investigation of the two applications by the State Engineer's Las Vegas office dated September 14, 1992, confirmed that the place of use for each application was the same parcel of land.<sup>1,2</sup>

## IV.

By letter dated September 14, 1992, the respective licensed water well surveyors were asked to provide additional information concerning the place of use and point of diversion of each application.<sup>1,2</sup>

The licensed water right surveyor for Application 57437 replied by letter dated September 21, 1992, which included parcel maps and a survey analysis to show the accuracy of his survey for Application 57437.<sup>2</sup>

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<sup>6</sup> NRS § 533.370

<sup>7</sup> NRS § 533.360

<sup>8</sup> NRS § 533.365

The licensed water right surveyor for Application 57560 confirmed by a letter dated September 29, 1992, that both applications were for the same approximate location. The surveyor contended that for Application 57560, a miscalculation was made of a survey traverse placing the proposed place of use at the wrong location on the application's supporting map. The letter requested that the map and application be amended to correct the situation concerning Application 57560.<sup>1</sup>

The State Engineer finds that the request to amend information within Application 57560 and on its supporting map was made after the statutory publication and protest periods, and therefore the request must be rejected.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>9</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>10</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

#### III.

The State Engineer concludes that, by statute, he is required to protect existing rights and the public interest when considering an application for a water right.

#### IV.

The State Engineer concludes that Application 57560 was filed for a specific use within a specific place of use. The State Engineer concludes that Application 57560 and its supporting map did not correctly describe the place of use.

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<sup>9</sup> NRS chapters 533 and 534

<sup>10</sup> NRS § 533.370 (3)

V.

The State Engineer concludes that once the information contained within an application is presented to the public through the statutory publication and protest periods, no major amendments or changes can be made to the application. The State Engineer concludes that to allow Application 57560 and its supporting map to be changed, amended or corrected after the publication and protest periods may result in a conflict with existing rights and threaten to prove detrimental to the public interest.

**RULING**

Application 57560 is hereby denied on the grounds that to grant approval of a permit for the application will conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

CAB/jm

Dated this 23rd day of  
April, 2002.