

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

IN THE MATTER OF APPLICATION)
72758 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE PAHRUMP VALLEY)
HYDROGRAPHIC BASIN (162), NYE)
COUNTY, NEVADA.)

RULING

#5574

GENERAL

I.

Application 72758 was filed on May 11, 2005, by Bolling Construction to appropriate 0.0166 cubic feet per second, not to exceed 5.0 acre-feet annually, of underground water from the Pahrump Valley Hydrographic Basin. The proposed manner and place of use is for commercial purposes within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, T.20S., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 28. Information contained within the remarks section of the application indicates the water is to be used to support a gravel plant and for dust control.¹

FINDINGS OF FACT

I.

Nevada Revised Statute (NRS)§ 534.120 provides that within an area that has been designated by the State Engineer where, in his judgment, the groundwater basin is being depleted, the State Engineer in his administrative capacity is empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved. The application of this provision of the NRS to the Pahrump Valley Hydrographic Basin is evidenced in a series of orders handed down by the State Engineer beginning with

¹ File No. 72758, official records in the Office of the State Engineer.

Order No. 176, which was issued on March 11, 1941.² This initial order described and designated a portion of the Pahrump Valley Hydrographic Basin as a groundwater basin in need of additional administration. The boundaries of the Pahrump Valley Hydrographic Basin were expanded by the issuance of State Engineer's Order Nos. 193 and 205, on January 15, 1948, and January 23, 1953, respectively.^{2,3}

By designating the Pahrump Valley Hydrographic Basin, the State Engineer set the stage for further restrictions relating to the appropriation of underground water from the basin. State Engineer's Order No. 381, issued on June 1, 1970, gave notice that no further appropriations of water would be approved for irrigation purposes.⁴ The denial of new applications was expanded on October 26, 1987, by State Engineer's Order No. 955, to include all applications located on the Pahrump and Manse alluvial fans.⁵ The State Engineer finds that all new requests for appropriations of underground water from points of diversion that are located within the Pahrump alluvial fan will be denied in accordance with State Engineer's Order No. 955.

II.

Application 72758 requests an appropriation of underground water from a proposed point of diversion that is described as being within the SW¼ NW¼ of Section 28, T.20S., R.54E., M.D.B.&M.¹

² State Engineer's Order Nos. 176 and 193, Orders and Miscellaneous Records Index Book No.1, official records in the Office of the State Engineer.

³ State Engineer's Order No. 205, Orders and Miscellaneous Records Index Book No.2, official records in the Office of the State Engineer.

⁴ State Engineer's Order 381, Orders and Miscellaneous Records Index Book No. 3, official records in the Office of the State Engineer.

⁵ State Engineer's Order No. 955, Orders and Miscellaneous Records Index Book No. 7, official records in the Office of the State Engineer.

The State Engineer finds that this point of diversion is located upon the alluvial fan of the Pahrump Valley Hydrographic Basin and as such is subject to any rules and regulations imposed on this portion of the groundwater basin by the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁷

- 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.

Water right applications that request new appropriations of underground water from the Pahrump Valley alluvial fan are to be denied in accordance with State Engineer's Order No. 955. The State Engineer concludes that the approval of Application 72758 would violate the provisions of State Engineer's Order No. 955 and would threaten to prove detrimental to the public interest.

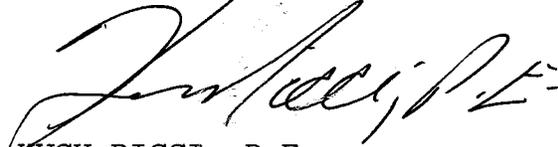
⁶ NRS chapters 533 and 534.

⁷ NRS § 533.370(4).

RULING

Application 72758 is hereby denied on the grounds that its approval would violate State Engineer's Order No. 955 and would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 10th day of
March, 2006.