

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

IN THE MATTER OF APPLICATIONS 76115)
AND 76116 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE OASIS VALLEY)
HYDROGRAPHIC BASIN (228), NYE)
COUNTY, NEVADA.)

RULING

#5954

GENERAL

I.

Application 76115 was filed on August 3, 2007, by the Beatty Cattle Company, LLC., to appropriate 1.0 cubic foot per second (cfs), not to exceed 200.0 acre-feet annually (afa), of underground water of the Oasis Valley Hydrographic Basin. The proposed manner and place of use is for the irrigation of 80.0 acres of meadow pasture and for domestic purposes. The proposed place of use can generally be described as being within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ in addition to the SW $\frac{1}{4}$ of Section 14, the E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, portions of the E $\frac{1}{2}$ of Section 22, the portion of the W $\frac{1}{2}$ of Section 27, in addition to the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, all found within T.10S., R.47E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 14.¹

II.

Application 76116 was filed on August 3, 2007, by the Beatty Cattle Company, LLC., to appropriate 1.0 cfs, not to exceed 200.0 afa, of underground water of the Oasis Valley Hydrographic Basin. The proposed manner and place of use is for the irrigation of 80.0 acres of meadow pasture. The proposed place of use can generally be described as being within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ in addition to the SW $\frac{1}{4}$ of Section 14, the E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$

¹ File No. 76115, official records in the Office of the State Engineer.

and the SW¼ SW¼ of Section 22, portions of the E½ of Section 22, the portion of the W½ of Section 27, in addition to the NE¼ SE¼ of Section 28, all found within T.10S., R.47E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of said Section 14.²

III.

Applications 76115 and 76116 were timely protested by George and Larene Younghans on the grounds that similar applications had been denied within the Oasis Valley. Included within their protest was a reference to State Engineer's Ruling No. 4669, which denied Application 63482. This water right application requested a new appropriation of underground water for irrigation purposes from within the Oasis Valley.³ It is also their contention that the approval of the applications in question may have a negative impact on the ground-water basins numerous springs.

IV.

The protests submitted by the United States Department of the Interior, National Park Service, (NPS) also references this ruling in addition to State Engineer's Rulings No. 3870 and No. 4669. In addition, the NPS also expressed a concern that the approval of the subject applications may have an adverse effect upon the surface water sources found within Death Valley National Park including the Devils Hole detached unit. It is also the NPS' contention that the ground-water basins that comprise the majority of the Death Valley flow system are over committed and cannot support additional appropriations of underground water.^{1,2}

FINDINGS OF FACT

I.

By State Engineer's Order No. 741, issued on April 2, 1980, a portion of the Oasis Valley ground-water basin was described and designated by the State Engineer as a ground-water basin in need

² File No. 76116, official records in the Office of the State Engineer.

³ File No. 63482, official records in the office of the State Engineer.

of additional administration.⁴ The State Engineer finds that the proposed points of diversion and places of use described under Applications 76115 and 76116 are located within the boundaries of the designated portion of the Oasis Valley Hydrographic Basin.

III.

The State Engineer has denied applications that requested permanent appropriations of underground water for irrigation purposes within the Oasis Valley Hydrographic Basin since 1978. These denials were based, in part, on the grounds that withdrawals of additional ground water from the basin would interfere with and impair existing underground and surface water rights and would prove to be detrimental to the public interest.⁵ The State Engineer finds that Application 76115 and Application 76116 request additional appropriations of underground water from within the Oasis Valley Hydrographic Basin for a manner of use that has previously been denied 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 conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024;
- D. the proposed use threatens to prove detrimental to the public interest; or

⁴ State Engineer's Order No. 741, official records in the Office of the State Engineer.

⁵ State Engineer's Ruling Nos. 2346 and 4669, official records in the Office of the State Engineer.

⁶ NRS chapters 533 and 534.

⁷ NRS § 533.370(5).

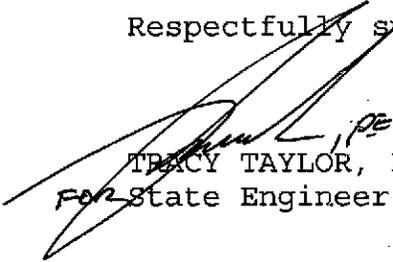
III.

Applications 76115 and 76116 were filed to appropriate underground water from the Oasis Valley Hydrographic Basin. The State Engineer has denied previous applications that requested new appropriations of underground water for irrigation purposes from this ground-water basin on the grounds that their approval would impair existing rights and would threaten to prove detrimental to the public interest. The State Engineer concludes the approval of Applications 76115 and 76116 would have a similar negative effect; therefore, they must also be denied.

RULING

Application 76115 and Application 76116 are hereby denied on the grounds that their approval would conflict with existing water rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
For State Engineer

TT/MDB/jm

Dated this 12th day of
February, 2009.