

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

IN THE MATTER OF APPLICATIONS 58357 AND 58358)  
FILED TO APPROPRIATE THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN THE PAHRUMP VALLEY )  
ARTESIAN BASIN, CLARK COUNTY, NEVADA AND INYO)  
COUNTY, CALIFORNIA. )

RULING

# 3935

GENERAL

I.

Application 58357 was filed November 30, 1992, by Roland H. Wiley, to appropriate 5.0 c.f.s. (cubic feet per second) of water from an underground source for recreational purposes within parts of Sections 23, 24, 25, 26 and 27, and Tracts 39, 40 and 41, all in T.22S., R.54E., M.D.B.&M. This place of use is located entirely in Nevada. The point of diversion is described as being within the NW1/4 SE1/4 Section 16, T.22N., R.10E., (S.B.M.) located within the State of California. Item 15 of the application states: "Water will be used to irrigate a 18 hole championship golf course that will cover an area of approximately 640 acres."<sup>1</sup>

II.

Application 58358 was filed November 30, 1992 by Roland H. Wiley to appropriate 2.0 c.f.s. of water from an underground source for quasi-municipal purposes within parts of Sections 23, 24, 25, 26 and 27, and Tracts 39, 40 and 41 all in T.22S., R.54E., M.D.B.&M. This place of use is located entirely in Nevada. The point of diversion is described as being within the NW1/4 SE1/4 Section 16, T.22N., R.10E., (S.B.M.) located within the State of California. Item 15 of the application states: "Water will be used for a hotel and casino, with a bridle path and assorted recreational facilities, RV park and a mobile home park for employees of the hotel and casino."<sup>2</sup>

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<sup>1</sup> Public record in the office of the State Engineer, Application 58357.

<sup>2</sup> Public record in the office of the State Engineer, Application 58358.

III.

Nevada Revised Statutes(NRS) 533.515 states:

1. No permit for the appropriation of water or application to change the point of diversion under an existing water right may be denied because of the fact that the point of diversion described in the application for the permit, or any portion of the works in the application described and to be constructed for the purpose of storing, conserving, diverting or distributing the water are situated in any other state; but in all such cases where the place of intended use, or the lands, or part of the lands to be irrigated by means of the water, are situated within this state, the permit must be issued as in other cases, pursuant to the provisions of NRS 533.325 to 533.450, inclusive, and chapter 534 of NRS.

2. The permit must not purport to authorize the doing or refraining from any act or thing, in connection with the system of appropriation, not properly within the scope of the jurisdiction of this state and the State Engineer to grant.

IV.

By Order No. 176, dated March 11, 1941, Order 193, dated January 15, 1948, and Order No. 205, dated January 23, 1953, the State Engineer designated a portion of the Pahrump Valley Ground Water Basin under the provisions of the underground water law (Chapter 178, Nevada Revised Statutes, 1939). Order No. 206 dated, May 4, 1953, required the installation of a suitable measuring device for each and every permit holder in the Pahrump Valley Artesian Basin. Order No. 381, dated June 1, 1970, excluded irrigation from being a preferred use within the designated portion of the Pahrump Valley Artesian Basin. By Order No. 955, dated October 26, 1987, the State Engineer amended Order No. 381, further curtailed water appropriation in the Pahrump Valley Artesian Basin, and stated conditions under which applications for appropriation

would be considered for approval.<sup>3</sup>

V.

In 1986, U.S. Geological Survey Water Supply Paper 2279, "Ground Water Storage Depletion in Pahrump Valley, Nevada-California, 1962-1975", by James R. Harrill, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Department of the Interior, Geological Survey. This report is available for review in the office of the State Engineer.

In 1975, Geological Survey Professional Paper 712-C, "Hydrogeologic and Hydrochemical Framework, South-Central Great Basin, Nevada-California, with Special Reference to the Nevada Test Site", was prepared by the United States Department of the Interior, Geological Survey. This report is available for review in the office of the State Engineer.

In 1967, U.S. Geological Survey Water Supply Paper 1832, "Hydrology of the Valley-Fill and Carbonate-Rock Reservoirs, Pahrump Valley, Nevada-California", was prepared cooperatively by Nevada Department of Conservation and Natural Resources and the United States Department of the Interior, Geological Survey. This report is available for review in the office of the State Engineer.

In 1948, Water Resources Bulletin No. 5, "Geology and Water Resources of Las Vegas, Pahrump, and Indian Springs Valleys, Clark and Nye Counties Nevada", was prepared by G.B. Maxey and C.H. Jameson. This report is available for review in the office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer finds that applications 58357 and 58358 have points of diversion located within the area described as the Pahrump Valley Artesian Basin.<sup>4</sup>

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<sup>3</sup> Public record in the office of the State Engineer, State Engineer Orders No. 176, 193, 205, 206, 381 and 955.

<sup>4</sup> United State Geological Survey Water Supply Paper 1832, plate 1.

II.

The State Engineers finds that Applications 58357 and 53858 have places of use in the Pahrump Valley Artesian Basin designated by the State Engineer pursuant to NRS 534.120.<sup>3</sup>

III.

The State Engineer declared in Order No. 955 dated October 26, 1987 that all applications filed to appropriate ground water from the Pahrump Valley Artesian Basin except for small commercial uses on the valley floor will be denied.<sup>3</sup>

IV.

The State Engineer has denied applications to appropriate ground water for quasi-municipal, irrigation and recreation purposes in the Pahrump Valley Artesian Basin.<sup>5</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>6</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>7</sup>

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public welfare.

III.

The State Engineer is authorized to deny an application prior to publication when a previous application for a similar use of water within the same basin has been rejected.<sup>7</sup> State Engineer's

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<sup>5</sup> Public record in the office of the State Engineer, Rulings No. 1854, 1897, 1918, 2030, 2713, 2787, 2836, 3216, 3248, 3462, 3486, 3505, 3519, 3636 and 3809.

<sup>6</sup> NRS Chapters 533.025, 533.030, subsection 1; 533.370, subsection 3; and 533.515.

<sup>7</sup> NRS Chapter 533.370 subsection 3.

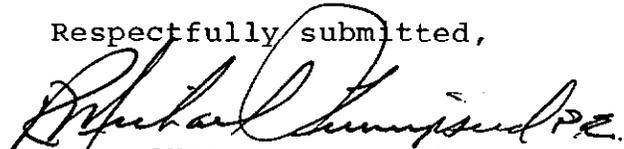
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Rulings 2030, 2787, 2836, 3462, 3486, 3505 and 3809 are incorporated in this ruling by reference.<sup>5</sup>

RULING

Applications 58357 and 58358 are herewith denied on the grounds that the granting thereof would conflict with existing rights and be detrimental to the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CAB/pm

Dated this 8th day of  
February, 1993.