

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

IN THE MATTER OF PERMIT NUMBERS)
56426 AND 56427 AND APPLICATIONS)
57550 AND 57551 IN THE LAS VEGAS)
GROUNDWATER BASIN, CLARK COUNTY,)
NEVADA.)

RULING

4041

GENERAL

I.

Application 56426 was filed by John Baal, Jr., on June 10, 1991, to appropriate 0.1 cfs from an underground source for quasi-municipal purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.¹ The proposed point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M., which is located within the Las Vegas Groundwater Basin.

II.

Application 56427 was filed by John Baal, Jr., on June 10, 1991, to appropriate 0.1 cfs from an underground source for quasi-municipal purposes within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.² The proposed point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M., which is located within the Las Vegas Groundwater Basin.

III.

Application 57550 was filed by Stuart Apollo on April 30, 1992, to appropriate .0062 cfs from an underground source for quasi-municipal purposes within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.³ The proposed point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M., which is located within the Las Vegas Groundwater Basin.

¹ Public records of the State Engineer, Application 56426.

² Public records of the State Engineer, Application 56427.

³ Public records of the State Engineer, Application 57550.

IV.

Application 57551 was filed by Stuart Apollo on April 30, 1992, to appropriate .0062 cfs from an underground source for quasi-municipal purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.⁴ The proposed point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M., which is located within the Las Vegas Groundwater Basin.

V.

Permit 56426 was issued November 19, 1991, for 0.1 cfs but not to exceed 1.46 million gallons annually for quasi-municipal purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.⁵ The point of diversion is described as being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.

VI.

Permit 56427 was issued November 19, 1991, for 0.1 cfs but not to exceed 1.46 million gallons annually for quasi-municipal purposes within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.⁶ The point of diversion is described as being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.

VII.

Applications 57550 and 57551 were timely protested on July 20, 1992, by John M. Baal, Jr., on the following grounds, to wit:

The filing of a water permit on April 30, 1992 by Stuart Apollo, for an Quasi-Municipal (Domestic) wells on two 2 $\frac{1}{2}$ acres he owns (Serial #57551, #57550) was already granted a well permit in the fall of 1991 to myself (John M. Baal Jr). The permit numbers were 56426 and 56427. I purchased the property in the form of a sales agreement signed by both Stuart Apollo and myself in 1991 and

⁴ Public records of the State Engineer, Application 57551.

⁵ Public records of the State Engineer, Permit 56426.

⁶ Public records of the State Engineer, Permit 56427.

applied for the water permits at that time which the sales agreement instructed me to do. When it was time to close escrow, he had numerous liens (sic) on his property so we could never close as of yet. Now since the water situation has tighten (sic) up he applied for well permits and is trying to increase the sales price because he says he will have only water rights. On June 25th, 1992 Fred Berkley (385-3761) my hired attorney filed liens and litagation (sic) against Apollo and his actions. I request that this permit be denied.⁷

VIII.

Under NRS 533.375, the State Engineer may require additional information before approval or rejection of application.⁸

IX.

After all parties of interest were duly noticed by certified mail, an administrative hearing was held before the State Engineer, in the matter of Applications 57550 and 57551 on May 6, 1993, at the Southern Nevada Branch Office of the State Engineer, Las Vegas, Nevada.⁹ Evidence and testimony were received into the record at the hearing and the State Engineer took administrative notice of various matters as more specifically set forth herein. Transcripts of the hearing are a matter of public record in the office of the State Engineer.¹⁰

⁷ Public record of the State Engineer, Applications 57550 and 57551.

⁸ NRS 533.375.

⁹ Public record of the State Engineer. State Exhibit No. 1 of the Transcript of Hearing before the State Engineer, May 6, 1993. Hereafter called Transcript.

¹⁰ Transcript from May 6, 1993.

FINDINGS OF FACT

I.

The State Engineer in his administrative capacity is herewith empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved.¹¹

II.

The State Engineer finds that the place of use of Permit 56426 and Application 57551 are one and the same.¹²

III.

The State Engineer finds that the place of use of Permit 56427 and Application 57550 are one and the same.¹³

IV.

The State Engineer finds that, after being duly noticed, the Protestant of Applications 57550 and 57551, Mr. John Baal, Jr., who is also the owner of record of Permits 56426 and 56427, failed to appear at the hearing held on May 6, 1993. The record also reflects that the Protestant failed to notify the State Engineer of his failure to appear or the reason for his failure to appear.¹⁴

V.

The State Engineer finds that the permittee of Permits 56426 and 56427 does not own or control the land described under the places of use of said permits.¹⁵

VI.

The State Engineer finds that the applicant of Applications

¹¹ NRS 534.120.

¹² Public records of the State Engineer, Permit 56426 and Application 57551.

¹³ Public records of the State Engineer, Permit 56427 and Application 57550.

¹⁴ Transcript from May 6, 1993.

¹⁵ Transcript from May 6, 1993.

57550 and 57551 does own and control the land described.¹⁶

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.¹⁷

II.

The State Engineer is prohibited by law from granting a permit where:

- 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 interest.¹⁸

III.

Applications 56426 and 56427 were applied for and permits subsequently granted under the authority of NRS 533 and 534 granting the State Engineer the authority to issue such permits. At a later time, Applications 57550 and 57551 brought to light that Mr. Baal, the applicant under Applications 56426 and 56427 did not own or control the land described under the places of use.

IV.

Mr. Baal was duly noticed and failed to appear at the hearing, and Mr. Baal further failed to submit any documentation or demonstrate the ability to place the water under Permits 56426 and 56427 to beneficial use.

V.

The State Engineer concludes that to grant an application on lands the applicant does not own or control, or where the applicant cannot demonstrate the ability to place the water to beneficial

¹⁶ Transcript from May 6, 1993.

¹⁷ NRS Chapter 533 and 534.

¹⁸ NRS Chapter 533.370 subsection 3.

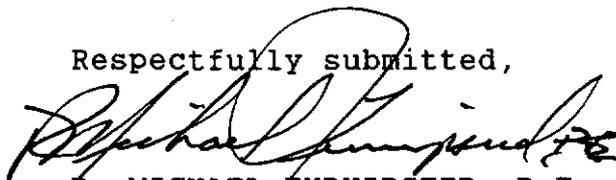
use, would prove detrimental to the public interest.

RULING

Applications 56426 and 56427, granted on November 19, 1991, are hereby rescinded; and Applications 56426 and 56427 are subsequently denied on the grounds that to grant a permit on lands that the applicant does not own or control, and were the applicant cannot demonstrate the ability to place the water to beneficial use, would be detrimental to the public interest.

Applications 57550 and 57551 are hereby granted under Exemption No. 3 of Amended Order 1054. No ruling is made on the validity of the protests.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/pm

Dated this 14th day of
October, 1993.