

IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 58288 AND)  
APPLICATION 58289 FILED TO APPROPRIATE)  
THE WATERS OF AN UNDERGROUND SOURCE )  
FOR IRRIGATION PURPOSES WITHIN THE )  
ELKO SEGMENT GROUND WATER BASIN, ELKO )  
COUNTY, NEVADA. )

RULING

# 4063

GENERAL

I.

Application 58288 was filed on November 2, 1992 by Dorothy D. Read to appropriate 0.04 c.f.s. of water from an underground source for irrigation and domestic purposes within portions of the NW $\frac{1}{4}$  NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 28, T.34., R.55E., M.D.B.&M. The water is to be diverted from its source at a point within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 28, T.34N., R.55E., M.D.B.&M.<sup>1</sup>

II.

Application 58289 was filed on November 2, 1992 by Dorothy D. Read to appropriate 0.06 c.f.s. of water from an underground source for irrigation purposes within portions of the NW $\frac{1}{4}$  NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 28, T.34N., R.55E., M.D.B.&M. The water is to be diverted from its source at a point within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 28, T.34N., R.55E., M.D.B.&M.<sup>2</sup>

FINDINGS OF FACT

I.

The State Engineer designated a portion of the Elko Segment Ground Water Basin as a basin in need of additional administration as provided under NRS 534.010 to 534.190, inclusive, by Order No. 778, dated December 8, 1981.<sup>3</sup>

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<sup>1</sup> Public record in the office of the State Engineer under Application 58288.

<sup>2</sup> Public record in the office of the State Engineer under Application 58289.

<sup>3</sup> Public record in the office of the State Engineer under State Order No. 778.

II.

By Order No. 782, dated March 1, 1982, the State Engineer ordered that all applications filed after March, 1, 1982 to appropriate underground water to irrigate additional land within the Designated Elko Segment Ground Water basin would be denied.<sup>4</sup>

III.

The State Engineer finds that Municipal, Quasi-Municipal and Domestic uses are considered preferred uses within the Elko Segment Ground Water Basin.<sup>5</sup>

IV.

The State Engineer finds the point of diversion and places of use under the subject applications to appropriate water, lie within the boundaries of the Elko Segment Designated Ground Water Basin.<sup>1,2</sup>

V.

The State Engineer finds that the estimated perennial yield of the Elko Segment Groundwater Basin is 13,000 acre feet annually.<sup>6</sup>

VI.

The perennial yield of a hydrologic basin is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural recharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded, ground water levels will decline until the ground water reservoir is depleted. Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of ground water gradients which could result in significant changes in the recharge-discharge relationship. The State Engineer finds that

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<sup>4</sup> Public record in the office of the State Engineer under State Order 782.

<sup>5</sup> Public record in the office of the State Engineer.

<sup>6</sup> United States Geological Survey Bulletin 32.

existing certificated and permitted ground water rights in the Elko Segment Groundwater Basin exceed 33,384 acre feet annually,<sup>5</sup> which far exceeds the perennial yield.

VII.

Should additional water be allowed for appropriations under new applications and subsequent detrimental effects occur, the State Engineer is required by law to order that withdrawals be restricted to conform to priority rights.<sup>7</sup>

IX.

The State Engineer finds that the applicant currently holds a certified domestic water right under Certificate 6065 in addition to a permitted commercial water right under Permit 45186 with a common point of diversion which is identical to that described within Application 58288 and Application 58289.<sup>1,2,5</sup>

X.

Permit 45186 was issued by the State Engineer subject to the following limitations;<sup>8</sup>

1. The diversion rate shall be limited to 0.10 c.f.s. but not to exceed 1.3 million gallons annually.
2. The use is limited to commercial use since the applicant has a certificated right for domestic use.
3. A totalizing meter must be installed and maintained at the discharge pipeline near the point of diversion and accurate measurements must be kept of water placed to beneficial use.

XI.

By letter of October 20, 1992, under the signature of Robert L. Read, the State Engineer was informed that the intent of Application 58288 and Application 58289 was to expand the diversion rates and duties granted under Certificate 6065 and Permit 45186, above and beyond their respective 0.0268 c.f.s. / 0.526 MGA

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<sup>7</sup> NRS 534.110.

<sup>8</sup> Public record in the office of the State Engineer under Ruling No. 2957.

(domestic) and 0.10 c.f.s. / 1.3 MGA (commercial). Additionally, Mr. Read indicated that should the subject applications be permitted, they would be subject to revocation, as would Certificate 6065 and Permit 45186 once their common place of use could be serviced by city utilities.<sup>1</sup>

XII.

The State Engineer has denied previous applications requesting underground water for irrigation purposes within the Elko Segment Ground Water Basin.<sup>9</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction over this matter under the provisions of NRS 533.365 and 533.370.<sup>10</sup>

II.

The State Engineer is prohibited by law from granting a permit where:<sup>11</sup>

1. There is no unappropriated water at the proposed source, or
2. The proposed use conflicts with existing rights, or
3. The proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that irrigation is not considered a preferred use within the Elko Segment Ground Water Basin.

IV.

The State Engineer concludes that the request for additional appropriations from the sources described under Applications 58288 and 58289, represents a request for additional underground water for irrigation purposes within a ground water basin where the issuance of irrigation permits has been curtailed by the State

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<sup>9</sup> Public record in the office of the State Engineer under Application 37941 and 39047.

<sup>10</sup> NRS Chapters 533 and 534.

<sup>11</sup> NRS Chapters 533.370.

Engineer's Order No. 782, and to issue the subject permits would not be in the public interest.

v.

The State Engineer concludes that to grant Applications 58288 and 58289 would threaten to impair the value of existing underground rights now being used for municipal, quasi-municipal, domestic, irrigation, recreation, mining, industrial, commercial and stockwatering purposes.

RULING

Applications 58288 and Application 58289 are DENIED on the grounds that their issuance would adversely affect existing rights, would prove detrimental to the public interest and would not be a preferred use of the limited water resource in the Elko Ground Water Basin.

Respectfully submitted,

  
B. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MB/pm

Dated this 20th day of  
December, 1993.