

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

IN THE MATTER OF APPLICATIONS 56374,)
56375 AND 56376 FILED TO APPROPRIATE)
THE WATERS OF AN UNDERGROUND SOURCE)
IN MASON VALLEY, LYON COUNTY, NEVADA.)

RULING

4143

GENERAL

I.

Application 56374 was filed on May 24, 1991 by Teck Resources, Inc. to appropriate 7.0 cfs (cubic feet per second) of water from an underground source for mining and milling purposes. The proposed point of diversion is located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 32, T.10N., R.26E., M.D.B.&M.¹

Application 56375 was filed on May 24, 1991 by Teck Resources, Inc. to appropriate 7.0 cfs of water from an underground source for mining and milling purposes. The proposed point of diversion is located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32, T.10N., R.26E., M.D.B.&M.²

Application 56376 was filed on May 24, 1991 by Teck Resources, Inc. to appropriate 7.0 cfs of water from an underground source for mining and milling purposes. The proposed point of diversion is located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32, T.10N., R.26E., M.D.B.&M.³

The proposed place of use for Applications 56374, 56375 and 56376 is located within Section 1, T.9N., R.25E.; Sections 4, 5 and 6, T.9N., R.26E.; Sections 22, 23, 25, 26, 27, 34, 35 and 36, T.10N., R.25E.; and Sections 22, 23, 27, 28, 29, 30, 31, 32 and 33, T.10N., R.26E.; M.D.B.&M.^{1,2,3}

The total combined duty proposed for Applications 56374, 56375 and 56376 is 306.89 acre-feet per year.^{1,2,3}

¹ File No. 56374, public record in the office of the State Engineer.

² File No. 56375, public record in the office of the State Engineer.

³ File No. 56376, public record in the office of the State Engineer.

II.

Application 56374 was timely protested on September 20, 1991 by W.J. Cavanaugh for the following reason and on the following grounds:

The proposed well is to be drilled on my placer mining claim (BLM No. NMC 94085) within $\frac{1}{4}$ mile of the point of diversion from my prior appropriation of water under Certificate No. 9313. The combined annual appropriation of 15,944,000 gallons of water from Permit No's. 24518, 24520 and 24812 are being collected in a reservoir on my millsite (BLM No. NMC 94088) and used for milling of ore from the placer mining claims. I allege that there is not 7 c.f.s. of water available for appropriation after subsisting rights established for my milling operation have been satisfied.

Therefore the protestant requests that the application be denied.¹

Application 56375 was timely protested on September 20, 1991 by W.J. Cavanaugh for the following reason and on the following grounds:

The proposed well is to be drilled on my placer mining claim (BLM No. NMC 94086) within $\frac{1}{4}$ mile of the point of diversion from my prior appropriation of water under Certificate No. 9312. The combined annual appropriation of 15,944,000 gallons of water from Permit No's. 24518, 24520 and 24812 are being collected in a reservoir on my millsite (BLM No. NMC 94088) and used for milling of ore from the placer mining claims. I allege that there is not 7 c.f.s. of water available for appropriation after subsisting rights established for my milling operation have been satisfied.

Therefore the protestant requests that the application be denied.²

III.

Water Resources Bulletin No. 38, "Water Resources and Development in Mason Valley, Lyon and Mineral Counties, Nevada, 1948-65", was cooperatively prepared in 1969 by the Nevada Department of Conservation and Natural Resources, Division of Water Resources and the U.S. Department of the Interior, Geological Survey.

IV.

On January 20, 1977, the State Engineer designated and described the Mason Valley Ground Water Basin as in need of additional administration in accordance with NRS 534.030.⁴

FINDINGS OF FACT

I.

The proposed points of diversion under Applications 56374, 56375 and 56376 are located within the designated Mason Valley Groundwater Basin.^{1,2,3,4} The quantity of water already appropriated from this basin is approximately 150,000 AFA⁵ and the quantity of water actually diverted from the groundwater aquifer has increased to an estimated 90,000 AFA in 1994.⁶ Both appropriations and pumpage exceed the perennial yield of 25,000 AFA.⁷ As a result, the elevation of the groundwater surface has dropped dramatically in recent years causing some wells to go dry.⁸ Some wells owned by holders of existing water rights were drilled deeper or plugged and re-drilled to ensure adequate water supply.⁹ The State Engineer finds that approving Applications 56374, 56375 and 56376, which seek to appropriate additional groundwater, would tend to further lower the groundwater table and cause additional conflicts with existing rights.

⁴ State Engineer's Order No's. 627, January 20, 1977 and 691, September 7, 1977, public record in the office of the State Engineer.

⁵ Hydrographic Basin Abstract 9-108, public records in the office of the State Engineer.

⁶ Preliminary estimate from Division of Water Resources 1994 pumpage inventory, Basin 9-108, public records in the office of the State Engineer.

⁷ Water Resources Bulletin No. 38, p. 57.

⁸ Mason Valley water level measurements, public records in the office of the State Engineer.

⁹ Well Completion Reports, and Well Driller's data base, public records in the office of the State Engineer.

II.

The dramatic lowering of the groundwater in recent years has caused hardships to water right holders and to domestic well owners in Mason Valley.⁹ The approval of applications to appropriate additional water will magnify this problem. The State Engineer finds that the additional lowering of the groundwater table that would result from the pumping of the groundwater under Applications 56374, 56375 and 56376 threatens to prove detrimental to the public interest.

III.

The State Engineer has denied previous applications to appropriate ground water for mining and milling purposes from an underground source in the Mason Valley Groundwater Basin on the grounds that granting permits conflict with existing rights and would threaten to prove detrimental to the public interest.¹⁰

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.¹¹

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.¹²

¹⁰ State Engineer's Ruling No. 4140 dated September 8, 1994, public record in the office of the State Engineer.

¹¹ NRS Chapters 533 and 534.

¹² NRS Chapter 533.370 subsection 3.

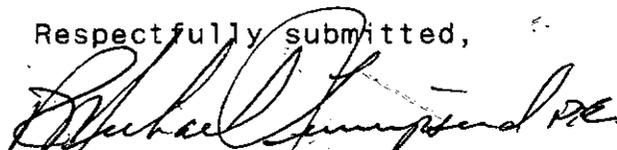
III.

The State Engineer concludes that the amount of ground water appropriated in the Mason Valley Ground Water Basin exceeds the perennial yield of the Basin. To grant the appropriations of ground water requested by Applications 56374, 56375 and 56376 for additional consumption of ground water would adversely affect existing rights and threaten to prove detrimental to the public interest.

RULING

Applications 56374, 56375 and 56376 are denied on the grounds that the granting of these applications for appropriation of ground water in a basin where the water rights of record exceed the perennial yield would conflict with existing rights and threaten to prove detrimental to the public interest. No ruling is entered regarding the protests filed against Applications 56374 and 56375.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/pm

Dated this 7th day of
October, 1994.