

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

IN THE MATTER OF PROTESTED APPLICATION)
60420, FILED TO CHANGE THE POINT OF)
DIVERSION, PLACE AND MANNER OF USE OF)
A PORTION OF THE UNDERGROUND WATERS)
ALREADY APPROPRIATED FROM THE LAS)
VEGAS ARTESIAN BASIN (212), CLARK,)
COUNTY, NEVADA.)

RULING

4228

GENERAL

I.

Application 60420 was filed on August 30, 1994, by Joseph J. Fairchild, to change the point of diversion, place and manner of use of 0.02676 cfs, not to exceed 6.0 acre feet annually, of a portion of the water previously appropriated under Permit 12008, Certificate 3492, for quasi-municipal use located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T.20S., R.60E., M.D.B.&M. The proposed point of diversion is located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 4. The existing point of diversion is located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T.21S., R.62E., M.D.B.&M. The manner of use under Permit 12008 is irrigation with the place of use identified as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31.¹

II.

Application 60420 was timely protested by the Las Vegas Valley Water District (LVVWD) on the following grounds:

The Las Vegas Valley Water District (LVVWD) protests Application No. 60420 for Application to change point of diversion of Water from Hydrologic Basin 212, on the basis that not only is the basin over-appropriated, but more importantly the point of diversion of the application is within 1,250 feet of an existing distribution line operated by the LVVWD. The granting of this application will further add to the decline in the water table in this critical area of the Valley aquifer system and therefore is not in keeping with good management of the ground-water basin. The LVVWD Service Rules state that any property within 1,250 feet of an existing line may be connected to the LVVWD's

¹ File No. 60420, official records in the Office of the State Engineer.

distribution system. Joseph Fairchild is within that distance, and may be connected to the distribution system. The LVVWD stands ready to connect Joseph Fairchild in accordance with its service rules.

Therefore, the LVVWD requested that the application be denied.¹

III.

By notice dated September 14, 1995, a hearing was set for October 4, 1995, in the matter of protested Application 60420. However, the LVVWD by letter dated September 20, 1995, notified the State Engineer's Hearing Officer that it did not plan to attend the hearing and would not be submitting any evidence or testimony regarding Application 60420.¹ Therefore, the hearing was cancelled and the parties were informed that any written information submitted to the State Engineer by October 4, 1995, would be considered along with any other information on file with the State Engineer in reaching a decision with regard to the protested application. No additional information was received.¹

FINDINGS OF FACT

I.

The State Engineer finds that the LVVWD was provided with ample opportunity to come forth with testimony and evidence in support of its protest to the granting of Application 60420; however, it specifically waived its opportunity to do so.¹

II.

The State Engineer finds that while Hydrologic Basin 212 on the whole is an over-appropriated ground water basin, the applicant is not requesting under Application 60420 any new water from the ground water basin.^{1,2,3}

² Hydrographic Area Summary, Division of Water Planning, official records in the Office of the State Engineer.

³ Las Vegas Valley Water Usage Report, 1994, official records in the Office of the State Engineer.

III.

Application 60420 has for its base right an existing non-revocable water right.^{1,4} The State Engineer finds that as the water right is already an existing water right, moving the point of diversion to another point within the same ground water basin will not change the total quantity of water appropriated from the basin.

IV.

The State Engineer finds no evidence was presented that Application 60420 would interfere with existing water rights or threaten to prove detrimental to the public interest.

V.

The State Engineer finds that the cost to the applicant of extending a service line to the LVVWD's existing water line, installing a water meter and connection fee would be in excess of \$25,000.⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting a permit under an application to change an existing right where:

- A. The proposed use conflicts with existing rights, or
- B. The proposed use threatens to prove detrimental to the public interest.⁷

III.

Application 60420 is complete and ready for action by the State Engineer. The base right to the application is Permit 12008, Certificate 3492, and is a valid water right in good standing.

⁴ File No. 12008, official records in the Office of the State Engineer.

⁵ Las Vegas Valley Water District Service Rules, June 1992.

⁶ NRS 533 and 534.

⁷ NRS 533.370(3).

IV.

Since Application 60420 seeks to change an existing water right its approval will not increase the quantity of water appropriated from the ground water basin, will not interfere with existing water rights nor prove detrimental to the public interest.

V.

The Applicant is requesting the State Engineer allow the change of the point of diversion and place and manner of use of a non-revocable water right.

VI.

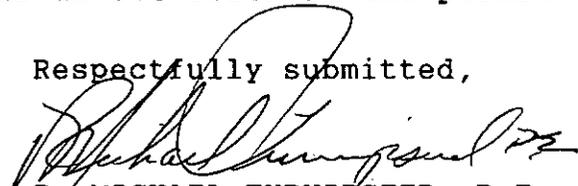
Based on the preceding facts, in this case, the cost of connecting to the LVVWD's existing line does not justify forgoing the right to request transfer of the non-revocable water right to the requested point of diversion and place of use.

RULING

The Las Vegas Valley Water District's protest to Application 60420 is hereby overruled and Application 60420 is approved subject to:

1. Payment of statutory fees;
2. Existing water rights; and
3. Terms and conditions as set forth in the permit.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJT/ab

Dated this 19th day of
October, 1995.