

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

IN THE MATTER OF APPLICATION 61147)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE LAS VEGAS ARTESIAN BASIN (212),)
CLARK COUNTY, NEVADA.)

RULING
4343

GENERAL

I.

Application 61147 was filed on April 14, 1995, by R. James Steward to appropriate 0.1 cubic feet per second (cfs) of water from an underground source for milling and domestic purposes for use within the NE¼ NW¼ Section 31, T.21S., R.61E., M.D.B.&M. The point of diversion is described as being located within the NE¼ NW¼ of said Section 31.¹

FINDINGS OF FACT

I.

The State Engineer initially described and designated a portion of the Las Vegas Artesian Basin on January 10, 1941, under the provisions of NRS Chapter 534.030, as a basin in need of additional administration.² The State Engineer subsequently extended the boundaries of the designated area of the Las Vegas Artesian Basin on February 29, 1944,³ November 22, 1946,⁴ April 18, 1961,⁵ May 25, 1964,⁶ and December 27, 1983.⁷ The State Engineer

¹File No. 61147, official records of the Office of the State Engineer.

²State Engineer's Order No. 175, dated January 10, 1941, official records of the Office of the State Engineer.

³State Engineer's Order No. 182, dated February 29, 1944, official records of the Office of the State Engineer.

⁴State Engineer's Order No. 189, dated November 22, 1946, official records of the Office of the State Engineer.

⁵State Engineer's Order No. 249, dated April 18, 1961, official records of the Office of the State Engineer.

issued Order No. 1054 on March 23, 1992, stating that, as of the date of the Order, applications filed to appropriate ground water pursuant to NRS 534.120 within the designated boundaries of the Las Vegas Artesian Basin would be denied.⁶

The State Engineer issued Amended Order no. 1054 on April 15, 1992, in which three (3) exceptions to the original Order No. 1054 were outlined. The Order states:

NOW THEREFORE, it is ordered that with the following exceptions applications filed after March 23, 1992 pursuant to NRS 534.120 within the designated Las Vegas Artesian Basin will be denied:

1. Applications filed for commercial or industrial purposes which seek to appropriate 1,800 gallons per day or less and where the property is zoned for such purpose shall be processed and subject to NRS Chapter 533 and 534.
2. Applications filed for the purpose of reinstating a permit that has been cancelled and where some use has been made of the water, will be processed according to NRS Chapter 533, but only for the uses that are existing.
3. Applicants who began the process of filing an application before March 23, 1992, may file the application which will be processed according to NRS Chapter 533. The applicant must demonstrate that the process began before March 23, 1992 by attaching a copy of a contract or agreement with a licensed water right surveyor. The application and copy of

⁶State Engineer's Order No. 275, dated May 25, 1964, official records of the Office of the State Engineer.

⁷State Engineer's Order No. 833, dated December 27, 1983, official records of the Office of the State Engineer.

⁸State Engineer's Order No. 1054, dated March 23, 1992, official records of the Office of the State Engineer.

the contract must be received in the office of the State Engineer no later than 5:00 p.m. May 1, 1992.⁹

The State Engineer finds that the proposed point of diversion under Application 61147 is within the boundaries of the designated Las Vegas Artesian Basin.

II.

Item 12 of Application 61147 notes that the applicant estimates per day usage of water under 1,800 to 2,000 gallons per day. The State Engineer finds that Application 61147 requests permission to appropriate approximately 1,800 to 2,000 gallons per day of operation based on plant operation.¹

III.

The State Engineer finds that the point of diversion under Application 61147, identified as within the NE¼ NW¼ Section 31, T.21S., R.61E., M.D.B.&M., is within the service area of the Las Vegas Valley Water District,¹⁰ and that the Las Vegas Valley Water District is able to provide water service to the place of use identified in Application 61147 by a water main located on Russell Road adjacent to the proposed place of use.^{11,12}

IV.

The State Engineer finds that Application 61147 does not meet the exceptions in Amended Order No. 1054.

⁹State Engineer's Amended Order No. 1054, dated April 15, 1992, official records of the Office of the State Engineer.

¹⁰Las Vegas Valley Water District Service Area Map, official records of the Office of the State Engineer.

¹¹Field inspection, January 10, 1996, official records of the Office of the State Engineer, File No. 61147.

¹²Letter dated March 19, 1996, from the Las Vegas Valley Water District, official records of the Office of the State Engineer, File No. 61147.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.¹³

II.

The State Engineer may deny applications to appropriate ground water in a designated basin for any purposes in areas served by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.¹⁴

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters 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.¹⁵

IV.

The State Engineer concludes that Application 61147 cannot be permitted as the application does not meet the exceptions in Amended Order No. 1054.

V.

The State Engineer concludes that Application 61147 should be denied, because water service from the Las Vegas Valley Water District is available to the proposed place of use from an existing water main.

¹³NRS Chapters 533 and 534.

¹⁴NRS 534.120, subsections 1, 2 and 3.

¹⁵NRS Chapter 533.370, subsection 3.

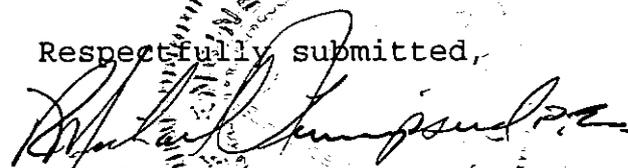
VI.

The approval of Application 61147 would conflict with existing rights and would threaten to prove detrimental to the public interest.

RULING

Application 61147 is denied on the grounds that it does not meet any of the exceptions set forth in the State Engineer's Amended Order No. 1054 and that to issue a permit for this application would conflict with existing rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/ab

Dated this 2nd day of
MAY, 1996.