

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

IN THE MATTER OF PERMIT 57254 FILED TO)
CHANGE THE POINT OF DIVERSION AND PLACE)
OF USE OF THE UNDERGROUND WATERS HERETOFORE)
APPROPRIATED WITHIN THE MASON VALLEY)
GROUNDWATER BASIN (108), LYON COUNTY, NEVADA)

RULING

4356

GENERAL

I.

Application 57254 was filed on March 2, 1992, by James T. Ammons and Susan R. Ammons to change 2.33 cubic feet per second (cfs) of the underground waters heretofore appropriated under Permit 18444, Certificate 5864, within the Mason Valley Groundwater Basin. Permit 57254 was approved on February 3, 1993, for 2.33 cfs and not to exceed 280 acre feet annually (AFA), for irrigation and domestic use on 70 acres located within the NE $\frac{1}{4}$ Section 34, T.14N., R.26E., M.D.B.&M. The point of diversion is located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 34.¹

II.

The Permittees were notified by letter dated June 26, 1995, that the State Engineer intended to reduce the quantity of water under Permit 57254 to 1.23 cfs and not to exceed 148 AFA.¹ It appeared that another party, Warren and Rheta Runnerstrom, owned a portion of the place of use under Permit 18444, Certificate 5864, the base right for Permit 57254, and Permit 57254 would be modified to reflect that portion of the base right owned by the Permittees.

Counsel for the Permittees responded to the notice with a request that the Permit not be modified because the Permittees were owners of the entire quantity of water under the base right. The State Engineer decided to set a hearing so that both parties could present evidence and testimony supporting their respective positions in this matter.

¹ File No. 57254, Official Records in the Office of the State Engineer.

On September 12, 1995, a hearing was held to consider the quantity of water that should be allowed under Permit 57254.² At the hearing, administrative notice of the records in the office of the State Engineer, specifically, File Nos. 18444 and 57254, was taken.³

FINDINGS OF FACTS

I.

The map filed in support of the proof of beneficial use under Permit 18444 shows the well was located within the SE¼ NE¼ Section 34, T.14N., R.26E., MDBM, at a point from which the E¼ corner of said Section 34 bears S.55°37'E., a distance of 185 feet. However, two witnesses testified that the well is actually located about 800 to 850 feet north of the point shown on the map.⁴ This is consistent with the observations of Division of Water Resources employees who noted during a field investigation, that the well was incorrectly located on the PBU map.⁵ Application 57254 was filed to correct this error.⁶ The State Engineer finds that the well is incorrectly shown on the PBU map and is actually located approximately 800 feet to the north. The correct location of the well is described in Permit 57254 and shown on the map supporting Permit 57254.

²Exhibit No. 1, Public Administrative Hearing before the State Engineer, September 12, 1995.

³Transcript p. 7, Public Administrative Hearing before the State Engineer, September 12, 1995.

⁴Transcript pp. 23 and 40, Public Administrative Hearing before the State Engineer, September 12, 1995.

⁵Report of Field Investigation dated April 29, 1994, File No. 57254, Official Records in the Office of the State Engineer.

⁶Transcript p. 39, Public Administrative Hearing before the State Engineer, September 12, 1995.

II.

The place of use described in Permit 18444, Certificate 5864 and shown on the PBU map, includes APN 14-381-08, a 27.46 acre parcel presently owned by the Runnerstroms.⁷ Ammons contends that this is also an error that Application 57254 was filed to correct.⁸ This parcel of land appears to have been cleared at one time but has not been irrigated for at least 32 years,⁹ while the property to the north of this parcel has been irrigated in the past and is presently being irrigated.¹⁰

The PBU map for Permit 18444 shows the well located near the SE corner of the place of use and ditches that carried water from the well to the west and north. Because the well on the map should have been located about 800 feet to the north, it stands to reason that the entire place of use should be shifted, along with the point of diversion, about 800 feet to the north. Otherwise, a system of ditches different from that shown on the map would have been necessary to deliver water to the entire place of use.

Documentation submitted at the hearing which summarizes recent activity regarding APN 14-381-08, indicates that Jackson, the predecessor to the Runnerstroms, purchased the property with the

⁷Exhibit Nos. 5 and 14, Public Administrative Hearing before the State Engineer, September 12, 1995.

⁸Transcript p. 39, Public Administrative Hearing before the State Engineer, September 12, 1995.

⁹Transcript p. 24, Public Administrative Hearing before the State Engineer, September 12, 1995.

¹⁰Exhibit No. 13, Public Administrative Hearing before the State Engineer, September 12, 1995, and Report of Field Investigation dated April 29, 1994, File No. 57254, Official Records in the Office of the State Engineer.

understanding that no water rights were appurtenant.¹¹ It was felt that all water rights had been conveyed to Ammons.¹²

After considering all the evidence and testimony, the State Engineer finds that the place of use described in Certificate 5864 and shown on the PBU map was not located correctly and should rightfully be located to the north of APN 14-381-08. The State Engineer further finds that Permit 57254 corrects the errors regarding the locations of the point of diversion and place of use.

CONCLUSIONS

I.

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

II.

The locations of the point of diversion and place of use of Permit 18444, Certificate 5864 were incorrectly described, and Application 57254, later Permit 57254, corrected these errors. There is no evidence on the record to the contrary. Once these errors were corrected, it is clear that there are no water rights appurtenant to the Runnerstrom's property, APN 14-381-08, and the Runnerstroms have no claim to these water rights. The State Engineer concludes that Permit 57254 was issued for the correct amount of 2.33 cfs, not to exceed 280 AFA for the irrigation of 70 acres on portions of APN 14-381-01, 14-381-02, and 14-381-03, owned by the Ammons'. Thus, there is no reason to modify the quantity of water allowed under Permit 57254.

¹¹Exhibit No. 10, Public Administrative Hearing before the State Engineer, September 12, 1995.

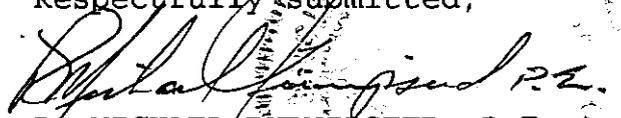
¹²Exhibit No. 9, Public Administrative Hearing before the State Engineer, September 12, 1995.

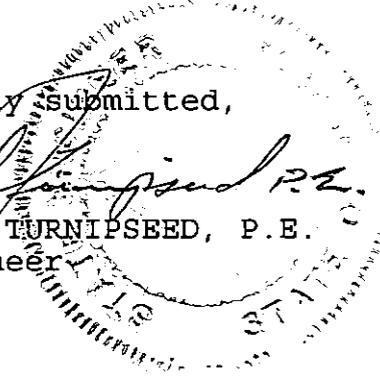
¹³ NRS 533 and 534.

RULING

The quantity of water issued under Permit 57254 shall remain 2.33 cfs, not to exceed 280 AFA, and is appurtenant to the Ammons property described above. The Runnerstroms shall have no claim to any water right under Permit 18444, Certificate 5864 or Permit 57254.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer



RMT/JCP/ab

Dated this 4th day of
June, 1996.