

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

IN THE MATTER OF APPLICATIONS 62181,)
62182 AND 62183 FILED TO APPROPRIATE)
THE UNDERGROUND WATERS IN THE ELKO)
SEGMENT GROUNDWATER BASIN, (049),)
ELKO COUNTY, NEVADA.)

RULING

4479

GENERAL

I.

Application 62181 was filed on June 3, 1996, by Elko Summit Limited to appropriate 0.35 cubic feet per second (cfs) from an underground source for quasi-municipal purposes within all of Section 25, T.34N., R.55E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 25.¹

II.

Application 62182 was filed on June 3, 1996, by Elko Summit Limited to appropriate 0.35 cfs from an underground source for quasi-municipal purposes within all of Section 25, T.34N., R.55E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 25.²

III.

Application 62183 was filed on June 3, 1996, by Elko Summit Limited to appropriate 0.35 cfs from an underground source for quasi-municipal purposes within all of Section 25, T.34N., R.55E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 25.³

¹File No. 62181, official records in the Office of the State Engineer.

²File No. 62182, official records in the Office of the State Engineer.

³File No. 62183, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer initially designated and described a portion of the Elko Segment Groundwater Basin on December 8, 1981, under the provisions of NRS 534.030 as a basin in need of additional administration.⁴ The State Engineer finds that the proposed points of diversion under these applications are within the designated area.

II.

Deputy State Engineer, Hugh Ricci, P.E., sent a letter to Elko County Planning on February 16, 1993, regarding Subdivision Review No. 6012T. The last paragraph of the letter strongly recommends that the Elko County Board of Commissioners impose restrictions that no further lots be created via the parcel map process if those lots are to be served by domestic wells. At a minimum, lots to be served by domestic wells should require the withdrawal/relinquishment of groundwater rights in good standing based upon 2.02 acre feet annually per lot created as a condition of final approval.⁵

III.

The State Engineer finds that by letter dated November 24, 1996, he was informed that on August 18, 1994, Elko Summit Limited had a map filed with the Elko County Recorder which divided Section 25, T.34N., R.55E., M.D.B.&M. into 16 large parcels as per NRS 278.471--NRS 278.4725.¹ The State Engineer finds that the same letter indicated that the land was further divided by the parcel map procedure under NRS 278.461--NRS 278.469 into a total of 64 lots.¹ The State Engineer further finds that this parceling

⁴State Engineer's Order No. 778, dated December 8, 1981, official records in the Office of the State Engineer.

⁵Notebook entitled, 1993 Subdivision Review for All Other Counties Other than Washoe, official records in the Office of the State Engineer.

process is the process most commonly used to circumvent the subdivision process over which the State Engineer has approval and denial authority.⁶

Nevada Revised Statute 534.180 allows for drilling of a well for domestic purposes since there is not a purveyor that can furnish water to these sites. NRS 534.013 defines "domestic use" as culinary and household purposes, in a single family dwelling, the watering of a family garden, lawn and the watering of domestic animals. The county by its ordinances will determine whether to allow the building of single family dwellings within the place of use.

IV.

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. The 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, groundwater levels will decline until the groundwater 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 groundwater gradients which could result in significant changes in the

⁶NRS 278.377.

recharge-discharge relationship.⁷ The State Engineer finds that the combined perennial yield of the Elko Segment and Marys Creek Area Groundwater Basins is 13,000 acre-feet annually.⁸

V.

The State Engineer finds that existing certificated and permitted groundwater rights in the Elko Segment Groundwater Basin exceed 26,000 acre-feet annually.⁹ The State Engineer further finds that the potential exists for groundwater pumpage, and the resulting groundwater level declines, to have an impairment of the flow of the Humboldt River, a decreed and fully appropriated River as well as other groundwater users in this basin.¹⁰

VI.

The State Engineer finds that the creation of the lots within the place of use of Applications 62181, 62182 and 62183, occurred subsequently to the State Engineer's recommendation of no further parcel division. The creation of these parcels places a greater burden on the groundwater resources of the Elko Segment Groundwater Basin.

⁷State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, October 1971.

⁸State Engineer's Office, Hydrologic Reconnaissance of the Humboldt River Basin, Nevada, Nevada Department of Conservation and Natural Resources, Water Resources Bulletin No. 32.

⁹Hydrographic Basin Abstract, Basin 049, official records in the Office of the State Engineer.

¹⁰In the Matter of the Determination of the Relative Rights of the Waters of the Humboldt River Stream System and Tributaries, Case No. 2804, Sixth Judicial District Court of Nevada, In and for the County of Humboldt, 1923-1938.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit where:¹²

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 existing groundwater rights exceed the estimates of perennial yield in the Elko Segment Groundwater Basin and that to approve an additional appropriation under Applications 62181, 62182 and 62183 from the limited groundwater reservoir would adversely affect existing rights and be detrimental to the public interest.

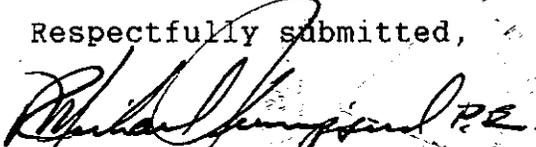
¹¹NRS Chapters 533 and 534.

¹²NRS 533.370(3).

RULING

Applications 62181, 62182 and 62183 are hereby denied on the grounds that granting of the applications would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MJR/ab

Dated this 17th day of
December 1996.