

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

IN THE MATTER OF APPLICATIONS 53929)
AND 54516 FILED TO CHANGE THE POINT)
OF DIVERSION, THE PLACE AND MANNER)
OF USE OF THE WATERS OF AN UNDERGROUND)
SOURCE HERETOFORE APPROPRIATED UNDER)
PERMIT 50584, WITHIN THE LONG VALLEY)
GROUNDWATER BASIN (100A), WASHOE COUNTY,)
NEVADA.)

RULING

4673

GENERAL

I.

Application 53929 was filed on October 11, 1989, by the Northern Nevada Land Company to change the point of diversion, the place and manner of use of 0.5 cubic feet per second (cfs), that being a portion of the underground water heretofore appropriated under Permit 50584. The proposed manner and place of use is for municipal purposes within Sections 9, 15, 16, 17, 18, 19, 20, 21 and 22, all within T.21N., R.18E., M.D.B. & M. The existing manner and place of use was for mining, milling and domestic purposes within the SW $\frac{1}{4}$ of Section 29, the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30, the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 31 and the NW $\frac{1}{4}$ of Section 32, all within T.22N., R.18E., M.D.B. & M. The proposed point of diversion is described as being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.21N., R.18E., M.D.B. & M. The existing point of diversion is described as being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T.22N., R.18E., M.D.B. & M.¹

II.

Application 54516 was filed on March 8, 1990, by the Northern Nevada Land Company to change the point of diversion, the place and manner of use of 0.5 cfs of water, that being a portion of the underground water heretofore appropriated under Permit 50584. The existing point of diversion, manner and place of use, as well as the proposed manner and place of use are identical to those described under Application 53929. The proposed point of diversion

¹ File No. 53929, official records in the office of the State Engineer.

is described as being within the SE¼ SE¼ of Section 30, T.21N., R.18E., M.D.B.&M.²

FINDINGS OF FACT

I.

Applications 53929 and 54516 seek to change the manner of use of Permit 50584 which was filed to provide underground water for a precious metals mining and milling project. The permit was issued with the understanding that the appropriation of water for mining and milling purposes was, by its nature, a temporary appropriation of water which would terminate with the cessation of the mining and milling operations. A permit term in Permit 50584 reflects this understanding, as follows:

The manner of use of water under this permit is by nature of its activity a temporary use and any application to change the manner of use granted under this permit will be subject to additional determination and evaluation with respect to the permanent effects on existing rights and the resource within the ground water basin.³

Given the above permit term, the State Engineer finds that Applications 53929 and 54516 must be reviewed to determine their potential effects on existing water rights and to determine the availability of water for appropriation in the Long Valley Groundwater Basin. The State Engineer further finds that the temporary nature of this mining and milling permit makes it unsuitable for changes to a permanent manner of use such as municipal use.

II.

The magnitude of the Long Valley Groundwater Basin's groundwater resource can be determined by an evaluation of the groundwater basin's recharge and discharge components. Sources of

² File No. 54516, official records in the office of the State Engineer.

³ File No. 50584, official records in the office of the State Engineer.

groundwater recharge which contribute to the amount of groundwater which is available for appropriation consist of precipitation, subsurface inflow of groundwater from adjacent basins, infiltration of water from surface sources and return flows generated from man-developed activities. Under developed conditions, groundwater discharges from the Long Valley Groundwater Basin by evaporation, transpiration, and pumpage from domestic and permitted wells. Currently an imbalance exists between the perennial yield of the Long Valley Groundwater Basin and its committed groundwater resource.

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. 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 uneconomic pumping lifts, land subsidence and possible reversal of groundwater gradients which could result in significant changes in the recharge-discharge relationship.⁴ Information found within the records of the office of the State Engineer suggest that the perennial yield of the Long Valley Groundwater Basin is approximately 500 to 900 acre-feet.⁵ The committed groundwater resource in the form of permits and certificates issued by the State Engineer's office to appropriate underground water from the

⁴ State Engineer's Office, Water for Nevada, State of Nevada Planning Report No. 3, p. 13, Oct. 1971.

⁵ Washoe County Regional Resource Plan, Final Report, July 1990, Regional Water Planning and Advisory Board, Section 3, p. 43.

Long Valley Groundwater Basin currently exceeds 1,874.0 acre-feet annually.⁶ The State Engineer finds that the current committed groundwater resource of the Long Valley Groundwater Basin exceeds the estimated perennial yield of the groundwater basin.

III.

Permit 50584 was issued with the understanding that the appropriation of water would conclude with the cessation of the mining and milling operation. Applications 53929 and 54516 request a change in the manner of use which existed under the base right permits to municipal use which is by its nature a permanent use. The State Engineer finds that the change of use proposed by Applications 53929 and 54516 would replace a temporary appropriation of water with a permanent appropriation and would adversely contribute to the imbalance which currently exists between the committed groundwater resource and the perennial yield of the groundwater basin.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting a permit under an application to change the public waters where:⁸

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

⁶ Special Hydrologic basin Abstract, Water Rights Database, October 13, 1998, official records in the office of the State Engineer.

⁷ NRS § Chapters 533 and 534.

⁸ NRS § 533.370(3).

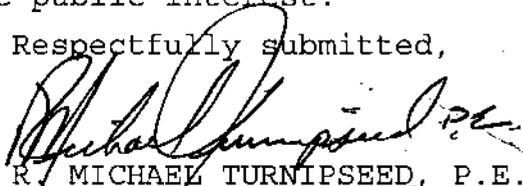
III.

The appropriation of water under Permit 50584 was for mining and milling purposes which is by the nature of its activities a temporary use. Applications 53929 and 54516 propose to change this manner of use to municipal use. The State Engineer concludes that the proposed change would replace a temporary use with a permanent use and would as such represent an additional appropriation of underground water within a groundwater basin where the committed groundwater resource exceeds the groundwater basin's perennial yield. The State Engineer further concludes that to approve such applications would adversely affect existing rights and be detrimental to the public interest.

RULING

Applications 53929 and 54516 are hereby denied on the grounds that the granting thereof would adversely affect existing rights and be detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 28th day of
October, 1998.