

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

IN THE MATTER OF APPLICATIONS)
52180, 52181, 52182 AND 54632 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF)
AN UNDERGROUND SOURCE WITHIN THE)
FERNLEY AREA GROUNDWATER BASIN)
(076), LYON COUNTY, NEVADA.)

RULING

4858

GENERAL

I.

Application 52180 was filed on June 2, 1988, by the James Lin to appropriate 0.25 cubic foot per second (cfs) of water from an underground source for industrial purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T.20 N., R.24 E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23. Information contained within the remarks section of the application indicates that the estimated annual use of water would be 4,680,000 gallons.¹

II.

Application 52181 was filed on June 2, 1988, by James Lin to appropriate 0.5 cfs of water from an underground source for industrial purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T.20 N., R.24 E., M.D.B.&M. The proposed point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23. Information contained within the remarks section indicates that the estimated annual use of water would be 7,800,000 gallons.²

III.

Application 52182 was filed on June 2, 1988, by James Lin to appropriate 0.5 cfs of water from an underground source for industrial purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T.20 N., R.24 E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23. Information

¹ File No. 52180, official records in the office of the State Engineer.

contained within the remarks section of the application indicates that the estimated annual use of water would be 6,240,000 gallons.³

IV.

Application 54632 was filed on April 4, 1990, by James Lin to appropriate 0.25 cfs of water from an underground source for industrial purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T. 20 N., R. 24 E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23. Information contained within the remarks section of the application indicates that the annual use of water would be 1,560,000 gallons.⁴

V.

Applications 52180, 52181 and 52182 were timely protested by the Truckee Carson Irrigation District on the following grounds.^{1, 2, 3}

The Fernley Area Ground Water Basin has been designated by the State Engineer indicating that the basin has been fully appropriated. Additional applications, if [sic] granted, will tend to impair existing prior rights.

VI.

Application 54632 was timely protested by Fernley Town Utilities on the following grounds.⁴

The applicants business is located within the boundaries of the Fernley Town Utility District. As a dedicated/preferred use water basin, industrial/commercial uses should be served by the existing utility. Water service will be available from the utilities new 2.5 MG tank if applicant extends line. Since this industry deals with vast amounts of hay, fire protection hydrants need to be addressed.

² File No. 52181, official records in the office of the State Engineer.

³ File No. 52182, official records in the office of the State Engineer.

⁴ File No. 54632, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

By State Engineer's Order Number 699, issued on December 30, 1977, the State Engineer described and designated the Fernley Area Groundwater Basin as a groundwater basin in need of additional administration under the provisions of NRS Chapter 534.⁵ The State Engineer finds that all of the subject points of diversion and places of use are located within the designated Fernley Area Groundwater Basin.

II.

All of the respective points of diversion and places of use described under the subject applications are located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T. 20 N., R. 24 E., M.D.B.&M.^{1,2,3,4} The State Engineer finds that the close proximity of these places of use to one another allows them to be considered as a common generalized area when determining their relationship to utility service areas and the feasibility of providing municipal water service to the subject properties.

III.

By letter dated January 28, 1993, Fernley Utilities was requested to provide information to the office of the State Engineer regarding the location of the proposed place of use to the utility district boundaries and the feasibility of providing municipal water service to the applicant's property. A response was received from the manager of the utility district which indicated that the proposed place of use was within their service boundary. The office of the State Engineer was also informed that the municipal water line was approximately 4,000 feet from the property and that the cost of extending the line to this location would be \$140,000.⁴ Because there was no estimated date for water service to this site, the protestant was requested by the office

⁵ State Engineer's Order 699, official records in the office of the State Engineer.

of the State Engineer to reconsider its protest to the granting of the Application 54632. This request was subsequently declined by the protestant by correspondence dated June 12, 1993.

A second letter was sent to Fernley Utilities on May 17, 1999, that requested an update of the previous information supplied to the State Engineer.⁴ The Fernley Town Utility District's response indicated that the municipal water line would be extended to the frontage of the applicant's property by the summer of 1999 and that the hook up cost would be approximately \$10,000.⁴ The State Engineer finds that the proposed points of diversion and places of use described under the subject applications are within the service area of the Fernley Town Utilities District and can be serviced through the district's municipal water distribution system.

IV.

Fernley Town Utilities maintains a service area that includes the proposed points of diversion and places of use described under the subject applications. Under the provisions of NRS § 534.120(3) (b), the State Engineer may deny applications to appropriate underground water for any purpose in areas where water can be furnished by an entity such as a water district or a municipal water company. The State Engineer finds that the statutory guidelines established under NRS § 534.120(3)(b) can be applied to the evaluation of Applications 52180, 52181, 52182 and 54632 for approval or denial.

V.

The perennial yield of a hydrologic system is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. If the perennial yield is continually exceeded, groundwater levels will decline until the groundwater reservoir is depleted of water of a usable quality or until the pumping lifts become uneconomical to maintain. Perennial yield cannot exceed the natural replenishment

to an area indefinitely, and is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use.

Withdrawals of groundwater 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 recharge-discharge relationship.⁶ The United States Geological Survey estimates that the perennial yield of the Fernley Area Groundwater Basin is 600 acre-feet annually, excluding any recharge obtained from secondary surface water irrigation.⁷ The committed resource of the Fernley Area Groundwater Basin in the form of permits and certificates issued by the State Engineer to appropriate underground water currently exceeds 11,698 acre-feet of water.⁸ The State Engineer finds that the committed groundwater resource of the Fernley Area Groundwater Basin exceeds the estimate of its perennial yield.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁹

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:¹⁰

⁶ State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, pg. 13, Oct. 1971.

⁷ Nowlin, Jon A. Water Quality for Nevada, A Proposed Water Monitoring Program, USGS Open file Report #78-768, pp. 193, 1986; Van Denburgh, A.S., Lamke, R.D., and Hughes, J.L., A Brief Water-Resources Appraisal of the Truckee River Basin, Western Nevada, Water Resources-Reconnaissance Series Report 57, USGS and State of Nevada Department of Conservation and Natural Resources, Division of Water Resources, p. 39 (1973).

⁸ Hydrographic Basin Abstract, January 3, 2000, official records in the office of the State Engineer.

⁹ NRS Chapters 533 and 534.

¹⁰ NRS 533.370(3).

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

Applications 52180, 52181, 52182 and 54632 request new appropriations of underground water from within the service area of an established water district. Information provided by this entity indicates that municipal water service can be extended to the applicant's subject properties for a reasonable amount of money. The State Engineer concludes that the subject applications must be denied under the statutory guidelines set forth under NRS § 534.120(3)(b).

IV.

Applications 52180, 52181, 52182 and 54632, if approved, would allow an additional 20,280,000 gallons of water to be appropriated from the Fernley Area Groundwater Basin. The State Engineer concludes that the approval of additional appropriations of underground water from a groundwater basin whose perennial yield is exceeded by its estimated committed groundwater resource would conflict with existing water rights and would threaten to prove detrimental to the public interest.

RULING

The Fernley Town Utilities' and the Truckee Carson Irrigation District's respective protests to Applications 52180, 52181, 52182 and 54632 are hereby upheld and Applications 52180, 52181, 52182 and 54632 are denied on the grounds that their approval 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/MDB/cl

Dated this 18th day of
February, 2000.