

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

IN THE MATTER OF APPLICATION 68433)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNDERGROUND SOURCE)
WITHIN THE PAHRUMP VALLEY ARTESIAN)
BASIN (162), NYE COUNTY, NEVADA.)

RULING

5147

GENERAL

I.

Application 68433 was filed on January 28, 2002, by Paul D. and Alice M. Kitzman to appropriate 0.0046 cubic feet per second (cfs) of water from an underground source within the Pahrump Valley Artesian Basin, Nye County Nevada. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, T.19S., R.53E., M.D.B.&M. The application was filed for quasi-municipal and domestic purposes to provide 2.02 acre-feet annually (afa) of additional water to the 3.00 afa of water provided from Permit 61583, a total of 5.02 afa to serve 5 single wide mobile homes and 1 stick built house within a portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, T.19S., R.53E., M.D.B.&M.¹

II.

By State Engineer's Order No. 176, dated March 11, 1941; Order No. 193, dated January 15, 1948; Order No. 205, dated January 23, 1953; Order No. 955, dated October 26, 1987; and Order No. 1107, dated November 8, 1994, the State Engineer designated the Pahrump Valley Artesian Basin under the provisions of NRS § 534.030.² Pursuant to State Engineer's Order No. 955, the State Engineer ordered that all applications filed to appropriate water from the Pahrump Valley Artesian Basin on the east side of the basin on the Pahrump and Manse Fans would be denied; and all

¹ File No. 68443, official records in the Office of the State Engineer.

² Official records in the Office of the State Engineer.

applications for uses except small commercial uses on the valley floor would be denied. Pursuant to State Engineer's Order No. 1107, the State Engineer ordered that with two exceptions, applications filed to appropriate water from the groundwater source pursuant to NRS § 534.120 within the designated Pahrump Valley Artesian Basin will be denied. The exceptions are: (1) those applications filed for commercial (non-living units) or industrial purposes off the fan and only those applications which seek to appropriate 1,800 gallons per day or less and where the property is zoned for such purposes, and (2) those applications filed for environmental permits pursuant to NRS § 533.437.

FINDINGS OF FACT

I.

Application 68433 has its point of diversion located within the area described as the Pahrump Valley Artesian Basin.¹

II.

By State Engineer's Order No. 955, the State Engineer declared that all applications filed to appropriate ground water from the Pahrump Valley Artesian Basin for quasi-municipal purposes would be denied.

By State Engineer's Order No. 1107, the State Engineer further restricted applications filed to appropriate ground water from the Pahrump Valley Artesian Basin to those applications filed for commercial (non-living units) or industrial purposes off the fan and only (1) those applications which seek to appropriate 1,800 gallons per day or less and where the property is zoned for such purposes, and (2) applications filed for environmental permits pursuant to NRS § 533.437.

III.

The State Engineer had denied several applications to appropriate ground water for quasi-municipal purposes within the Pahrump Valley Artesian Basin on the grounds that the granting of

a permit would conflict with existing rights and would threaten to prove detrimental to the public interest³

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁵

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes he must deny all applications to appropriate ground water within the Pahrump Valley Artesian Basin for all manners of use except small commercial (non-living units) or industrial uses off the fan and only those applications which seek to appropriate 1,800 gallons per day or less, or those filed for environmental remediation.

IV.

The State Engineer concludes that Application 68433 was filed to appropriate water for a use that does not comply with the provisions of the State Engineer's Order Nos. 955 and 1107.

³ See, State Engineer's Ruling Nos. 1854, 1897, 1919, 2836, 3216, 3248, 3462, 3486, 3496, 3505, 3607, 3636, 3680, 3758 and 4936, official records in the Office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

V.

The State Engineer concludes that previous applications for quasi-municipal and domestic purposes have been denied because their approval would conflict with existing rights and threaten to prove detrimental to the public interest.

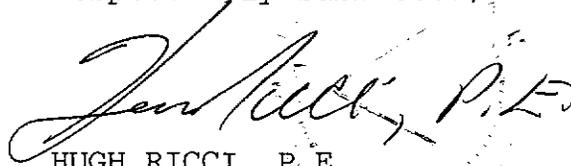
VI.

The State Engineer concludes that the approval of Application 68433 would similarly conflict with existing rights and threaten to prove detrimental to the public interest.

RULING

Application 68433 is hereby denied on the grounds that it would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/CB/jm

Dated this 9th day of
September, 2002.