

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

IN THE MATTER OF APPLICATIONS )  
73380 AND 73381 FILED TO )  
APPROPRIATE THE PUBLIC WATERS OF )  
AN UNDERGROUND SOURCE WITHIN THE )  
HUALAPAI FLAT HYDROGRAPHIC BASIN )  
(24), PERSHING COUNTY, NEVADA. )

RULING  
**# 5709**

GENERAL

I.

Application 73380 was filed on October 24, 2005, by Granite Investment Group, LLC to appropriate 3.12 cubic feet per second (cfs) of underground water from the Hualapai Flat Hydrographic Basin. The proposed manner and place of use is for irrigation purposes within the SE¼ of Section 19, S½ SW¼ of Section 30, T.35N., R.24E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SW¼ of said Section 19.<sup>1</sup>

II.

Application 73381 was filed on October 24, 2005, by Granite Investment Group, LLC to appropriate 3.12 cfs of underground water from the Hualapai Flat Hydrographic Basin. The proposed manner and place of use is for irrigation purposes within the E½ of Section 7, NW¼ NW¼, SE¼ SW¼ of Section 8, T.35N., R.24E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of said Section 7.<sup>2</sup>

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<sup>1</sup> File No. 73380, official records in the Office of the State Engineer.

<sup>2</sup> File No. 73381, official records in the Office of the State Engineer.

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute (NRS) § 534.120 provides that within an area that has been designated by the State Engineer where, in his judgment, the groundwater basin is being depleted, the State Engineer in his administrative capacity is empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved. The application of this provision of the NRS to the Hualapai Flat Hydrographic Basin is evidenced in State Engineer's Order No. 1172, dated August 29, 2003. This order described and designated the Hualapai Flat Hydrographic Basin as a groundwater basin in need of additional administration and placed further restrictions relating to the appropriation of underground water from the basin. State Engineer's Order No. 1172 gave notice that no further appropriations would be approved for irrigation purposes.

The State Engineer finds that no new appropriations of underground water for irrigation purposes can be considered from the Hualapai Flat Hydrographic Basin.

**II.**

All water right applications, which are filed to appropriate additional underground water from the Hualapai Flat Hydrographic Basin, are subjected to a simple analysis, which identifies the location of their proposed point of diversion within the basin.

The State Engineer finds that if it is determined that the proposed points of diversion described under Applications 73380 and 73381 falls within the boundaries of the Hualapai Flat Hydrographic Basin, its request for additional underground water for irrigation purposes must be denied.

### III.

The boundary of the Hualapai Flat Hydrographic Basin is defined under State Engineer's Order No. 1172. The description of the proposed points of diversion found on Applications 73380 and 73381 and their supporting maps was used to determine their location in relation to the Hualapai Flat Hydrographic Basin. The locations were found to be well within the area representing the Hualapai Flat Hydrographic Basin.

The State Engineer finds that the proposed points of diversion described on Applications 73380 and 73381 are located within the Hualapai Flat Hydrographic Basin, which necessitates their denial as required under State Engineer's Order No. 1172.

### IV.

An examination of the records of the Office of the State Engineer identified several water right applications, which requested new appropriations of underground water for irrigation purposes, which have been denied due to their proposed points of diversion being located within the Hualapai Flat Hydrographic Basin.<sup>3</sup> These applications were denied on the grounds that their approval would conflict with existing rights and be detrimental to the public interest.

The State Engineer finds that previous water right applications to appropriate underground water for irrigation purposes from the Hualapai Flat Hydrographic Basin have been denied.

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<sup>3</sup> See State Engineer's Ruling Nos. 997, 998 and 2313, official records in the Office of the State Engineer.

V.

The State Engineer is authorized to deny a water right application prior to publication in the appropriate newspaper, in those instances where a previous application for a similar manner of use within the same groundwater basin has been rejected.<sup>4</sup>

The State Engineer finds that this provision of the Nevada Revised Statutes can be applied to Applications 73380 and 73381; therefore, their consideration for denial can proceed without the necessity of the statutory publication period.

VI.

The filing of a water right application, which requests a new appropriation of water, requires the payment of a \$250.00 application fee. Should an application be denied prior to publication, the unused publication fee of \$50.00 is remitted to the party who paid the application filing fee. The State Engineer finds that if Applications 73380 and 73381 are denied prior to publication, a portion of the original application filing fee, represented by the \$50.00 publication fee each, will be remitted.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>5</sup>

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>4</sup>

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<sup>4</sup> NRS 533.370(5).

<sup>5</sup> NRS chapters 533 and 534.

- 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.**

Water right applications that request new appropriations of underground water for irrigation purposes from the Hualapai Flat Hydrographic Basin are to be denied in accordance with State Engineer's Order No. 1172. The State Engineer concludes that to approve Applications 73380 and 73381 would violate the provisions of State Engineer's Order No. 1172 and would threaten to prove detrimental to the public interest.

**RULING**

Applications 73380 and 73381 are hereby denied on the grounds that their approval would violate State Engineer's Order No. 1172 and would threaten to prove detrimental to the public interest. This denial is made prior to the statutory publication period; therefore, the \$50.00 publication fee for each application will be remitted to the party who submitted the original application fee.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 26th day of  
January, 2007.