

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

IN THE MATTER OF APPLICATIONS )  
74206 AND 74207 FILED TO )  
APPROPRIATE THE PUBLIC WATERS )  
OF AN UNDERGROUND SOURCE )  
WITHIN THE CHURCHILL VALLEY )  
HYDROGRAPHIC BASIN (102), )  
LYON COUNTY, NEVADA. )

RULING

**#5867**

GENERAL

I.

Applications 74206 and 74207 were filed on April 17, 2006, by James E. McKay to appropriate 2.0 cubic feet per second and not to exceed 2,240 acre-feet annually under each application for a total of 4.0 cubic feet per second and 4,480 acre-feet annually of underground water from the Churchill Valley Hydrographic Basin for mining and milling purposes within a proposed place of use that is described as being located within the S½ of Section 3, T.18N., R.24E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of said Section 3.<sup>1</sup>

The remarks sections of the subject applications state that the water requested for appropriation is to be used for operation of an open pit gold mining and milling operation with water requirements not expected to exceed 2,240 acre-feet annually.<sup>1</sup>

II.

The applications were timely protested by Churchill County on many grounds including that the ground-water basin is over-appropriated.<sup>1</sup>

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<sup>1</sup> File Nos. 74206 and 74207, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer described and designated the Churchill Valley Hydrographic Basin on August 23, 1977, under the provisions of NRS § 534.030 as a basin in need of additional administration.

II.

The perennial yield of a ground-water reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded ground-water levels will decline.

Withdrawals of ground water in excess of the perennial yield may contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increase in cost due to pumping lifts, land subsidence and possible reversal of ground-water gradients, which could result in significant changes in the recharge-discharge relationship.<sup>2</sup>

The committed ground-water resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Churchill Valley Hydrographic Basin currently exceeds 9,473 acre-feet annually.<sup>3</sup>

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<sup>2</sup> Office of the State Engineer, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

<sup>3</sup> Nevada Division of Water Resources Water Rights Database, Hydrographic Basin Summary, Churchill Valley, April 22, 2008, official records in the Office of the State Engineer.

The United States Geological Survey estimates that the perennial yield of the Churchill Valley Hydrographic Basin is approximately 1,600 acre-feet annually.<sup>4</sup>

The State Engineer finds that the estimates of the Churchill Valley Hydrographic Basin's perennial yield are exceeded by the basin's committed ground-water resource.

### III.

The State Engineer has denied applications that requested a permanent appropriation of underground water for mining, milling, domestic and dewatering purposes within the Churchill Valley Hydrographic Basin in 1996. This denial was based on the grounds that withdrawals of additional ground water in a basin in which appropriations of ground water substantially exceed the perennial yield of the basin would adversely affect existing rights and be detrimental to the public interest.<sup>5</sup> The State Engineer finds that Applications 74206 and 74207 were filed to appropriate underground water for a similar use and in the same hydrographic basin as applications that had been previously denied.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>6</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>7</sup>

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<sup>4</sup> Glancy, P.A., Katzer, T.L., Water-Resources Appraisal of the Carson River Basin, Western Nevada, Water Resources Reconnaissance Series Report 59, U.S. Geological Survey and State of Nevada, Department of Conservation & Natural Resources, Division of Water Resources, pp. 47-48 (1975).

<sup>5</sup> See, State Engineer's Ruling No. 4329 for Applications 58998 through 59005, inclusive, official records in the Office of the State Engineer.

<sup>6</sup> NRS chapters 533 and 534.

<sup>7</sup> NRS § 533.370(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 that to grant permits under Applications 74206 and 74207 in a ground-water basin where the quantity of water under existing appropriations exceeds the basin's perennial yield would conflict with existing rights and be detrimental to the public interest.

RULING

Applications 74206 and 74207 are hereby denied on the grounds that granting these applications would conflict with existing rights and threaten to be detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/KG/jm

Dated this 27th day of  
June, 2008.