

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

IN THE MATTER OF APPLICATIONS 74147,)
74148, 74149, AND 74150 FILED TO)
APPROPRIATE THE UNDERGROUND)
WATERS OF THE KANE SPRINGS VALLEY)
HYDROGRAPHIC BASIN (206), LINCOLN)
COUNTY, NEVADA.)

RULING
5987

GENERAL

I.

Application 74147 was filed on April 10, 2006, by the Lincoln County Water District and Vidler Water Company, Inc., to appropriate 6.0 cubic feet per second (cfs) of water from an underground source within the Kane Springs Valley Hydrographic Basin for municipal purposes within the Coyote Spring Valley Hydrographic Basin more specifically described as portions of T.8S., R.62E., T.8S., R.63E., T.8S., R.64E., T.9S., R.61E., T.9S., R.62E., T.9S., T.63E., T.9S., R.64E., T.10S., R.61E., all of T.10S., R.62E., portions of T.10S., R.63E., T.10S., R.64E., T.11S., R.61E., all of T.11S., R.62E., portions of T.11S., R.63E., T.11S., R.64E., T.12S., R.61E., all of T.12S., R.62E., all of T.12S., R.63E., portions of T.12S., R.64E., T.12.5S., R.61E., T.12.5S., R.62E., T.13S., R.61E., all of T.13S., R.62E., portions of T.13S., R.63E., T.13S., R.64E., T.13.5S., R.63E., T.14S. R.61E., all of T.14S., R.62E., portions of T.14S., R.63E., T.15S., R.61E., T.15S., R.62E., T.15S., R.63E., T.16S., R.62E., M.D.B.&M. The proposed point of diversion is described as being located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.8S., R.65E., M.D.B.&M.¹

II.

Application 74148 was filed on April 10, 2006, by the Lincoln County Water District and Vidler Water Company, Inc., to appropriate 6.0 cfs of water from an underground source within the Kane Springs Valley Hydrographic Basin for municipal purposes within Coyote Spring Valley Hydrographic Basin as more specifically described above. The proposed point of diversion is described as being located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T.9S., R.65E., M.D.B.&M.²

¹ File No. 74147, official records in the Office of the State Engineer.

² File No. 74148, official records in the Office of the State Engineer.

III.

Application 74149 was filed on April 10, 2006, by the Lincoln County Water District and Vidler Water Company, Inc., to appropriate 6.0 cfs of water from an underground source within the Kane Springs Valley Hydrographic Basin for municipal purposes within Coyote Spring Valley Hydrographic Basin as more specifically described in Section I of this ruling. The proposed point of diversion is described as being located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T.11S., R.64E., M.D.B.&M.³

IV.

Application 74150 was filed on April 10, 2006, by Lincoln County Water District and Vidler Water Company, Inc., to appropriate 6.0 cfs of water from an underground source within the Kane Springs Valley Hydrographic Basin for municipal purposes within Coyote Spring Valley Hydrographic Basin more specifically as described in Section I of this ruling. The proposed point of diversion is described as being located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, T.9S., R.65E., M.D.B.&M.⁴

V.

Applications 74147, 74148, 74149 and 74150 were timely protested by the United States Department of Interior, Bureau of Indian Affairs, the Moapa Band of Paiute Indians and the United States Department of Interior, National Park Service on various grounds as summarized below.^{1,2,3,4}

The Bureau of Indians Affairs alleges that the proposed diversions will impact the water rights of the Moapa Band of Paiute Indians and other state-based water rights, there is no unappropriated water in the Kane Springs Valley Hydrographic Basin and the proposed applications could adversely affect the implementation and success of a Memorandum of Agreement with the United States Fish and Wildlife Service, Coyote Springs Investment, LLC, the Moapa Valley Water District and the Southern Nevada Water Authority designed to protect the Muddy River Springs environment and other regional water resources.

The Moapa Band of Paiute Indians protested the applications on the grounds that there is no unappropriated water in the source of supply, the proposed withdrawals would conflict with

³ File No. 74149, official records in the Office of the State Engineer.

⁴ File No. 74150, official records in the Office of the State Engineer.

existing rights, especially those of the Tribe, the proposed withdrawals would threaten to prove detrimental to the public interest, the proposed withdrawals would be inconsistent and subvert the Applicants' Stipulation to limit ground-water withdrawals under Permits 72218 through 72221, the proposed withdrawals would undermine the efficacy of the critically important Memorandum of Understanding recently entered into by the United States Fish and Wildlife Service, the Southern Nevada Water Authority, Coyote Springs Investment, LLC, the Moapa Valley Water District and the Tribe to maintain Muddy Springs flows to protect the endangered Moapa Dace.

The National Park Service protested the applications on the grounds that there is no water available for appropriation because the committed water resources exceed the ground-water recharge, the approval and development of the proposed appropriations will impair the water rights of the United States and the public interest would not be served by diminishing or impairing the water-related resources in the Lake Mead National Recreation Area.

FINDINGS OF FACT

I.

In State Engineer's Ruling No. 5712, dated February 2, 2007, the State Engineer addressed applications filed by these same Applicants to appropriate ground water from the Kane Springs Valley Hydrographic Basin.⁵ In that ruling, the State Engineer addressed the Applicants' argument regarding ground water availability in the Kane Springs Valley Hydrographic Basin and rejected the Applicants' argument and evidence for the appropriation of ground water above the quantity granted in that ruling. The State Engineer finds that with the issuance of State Engineer's Ruling No. 5712, there is no additional water available for appropriation in the Kane Springs Valley Hydrographic Basin.

CONCLUSIONS

I.

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

⁵ State Engineer's Ruling No. 5712, dated February 2, 2007, official records in the Office of the State Engineer.

⁶ NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:⁷

- 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.

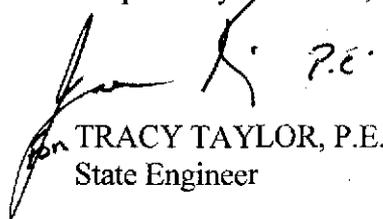
III.

The State Engineer concludes that there is no additional ground water available for appropriation in the Kane Springs Valley Hydrographic Basin; therefore, the granting of any appropriation under Applications 74147, 74148, 74149 or 74150 would conflict with existing rights and thus threaten to prove detrimental to the public interest.

RULING

Applications 74147, 74148, 74149 and 74150 are hereby denied on the grounds there is no unappropriated water in the source and to grant additional water rights would conflict with existing rights and threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT /jm

Dated this 29th day of
April, 2009.

⁷ NRS 533.370(5).