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

IN THE MATTER OF APPLICATION 80082)
FILED TO CHANGE THE POINT OF DIVERSION,)
PLACE OF USE AND MANNER OF USE OF A)
PORTION OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE, WITHIN THE)
SPANISH SPRINGS VALLEY HYDROGRAPHIC)
BASIN (85), WASHOE COUNTY, NEVADA.)

RULING

#6186

GENERAL

I.

Application 80082 was filed on August 6, 2010, by L. David Kiley and David A. Kiley to change the point of diversion, place of use and manner of use of a portion of underground water previously appropriated under Permit 12553, Certificate 3331 amounting to 0.007 cubic feet per second (cfs) and not to exceed 2.81 acre-feet annually (afa) for municipal purposes.[1] The proposed place of use is described as being the Truckee Meadows Water Authority's service area within the Spanish Springs Valley Hydrographic Basin and is shown on the map filed in support of Application 57688 in the State Engineer's office. The existing place of use is described as being located within the NW¼ NE¼ of Section 15, T.20N., R.20E., M.D.B.&M. The proposed point of diversion is described as being located within the Lot 4 of Section 7, T.20N., R.21E., M.D.B.&M. The existing point of diversion is described as being located within the NW¼ NE¼ of Section 15, T.20N., R.20E., M.D.B.&M.

FINDINGS OF FACT

I.

By State Engineer's Order No. 533, issued March 10, 1975, the State Engineer designated and described the Spanish Springs Valley Hydrographic Basin as a groundwater basin in need of additional administration. The State Engineer finds that the point of diversion described under Application 80082 is located within the hydrologic boundaries of the designated Spanish Springs Valley Hydrographic Basin.

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[1] File No. 80082, official records in the Office of the State Engineer.

II.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater 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. The perennial yield cannot be more than the natural recharge to a groundwater basin and in some cases is less. If the perennial yield is exceeded, groundwater levels will decline and steady-state conditions will not be achieved, a situation commonly referred to as groundwater mining. Additionally, withdrawals of groundwater in excess of the perennial yield may contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, and land subsidence.[2]

III.

The results of the hydrologic study specific to the Spanish Springs Hydrographic Basin are found within Water Resources-Reconnaissance Series Report No. 57, "A Brief Water Resources Appraisal of the Spanish Springs Valley Basin, Western Nevada." This study provides a quantitative analysis of the groundwater basin's recharge-discharge commitments and estimate that the potential annual recharge to the Spanish Springs Valley Hydrographic Basin from precipitation is 600 afa with additional 400 acre-feet contributed by the groundwater inflow from adjacent groundwater basins.[3] The State Engineer finds that the perennial yield of the Spanish Springs Valley Hydrographic Basin is approximately 1,000 afa.

IV.

The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Spanish Springs Valley Hydrographic Basin is approximately 7,384 afa. The State Engineer finds that the committed groundwater resource of the Spanish Springs Hydrographic Basin exceeds the groundwater basin's perennial yield.

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[2] Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3,* p. 13, Oct. 1971.

[3] A.S. Van Denburgh, R.D. Lamke, and J.L. Hughes, *A Brief Water - Resources Appraisal of the Truckee River Basin, Western Nevada*, Water Resources – Reconnaissance Series Report 57, (Department of Conservation and Natural Resources, Division of Water Resources and United States Geological Survey), p. 35, 1973.

V.

The Applicant has filed a change application for water considered an ancillary use by the State Engineer, that is the domestic water use under Permit 12553, Certificate 3331. The State Engineer finds that the certificate for Permit 12553 was issued for the irrigation of 8.50 acres of land at the standard diversion rate of 1 cfs per 100 acres and at the standard duty of 4.0 acre feet per acre of land irrigated. The domestic use of water from the well under Permit 12553, Certificate 3331, is the inherent right to use the well for domestic use under both NRS § 533.330 and NRS § 534.013. Nothing in the certificate indicates that an additional duty of water was added to cover the domestic use.

VI.

Certificate 3331 was issued on December 14, 1949, under Permit 12553 for 0.085 cfs for irrigation and domestic purposes. The place of use of Permit 12553, Certificate 3331 is an area historically irrigated under Claims 346 and 347 of the Final Decree in *United States v. Orr Water Ditch Co.*, In Equity Docket No. A-3 (D. Nev. 1994). The State Engineer finds that Permit 12553, Certificate 3331, was issued as supplemental to Truckee River Decree Claims 346 and 347.

Supplemental underground rights are primarily issued for the purpose of insuring that irrigated land can receive its full duty of water when surface water rights cannot be satisfied due to some circumstance that is out of the control of the farmer, such as drought. In a normal water year, it is expected that the supplemental underground right would not be utilized and only a portion of the right would be utilized in a low water year. The supplemental underground right is tied to the surface water on the existing place of use. Under most circumstances, the supplemental underground water cannot be changed without a corresponding change in the surface water; both the surface water and underground water must move together or, in some circumstances, the surface water may be moved if the underlying supplemental underground water is withdrawn.

The State Engineer finds if Application 80082 was approved, it would permit an improper use of an ancillary (domestic) use from a supplemental underground irrigation water right. The State Engineer finds the ancillary domestic use was not accounted for by an additional duty of water under Certificate 3331 and is not water available to be changed.

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 a permit under a change application that requests 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 protectable 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 if approved, Application 80082 would sever an ancillary use from a supplemental underground right for irrigation and would improperly change the character of the supplemental groundwater right and improperly create a water right for the ancillary domestic use. The State Engineer concludes this would create a new water right in an over-appropriated basin where no water is available for appropriation; thus, conflicting with existing rights and threatening to prove detrimental to the public interest.

RULING

Application 80082 is hereby denied on the grounds that there is no water available for transfer, its approval would conflict with existing rights and it would threaten to prove detrimental to the public interest.

Respectfully submitted,

JASON KING, P.E.
State Engineer

Dated this 20th day of

July, 2012.

[4] NRS Chapters 533 and 534.
[5] NRS § 533.370(2).