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

IN THE MATTER OF APPLICATION 56278)
FILED TO APPROPRIATE WATERS OF AN)
UNDERGROUND SOURCE IN MASON VALLEY,)
LYON COUNTY,NEVADA.)

RULING

#3880

GENERAL

I.

Application 56278 was filed on May 9, 1991, by Gene Menesini to appropriate 2.6 cubic feet per second (cfs) of water from an underground source for irrigation of 184 acres within the W1/2 SW1/4 Section 1, E1/2 SE1/4 Section 2, and NE1/4 NE1/4 Section 11, all in T.12N., R.25E., M.D.B.&M. The point of diversion is proposed to be in the NE1/4 NE1/4 Section 11, T.12N., R.25E., M.D.B.&M. Item 12, Remarks, of the Application states "supplemental water to existing permit (28067) (cert. 8909) this is a request for more diversion rate, and not for additional water, for irrigation. This is same well as Application 56250 T and 56251..."[1]

II.

The State Engineer designated and described the Mason Valley Ground Water Basin on January 20, 1977,[2] and amended the described area on September 7, 1977.[3]

FINDINGS OF FACT

I.

The State Engineer finds from the Proof of Application of Water to Beneficial Use for Permit 28067 filed April 13, 1976, that the diversion rate measured 4.12 cfs at the pump discharge

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1 Public record of the State Engineer, Application 56278.

2 Public record of the State Engineer, Order No. 627.

3 Public record of the State Engineer, Order No. 691.

April 7, 1976. Certificate 8909 was issued on January 27, 1977, for the same diversion rate of 3.4 cfs, as issued under Permit 28067. The certificate allowed for an annual duty of 4 acre feet of water per acre of land for the 184 acres irrigated, a total of 736 acre feet annually.[4]

II.

The State Engineer has determined the diversion rates and duties which will be allowed for irrigation of different acreages. The State Engineer finds that 3.4 cfs is sufficient to effectively irrigate 200 acres.[5]

III.

The State Engineer finds in his records no indication of insufficient water for irrigation of acreage under Permit 28067, Certificate 8909 for the years 1976 to 1990. There was no correspondence indicating such a problem existed nor any application to change the point of diversion to correct such as problem.[4]

IV.

The State Engineer finds that Applications 56250 T and 56251 were filed April 30, 1991, by Gene Menesini to change the point of diversion of a portion, 2.55 cfs, of water heretofore appropriated under Permit 28067, Certificate 8909. The proposed point of diversion is within the NE1/4 NE1/4 Section 11, T.12N., R.25E., M.D.B.&M. and the place of use is the same 184 acres irrigated under Certificate 8909.[6]

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[4] Public record of the State Engineer, Permit 28067, Certificate 8909.

[5] The State Engineer has many years of records for similar applications, and has publications from the U.S. and State Departments of Agriculture to utilize in making estimates of water use. For this case, the Crop Requirements section of the W.R. Ames Company Irrigation Handbook was used.

[6] Public record of the State Engineer, Permits 56250 T and 56251.

A letter dated May 23, 1991, was submitted to the State Engineer from Gene Menesini in support of Application 56251. The letter states:

> I have an existing well that pump's about 2 1/2 S.F. Permit #28067 I can not wet my farm with such little amount of water. I would like to keep my older well with 25% of my permit. And put 75% on the new well #56251 Temporary Permit 56250 T.
>
> At present I am double irrigating I have to wet it 1/2 the distance and wait a day to put it back in so the well go all the way through.
>
> That's wasting time and water it takes more power and more water.[6]

V.

The State Engineer issued Permit 56250 T on July 15, 1991 which changed the point of diversion of portion of Permit 28067, Certificate 8909. This temporary permit was to expire on July 12, 1992.[6]

VI.

The State Engineer issued Permit 56251 on December 16, 1991 which placed 2.55 cfs or 75 percent of the diversion rate of 3.4 cfs in a well under that permit, and left 0.85 cfs or 25 per cent of the diversion rate at the well under Permit 28067.[4, 6] Permit 56251 replaced Temporary Permit 56250 T.

VII.

The State Engineer finds that proposed place of use of Application 56278 is the same place of use of Permit 28067, Certificate 8909, and Permit 56251. The point of diversion under Application 56278 is the same point of diversion under Permit 56251.[1, 4, 6]

VIII.

The State Engineer's staff makes annual water level measurements in Mason Valley and finds that water levels in the area[7] of Application 56278 and Permit 28067 have dropped between 7 and 23 feet in the time period from 1986 to 1991. Average water level drop for 5 wells in area was 16 feet over 4 years.[8]

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.[9]

II.

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

A. There is no unappropriated water at the proposed source, or

B. The proposed use conflicts with existing rights, or

C. The proposed use threatens to prove detrimental to the public interest.[10]

III.

The State Engineer concludes that the Applicant filed Application 56251 for an additional well site since the well under Permit 28067, Certificate 8909 would not produce at the permitted diversion rate of 3.4 cfs.

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[7] T.12N., R.25E., M.D.B.&M., Sections 1, 2, 10, 11 and 12, T.12N., R.26E., M.D.B.&M., Sections 6 and 7; T.13N., R.25E., M.D.B.&M., Sections 35 and 36.

[8] Public record of the State Engineer, Mason Valley water level measurements.

[9] NRS Chapter 533.025 and NRS 533.030, Subsection 1.

[10] NRS Chapter 533.370, Subsection 3.

IV.

The State Engineer concludes that the Applicant's well under Permit 28067 evidently was capable of delivering a diversion rate approximating 3.4 cfs and that the applicant was able to effectively irrigate his acreage during the period 1976 to 1990.

V.

The State Engineer concludes that to issue a permit for Application 56278 will increase the diversion rate to 6.0 cfs from two wells in the same quarter-quarter section for irrigation of 184 acres. The issuance of a permit would result in an excess of the diversion rate needed to irrigate 184 acres. An increase in the diversion rate would tend to promote excessive short-term local drawdown in the immediate area, would conflict with existing rights, and threaten to prove detrimental to the public welfare.

VI.

The State Engineer concludes that the static water level within the area of Application 56278 has shown a decline over the past few years.

Any further decline of the static water level resulting from additional pumping would conflict with existing rights and threaten to prove detrimental to the public welfare.

RULING

Application 56278 is denied on the grounds that increasing the diversion rate on the source of the Application would conflict with existing rights, and would threaten to prove detrimental to the public welfare.

Respectively submitted,

R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CB/pm

Dated this 19th day of

March, 1992.