

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

IN THE MATTER OF APPLICATION 52381)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF THE)
WATERS OF AN UNDERGROUND SOURCE IN)
THE LAS VEGAS ARTESIAN BASIN,)
CLARK COUNTY, NEVADA.)

RULING

#3917

GENERAL

I.

Application 52381 was filed August 5, 1988, by the City of Las Vegas to change the point of diversion and place of use of 0.23 c.f.s. (cubic feet per second), 166.5 acre-feet annually (AFA), of water heretofore appropriated under Permit 26913, Certificate 9964. The water is to be used for recreation and domestic purposes at Angel Park located in parts of Sections 29, 31 and 32, all in T.20S., R.60E., M.D.B.&M. The proposed point of diversion is within the NW1/4 NE1/4 Section 32, T.20S., R.60E., M.D.B.&M. Application 52381 was advertised for the statutory period and became ready for action by the State Engineer November 24, 1988.¹

Application 26913 was filed August 28, 1972, by the City of Las Vegas to change the manner and place of use of 0.30 c.f.s., 216.81 acre-feet annually, of water heretofore appropriated under Permit 11567, Certificate 3218. Permit 26913 was issued July 17, 1974, for 0.30 c.f.s., 216.81 acre-feet annually for recreation and domestic purposes in Lorenzi Park located in parts of Section 29, T.20S., R.61E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 29, T.20S., R.61E., M.D.B.&M. Proof of Beneficial Use for Permit 26913 was filed October 16, 1978, and Certificate 9964 was issued April 9, 1982, for 0.23 c.f.s., 166.5 acre-feet annually, for recreation and domestic purposes.²

¹ Public record in the office of the State Engineer, Application 52381.

² Public record in the office of the State Engineer, Permit 26913, Certificate 9964.

II.

Application 52381 was timely protested on November 22, 1988 by the Las Vegas Valley Water District on the following grounds:

The diversion to be changed under the existing Permit No. 26913, Certificate No. 9964 has not been placed to beneficial use within the last 5 years, the manner of requested use is in conflict with State Engineer Order No. 196 dated December 1, 1949, and amended by State Engineer Order No. 833 dated December 27, 1983, and there are existing Las Vegas Valley Water District pipelines in El Capitan Way and Durango Drive already providing metered water service for park landscaping and golf course use and which carry sufficient capacities and pressures to provide all such future water service. Therefore the protestant requests that the application be denied.¹

FINDINGS OF FACT

I.

The holder of any ground water right put to beneficial use works a forfeiture of that right after five successive years of nonuse has occurred.³

II.

After all parties of interest were duly noticed by certified mail, an administrative hearing was held February 4, 1991 before the State Engineer in the matter of the protested Application 52381 at Las Vegas, Nevada. Evidence and testimony were received into the record at the hearing and the State Engineer took administrative notice of various matters as more specifically set forth in the hearing transcript.⁴

The entire 166.5 acre-feet of water for recreation and domestic purposes under Permit 26913, Certificate 9964, was found subject to forfeiture in State Engineer's Ruling No. 3879.⁵

III.

The State Engineer finds that the right to appropriate and beneficially use water under Permit 26913, Certificate 9964, has been forfeited for failure by the holder of the right to

³ NRS 534.090(1).

⁴ Public record of the State Engineer. State Exhibit No. 1 of the Transcript of Hearing before the State Engineer, February 4, 1991. Hereafter called Transcript.

⁵ Public record of the office of the State Engineer, Ruling No. 3879.

beneficially use the underground water for five successive years for the purposes for which the subject right was acquired.⁵

IV.

The State Engineer finds pursuant to NRS 533.450, that Notice of Appeal of Ruling No. 3879 has not been received in his office.^{2,6}

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁷

II.

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

- A. The proposed use conflicts with existing rights, or
- B. The proposed use threatens to prove detrimental to the public interest.⁸

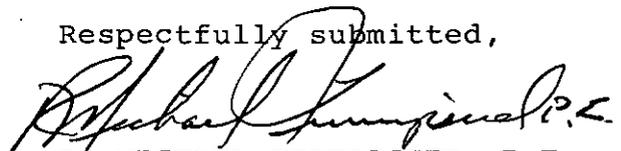
III.

The State Engineer concludes that there is no water right now existing under Permit 26913, Certificate 9964, which was to be the basis for change Application 52381.

RULING

Application 52381 is hereby denied on the grounds that to issue a permit for an application to change a permit which now has no existing water right would be detrimental to the public interest. The protest to Application 52381 is hereby upheld.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/pm

Dated this 7th day of
January, 1993.

⁶ NRS 533.450.

⁷ NRS Chapter 533.025 and NRS 533.030, subsection 1.

⁸ NRS Chapter 533.370 subsection 3.