

ORIGINAL

RULING #4121

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STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF WATER RESOURCES

JON PALM, HEARING OFFICER

IN THE MATTER OF:
PROTESTED APPLICATION 56546

TRANSCRIPT OF PROCEEDINGS

HEARING

TUESDAY, JUNE 7, 1994

ELKO, NEVADA

REPORTED BY:

KATHRYN TERHUNE, NV CCR #209

1 going to take the opportunity to discuss this matter with my
2 associate and perhaps we can render a decision here after we
3 discuss this matter.

4 So, let's declare a recess for about 15 minutes,
5 and at that time I will announce whether there will be a
6 decision or not. So, we're off the record.

7 (Recess taken.)

8 THE HEARING OFFICER: Let's go back on the record.
9 There is one more administrative item. We had identified
10 Exhibit Number 8 which was provided by Mr. Konakis, as Spring
11 Creek Utility water bills. Are there objections, any
12 objection to Exhibit Number 8 being admitted into the record?

13 MR. BALDWIN: No.

14 THE HEARING OFFICER: Hearing none, Exhibit 8 is
15 admitted into the record.

16 (Exhibit 8 admitted into evidence.)

17 FINDINGS OF FACT

18 THE HEARING OFFICER: The State Engineer has
19 authorized me to make a ruling on Application 56546 at this
20 hearing. Therefore, I'm going to list some finding of facts,
21 conclusions of law with the underlying facts supporting those
22 with them. And then I will issue the ruling.

23 The proposed place of use under Application 56546
24 is located in the authorized service area of the Spring Creek
25 Water District. By the way, I forgot to tell you that this

1 is all under findings of facts.

2 The basin in which Application 56546 seeks to
3 appropriate water was filed in the ten-mile area the Dixie
4 Creek groundwater basin which was designated by the State
5 Engineer by order number 848 dated September 6, 1984.

6 I find that Application 56546 seeks to appropriate
7 groundwater for irrigation in a designated basin and more
8 specifically in an area that is served by a water company
9 that is duly licensed to serve water to the inhabitants of
10 the area.

11 Number two, the perennial yield for the Ten-Mile
12 Creek area of the Dixie Creek groundwater basin is estimated
13 to be 13,000 acre-feet annually according to Reconnaissance
14 Report Number 35.

15 The existing appropriations according to the
16 official records of the office of the State Engineer to date
17 have been approved and add up to more than 17,000 acre-feet
18 annually. I find that the Ten-Mile Creek area of the Dixie
19 Creek groundwater basin is over-appropriated and there is no
20 unappropriated water available in this source.

21 Number three, we have declarations of reservations
22 which were filed with the protest and addressed in the answer
23 to the protest for the subdivision in which the Applicant
24 seeks to drill a well under 56546.

25 I find that the State Engineer has no authority to

1 enforce the declarations of reservations.

2 Number four, we have a previous ruling dated May
3 21st, 1984 in which the State Engineer denied applications to
4 appropriate groundwater for irrigation purposes. The
5 applications were designed that applications were denied
6 because the basin is over-appropriated, and the State
7 Engineer found at that time that approval of those
8 applications may prove detrimental to the public interest.

9 I find that Application 56546 is similar to those
10 applications that were denied and approval of Application
11 56546 may also prove to be detrimental to public interest.

12 CONCLUSIONS OF LAW

13 The State Engineer has jurisdiction in this matter
14 according to Nevada Revised Statutes Chapters 533 and 534.
15 In accordance with NRS 533.370, paragraph three, the State
16 Engineer must reject an application if there is no
17 unappropriated water in the proposed source of supply when
18 the proposed appropriation conflicts with existing rights or
19 threatens to prove detrimental to the public interest.

20 Under NRS 534.120, paragraph three, the State
21 Engineer may deny applications to appropriate groundwater for
22 any purpose in areas serving an entity such as a water
23 district or a municipality presently engaged in furnishing
24 water to the inhabitants of the area.

25 Number four, Application 56546 seeks to appropriate

1 water in a groundwater basin where there is no unappropriated
2 water available.

3 Number five, approval of Application 56546 may
4 prove detrimental to the public interest.

5 Number six, Application 56546 seeks to appropriate
6 water in an area served by a duly licensed water company
7 engaged in providing water service to the inhabitants of the
8 area, including Mr. Konakis, the Applicant.

9 RULING

10 The protest to Application 56546 is hereby upheld,
11 and Application 56546 is hereby denied.

12 That concludes the hearing.

13 (The proceedings concluded.)
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1 STATE OF NEVADA)
2 CARSON CITY)

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I, Kathryn Terhune, a Certified Shorthand Reporter,
do hereby certify;

That on Tuesday, the 7th day of June, 1994, at 8:30
a.m. of said day, at Elko Branch Office of the State
Engineer, 850 Elm Street, Elko, Nevada, I was present and
took stenotype notes of the hearing held before the Nevada
Department of Conservation and Natural Resources, Division of
Water Resources in the within entitled matter, and thereafter
transcribed the same into typewriting as herein appears;

That the foregoing transcript, consisting of pages
1 through 40 hereof, is a full, true and correct
transcription of my stenotype notes of said hearing.

Dated at Carson City, Nevada, this 8th day of
~~June~~ ^{July}, 1994.

Kathryn Terhune
KATHRYN TERHUNE, CCR #209