

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

IN THE MATTER OF APPLICATION 52034 FILED)
TO APPROPRIATE THE PUBLIC WATERS)
FROM AN UNDERGROUND SOURCE WITHIN THE)
PAHRUMP VALLEY GROUNDWATER BASIN (162),)
CLARK COUNTY, NEVADA.)

RULING

4936

GENERAL

I.

Application 52034 was filed on April 25, 1988, by William W. Morris to appropriate 1.0 cubic foot per second (cfs) of water from an underground source within the Pahrump Valley Groundwater Basin, Clark County, Nevada. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, T.20S., R.57E., M.D.B.&M. The application was filed for quasi-municipal and domestic purposes to serve a 450-lot subdivision within portions of the NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, T.20S., R.57E., M.D.B.&M.¹

II.

By State Engineer's Order No. 176, dated March 11, 1941; Order No. 193, dated January 15, 1948; Order No. 205, dated January 23, 1953; Order No. 955, dated October 26, 1987; and Order No. 1107, dated November 8, 1994, the State Engineer designated the Pahrump Valley Groundwater Basin under the provisions of NRS § 534.030.² Pursuant to Order No 955, the State Engineer ordered that all applications filed to appropriate water from the Pahrump Valley Groundwater Basin on the east side of the basin on the Pahrump and Manse Fans would be denied; and all applications for uses except small commercial uses on the valley floor would be denied. Pursuant to Order No. 1107, the State Engineer ordered that with two exceptions, applications filed to appropriate water from the groundwater source pursuant to NRS § 534.120 within the designated Pahrump Valley Groundwater Basin will be denied. The exceptions are: (1) those applications filed for commercial (non-living units) or industrial purposes off the fan and only those applications which seek to appropriate 1,800 gallons per day or less

¹ File No. 52034, official records in the office of the State Engineer

² Official records in the office of the State Engineer.

and where the property is zoned for such purposes, and (2) those applications filed for environmental permits filed pursuant to NRS § 533.437.

FINDINGS OF FACT

I.

The State Engineer denied Application 51632, filed December 15, 1987, by William W. Morris, to appropriate water for a proposed residential subdivision in Lovell Canyon, within Clark County, which is almost the same point of diversion and place of use found under Application 52034.³ The applicant appealed the State Engineer's decision to the courts. The Supreme Court of the State of Nevada upheld the State Engineer's decision denying the application.⁴ The court affirmed the State Engineer's conclusion that even though the discharge from Lovell Canyon does not contribute to the recharge of the Manse Fan area, it does ultimately flow into and contribute to the Pahrump Valley Groundwater Basin. The State Engineer finds that Application 52034 is located in the Pahrump Valley Groundwater Basin and that applications previously filed to appropriate underground water for quasi-municipal and domestic purposes within the Pahrump Valley Groundwater Basin have been denied because they would conflict with existing rights and be detrimental to the public interest.⁵

CONCLUSIONS

I.

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

³ State Engineer's Ruling No. 3505, dated March 25, 1988, official records in the office of the State Engineer.

⁴ State Engineer v. Morris, 107 Nev. 699 (1991).

⁵ See State Engineer's Ruling Nos. 1854, 1897, 1918, 2836, 3216, 3248, 3462, 3486, 3496, 3505, 3607, 3636, 3680 and 3758, official records in the office of the State Engineer.

⁶ NRS Chapter 533.

II.

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer must deny all applications to appropriate ground water within the Pahrump Valley Groundwater Basin for all uses except small commercial (non-living) off the fan and industrial uses.⁸

IV.

The State Engineer concludes that Application 52034 was filed to appropriate water for a use that does not comply with the provisions of the State Engineer's Orders. Therefore, Application 52034 must be denied in accordance with State Engineer's Order Nos. 955 and 1107.

V.

The State Engineer concludes that previous applications for quasi-municipal and domestic purposes have been denied because their approval would conflict with existing rights and threaten to prove detrimental to the public interest.

VI.

The State Engineer concludes that the approval of Application 52034 would similarly conflict with existing rights and threaten to prove detrimental to the public interest.

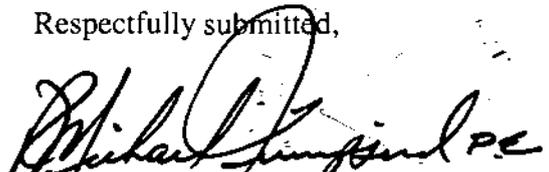
⁷ NRS § 533.370(3).

⁸ State Engineer Order No. 955, dated October 26, 1987.

RULING

Application 52034 is hereby denied on the grounds that it would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/KWH/cl

Dated this 13th day of
June, 2000.