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

IN THE MATTER OF APPLICATIONS 61414)
AND 62630 FILED TO APPROPRIATE WATER)
OF THREE UNNAMED SPRINGS FOR QUASI-)
MUNICIPAL AND DOMESTIC PURPOSES IN)
THE PLEASANT VALLEY HYDROGRAPHIC)
BASIN (88), WASHOE COUNTY, NEVADA.)

RULING

#5905

GENERAL

I.

Application 61414 was filed on July 19, 1995, by Ernest H. Schoenfeld and David R. Houston, later assigned to Rosemount Water Company, to appropriate 0.10 cubic foot per second (cfs) of water from three unnamed springs, Nos. 4, 5 and 6, for quasi-municipal and domestic purposes. The proposed place of use is described as being located within the SW¼ SW¼ of Section 9, the NW¼ NW¼ of Section 16, and the E½ NE¼ of Section 17, all in T.17N., R.19E., M.D.B.&M. The proposed points of diversion are described as being located within the NW¼ SW¼ of Section 16, T.17N., R.19E., M.D.B.&M. The application states that the water will be used from January 1st to December 31st of each year in the development of 36 residential units and to supplement water appropriated prior under Permit 31036.[1]

II.

Application 62630 was filed on December 2, 1996, by Rosemount Water Company to change the place and manner of use of 0.10 cfs, not to exceed 10,918,800 gallons annually, of the water applied for under Application 61414. The proposed place of use is described as being located within the NE¼ NW¼, NW¼ NW¼ of Section 16 and the NE¼ NE¼, SE¼ NE¼ of Section 17, both located in T.17N., R.19E., M.D.B.&M. The proposed manner of use is for quasi-municipal purposes and the remarks section of the application states that the water is to be used for the bottling and distribution of the water originally applied for under Application 61414.[2]

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[1] File No. 61414, official records in the Office of the State Engineer.
[2] File No. 62630, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer finds that Certificate 8640 was issued under Permit 23632 for the appropriation of 0.225 cfs of water, not to exceed 9.2 million gallon annually, from three unnamed springs, Nos. 4, 5, and 6, all of which are located within the NE¼ SE¼ of Section 17, T.17N., R.19E., M.D.B.&M. for commercial purposes. The period of use is from January 1st to December 31st of each year. The place of use is located within the SW¼ SW¼ of Section 9, NW¼ NW¼ of Section 16, and NE¼ NE¼ of Section 17, all in T.17N., R.19E., M.D.B.&M. Water from each of the springs is piped to a collection box from whence the water is pumped to a storage tank and then distributed to the places of use. The collection box is located at the points of diversion described in Application 61414, Application 62630, denied Application 35551, and Permit 31036. The owner of record of Certificate 8640 is Rosemount Water Company.[3]

II.

The State Engineer finds that Permit 31036 was granted for the appropriation of 0.25 cfs of water, not to exceed 18.25 million gallons annually, from unnamed springs located within the NW¼ SW¼ of Section 16, T.17N., R.19E., M.D.B.&M. for quasi-municipal purposes. The place of use is located within the SW¼ SW¼ of Section 9, the NW¼ NW¼ of Section 16, and the E½ NE¼ of Section 17, all in T.17N., R.19E., M.D.B.&M. and the period of use is from January 1st to December 31st of each year. The point of diversion described in Permit 31036 is identical to the point of diversion described in denied Application 35551, Application 61414, and Application 62630.[4]

III.

The State Engineer finds that Application 35551 was filed on June 16, 1978, by Duane R. and Genevieve South to appropriate 0.25 cfs of water from unnamed springs located within the NW¼ SW¼ of Section 16, T.17N., R.19E., M.D.B.&M. for quasi-municipal and domestic purposes. The place of use is described as being located within the N½ NW¼ of Section 16, T.17N., R.19E., M.D.B.&M. and the period of use as January 1st to December 31st of each year. The remarks section of the application states that the water would be used for fifty single family

[3] File No. 23632, official records in the Office of the State Engineer.
[4] File No. 31036, official records in the Office of the State Engineer.

dwellings requiring 1,000 gallons of water per day per dwelling.[5] Application 35551 was denied by State Engineer's Ruling No. 2605. It was determined that the total demand for water exceeded the overflow of the springs and that approving Application 35551 would be detrimental to the public welfare.

IV.

An informal field investigation, Field Investigation Report No. 1098, in the matter of Application 61414 and Application 62630 was performed on July 22, 2008, by the State Engineer's office to determine the amount of water flowing from the proposed point of diversion along with verifying the location of said unnamed springs. Water from the springs described in Permit 23632, Certificate 8640, Permit 31036, and denied Application 35551, is piped to a collection box from where it is pumped to a storage tank and then distributed to the places of use. The pump does not run continuously, but is controlled by the amount of water in the storage tank. When the pump is not in operation, the water collected from the springs overflows from the collection box into natural drainage. This information on file is based on the proof of beneficial use field investigation information submitted to substantiate certification of Permit 23632, along with a formal field investigation performed on June 16, 1979, by the State Engineer's Office to support the decision made to deny Application 35551. During the field investigation performed in July 2008, the amount of water collected from the springs exceeded the capacity of the pump, so that there was overflow from the collection box even when the pump was in operation. The overflow was measured at the time of the field investigation and found to be 60 gallons per minute on average.[6]

V.

The State Engineer finds the ultimate demand from the source under Application 61414 is 0.10 cfs., not to exceed 10.92 million gallons annually based upon a total of 36 residential units with each using 500 gallons per day.[1] A total of 27.45 million gallons annually has been appropriated from the source described in Application 61414 under Permit 23632, Certificate 8640 and Permit 31036.[3,4]

The State Engineer finds that the purpose for which Application 62630 was filed was to change the place and manner of use of the water applied for under Application 61414.

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[5] File No. 35551, official records in the Office of the State Engineer.
[6] Field Investigation Report No. 1098, dated July 24, 2008, File Nos. 61414 and 62630, official records in the Office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this determination.[7]

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:[8]

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 protectible 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 average overflow of the two measurements taken in 2008 was 60 gallons per minute. The State Engineer concludes that in 2008 the dependable flow of the springs was 55.8 gallons per minute, or 29.33 million gallons annually, of which 27.45 million gallons annually are already appropriated or permitted.

IV.

There is no reason to believe that the flow of the springs will remain at 55.8 gallons per minute, from one year to the next. The rate of flow is dependent on the precipitation for the year, and may be greater in one year and less in another.

V.

The State Engineer concludes the total demand for water under Application 61414 is 0.10 cfs, not to exceed 10.92 million gallons annually, which exceeds the overflow of the springs by 6.83 million gallons annually, as determined by measurements of the flow in July 2008.[7]

VI.

The State Engineer concludes to approve the proposed appropriation under Application 61414, where the potential demand is in excess of the amount of water available, would threaten to prove detrimental to the public interest.

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[7] NRS chapter 533.
[8] NRS §533.370(5).

The State Engineer concludes Application 62630 was filed to change the place and manner of use of all the water under Application 61414 and to approve change Application 62630 would threaten to prove detrimental to the public interest.

RULING

Application 61614 is hereby denied on the grounds that there is no unappropriated water at the source; therefore, its approval would threaten to prove detrimental to the public interest.

Application 62630 is hereby denied on the grounds that there is no existing water right that can be changed by the application.

Respectfully submitted,

TRACY TAYLOR, P.E.
State Engineer

TT/MM/jm

Dated this 13th day of

November, 2008.