

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

IN THE MATTER OF APPLICATION 58262 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE DIXIE CREEK-TENMILE )  
CREEK AREA HYDROGRAPHIC BASIN (48), )  
ELKO COUNTY, NEVADA. )

**RULING**

**#6110**

**GENERAL**

**I.**

Application 58262 was filed on October 23, 1992, by the Robert E. and Twyila S. Whear Family Trust, later assigned to Spring Creek Utilities Company to appropriate 0.5 cubic feet per second (cfs), 298.13 acre-feet annually (afa) of water from an underground source for quasi-municipal purposes. The proposed place of use is described as being located within portions of the W $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 2, SE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 3, W $\frac{1}{2}$ , SE $\frac{1}{4}$  of Section 11, all except the W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 14, E $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 15, E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 22 and N $\frac{1}{2}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 23, T.33N., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 22, T.33N., R.56E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. The perennial yield cannot be more than the natural recharge to a groundwater basin and in some cases is less. If the perennial yield is exceeded, groundwater levels will decline and steady-state conditions will not be achieved, a situation commonly referred to as groundwater mining. Additionally, withdrawals of groundwater in excess of the perennial yield may contribute to adverse conditions such as water

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<sup>1</sup> File No. 58262, official records in the Office of the State Engineer.

quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, and land subsidence.<sup>2</sup>

The estimated perennial yield of the Dixie Creek-Tenmile Creek Area Hydrographic Basin is approximately 13,000 afa.<sup>3</sup> The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Dixie Creek-Tenmile Creek Area Hydrographic Basin currently totals about 15,980 afa.<sup>3</sup> Application 58262 was filed on October 13, 1992, and the committed groundwater resource on that date was approximately 16,016 afa.<sup>4</sup> The State Engineer finds that existing groundwater rights in the Dixie Creek-Tenmile Creek Area Hydrographic Basin exceed the perennial yield of the groundwater basin.

## II.

The remarks section of Application 58262 specified that the estimated annual consumptive use would be 560.69 acre-feet annually. The Applicant also indicated that a companion application to change Permit 34820 was being filed for the balance (262.56 acre-feet) of the calculated annual duty requirements. This companion change Application 58261, also filed on October 23, 1992, was withdrawn at the agent's request on January 24, 2001. The State Engineer finds that Application 58262 must be considered a stand-alone application representing a new appropriation for 298.13 acre-feet of underground water from the Dixie Creek-Tenmile Creek Area Hydrographic Basin.

## III.

A review of records on file in the Office of the State Engineer shows that previous applications to appropriate substantial amounts of groundwater from the Dixie Creek-Tenmile Hydrographic Basin were denied, in part, because the additional withdrawals would substantially

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<sup>2</sup> Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 13, Oct. 1971.

<sup>3</sup> Special Hydrographic Basin Abstract, Water Rights Database, Dixie Creek-Tenmile Creek Area Hydrographic Basin (48), March 14, 2011, official records in the Office of the State Engineer.

<sup>4</sup> Water Rights Database, Dixie Creek-Tenmile Creek Area Hydrographic Basin (48), official records in the Office of the State Engineer.

exceed the perennial yield of the groundwater basin.<sup>5</sup> The State Engineer finds that previous applications were denied on the basis of no unappropriated water at the proposed source; therefore, Application 58262 must also be considered for denial on those same grounds.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>7</sup>

- 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 protectable 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 committed groundwater resource of the Dixie Creek-Tenmile Creek Area Hydrographic Basin exceeds the groundwater basin's estimated perennial yield. The State Engineer concludes that the approval of Application 58262 would add to this imbalance and conflict with existing permits, which appropriate underground water from the Dixie Creek-Tenmile Creek Area Hydrographic Basin.

#### IV.

The State Engineer concludes that the approval of Application 58262 would result in the withdrawal of groundwater in excess of the perennial yield; therefore, to grant the application would conflict with existing water rights and would threaten to prove detrimental to the public interest.

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<sup>5</sup> State Engineer's Ruling Nos. 2964 dated May 21, 1984, 3187 dated May 15, 1985, 4121 dated June 7, 1994, and 4730 dated May 11, 1999, official records in the Office of the State Engineer.

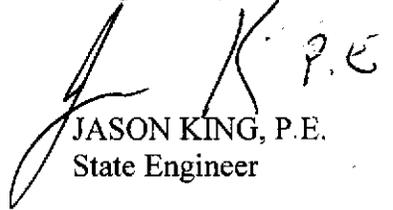
<sup>6</sup> NRS Chapters 533 and 534.

<sup>7</sup> NRS § 533.370(5).

**RULING**

Application 58262 is hereby denied on the grounds that its approval would conflict with existing water rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,



JASON KING, P.E.  
State Engineer

Dated this 18th day of

May, 2011.