



**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES**

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**MEMO**

TO: File No. 59746  
FROM:  Juanita Mordhorst, AAIL, Hearings Section  
SUBJECT: Corrected Ruling Number  
DATE: February 8, 2012

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It has been discovered that two rulings have been assigned the same number on February 11, 2009. Therefore one ruling number has been corrected with the next available serial number.

Ruling in the matter of **Application 59746** was originally assigned a duplicate Ruling No. 5946 and it is now changed to **Ruling No. 6163**. The correction has been made on the original ruling and re-scanned with this memo on this date.

The other Ruling No. 5946, also assigned on February 11, 2009, will remain unchanged for Application 38187.

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

IN THE MATTER OF APPLICATION )  
59746 FILED TO APPROPRIATE THE )  
UNDERGROUND WATERS OF GRASS )  
VALLEY HYDROGRAPHIC BASIN (71), )  
HUMBOLDT COUNTY, NEVADA. )

**RULING**

~~#5946~~  
CORRECTED

**# 6163**

**GENERAL**

**I.**

Application 59746 was filed on February 3, 1994, by Humboldt County, Board of Commissioners to appropriate 1.0 cubic foot per second of the underground water of the Grass Valley Hydrographic Basin for recreation and domestic purposes within the NE $\frac{1}{4}$ , SE $\frac{1}{4}$  and portions of the SW $\frac{1}{4}$  of Section 6, T.35N., R.38E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 6.<sup>1</sup> The remarks section of the Application indicates that the annual consumptive use of water is estimated to be 500 acre-feet.

**II.**

Application 59746 was timely protested by the Pershing County Water Conservation District of Nevada on the grounds that granting the Application would affect the water table and drainage and adversely affect the decreed waters of the Humboldt River.<sup>1</sup>

**III.**

Application 59746 was also timely protested by the United States Department of Interior, Bureau of Land Management on the grounds that the proposed point of diversion is located on land managed by the Bureau of Land Management and no Recreation and Public Purpose lease has been approved for the use of the lands.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute (NRS) § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the

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<sup>1</sup> File No. 59746, official records in the Office of the State Engineer.

State of Nevada. The State Engineer finds that in the case of protested Application 59746 there is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on this matter is not required.

## II.

State Engineer's Order No. 464 dated July 24, 1972, described and designated the Grass Valley Hydrographic Basin as a ground-water basin in need of additional administration under the provisions of NRS § 534.030.<sup>2</sup> The State Engineer finds that Application 59746 has a proposed point of diversion and place of use located within the boundaries of the designated Grass Valley Hydrographic Basin.

## III.

After review of the application and utilizing the information submitted with the application, the State Engineer finds that approximately 11 acre-feet would be utilized for non-irrigation purposes and the remaining 489 acre-feet would be utilized for irrigation of baseball fields, soccer fields, multi-purpose fields, football fields, parks and an 18-hole championship golf course.<sup>1</sup>

## IV.

The State Engineer finds that previous applications to appropriate underground water for irrigation have been denied in the Grass Valley Hydrographic Basin.<sup>3</sup>

## V.

The perennial yield of a ground-water reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the ground-water reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use.

Withdrawals of ground water in excess of the perennial yield may contribute to adverse conditions such as water quality degradation, storage depletion, diminishing

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<sup>2</sup> State Engineer's Order No. 464, dated July 24, 1972, official records in the Office of the State Engineer.

<sup>3</sup> There have been multiple rulings denying irrigation within the Grass Valley Hydrographic Basin; the most recent being State Engineer's Ruling No. 2269, dated November 7, 1977, and Ruling No. 2936, dated April 11, 1984, official records in the Office of the State Engineer.

yield of wells, an increase in cost due to increased pumping lifts, land subsidence, and possible reversal of ground-water gradients, which could result in significant changes in the recharge-discharge relationship.<sup>4</sup>

The estimated perennial yield of the Grass Valley Hydrographic Basin is 13,000 acre-feet.<sup>5</sup> A review of records in the Office of the State Engineer shows the estimated committed ground-water resources for the Grass Valley Hydrographic Basin to be over 43,000 acre-feet annually.<sup>6</sup> The State Engineer finds that permits and certificates have been issued under existing rights for more than the estimated perennial yield from the ground-water system within the Grass Valley Hydrographic Basin.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>7</sup>

#### II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:<sup>8</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 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.

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<sup>4</sup> State Engineer's Office, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 13, Oct. 1971.

<sup>5</sup> D.E. Everett and F.E. Rush, *A Brief Appraisal of the Water Resources of Grass and Carico Lake Valleys, Lander and Eureka Counties, Nevada*, Water Resources – Reconnaissance Series Report 37, (Department of Conservation and Natural Resources in cooperation with United States Geological Survey, 1966).

<sup>6</sup> Special Hydrologic Basin Abstract, Water Rights Database, Basin 71, December 23, 2008, official records in the Office of the State Engineer.

<sup>7</sup> NRS chapters 533 and 534.

<sup>8</sup> NRS § 533.370(5).

**III.**

The committed ground-water resources of the Grass Valley Hydrographic Basin currently exceed the ground-water basin's estimated perennial yield. The State Engineer concludes that the approval of the subject application would result in an additional withdrawal of ground water and therefore would adversely affect existing rights and threaten to prove detrimental to the public interest.

**RULING**

Application 59746 is hereby denied on the grounds that its approval would conflict with existing rights and threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TH/jm

Dated this 11th day of

February, 2009.