

IN THE MATTER OF APPLICATION)
TO APPROPRIATE UNDERGROUND)
WATER NO. 30159, FILED)
APRIL 12, 1976 BY LAS VEGAS)
DUNES, INC.)

R U L I N G

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Application No. 30159 was filed on April 12, 1976 by Las Vegas Dunes, Inc., to appropriate 0.25 cfs from the Las Vegas Valley Underground Basin.

The water is to be used for recreation, landscaping and domestic purposes. The point of diversion is described as being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4, T19S, R60E, MDB&M, and the place of use is described as approximately 80 acres within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 4. Remarks under Section 12 of the application include the following: "The water is to be used for landscaping of trees (pine, russian olive, poplar & locust) about the perimeter of the eighty acres, a watchman's trailer, and dust control for moto-cross track in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4."

Protests to the granting of Application No. 30159 were filed on May 6, 1976 by W. W. Coburn, property owner, for homeowners and property owners of the Tule Springs area; on May 27, 1976 by the Las Vegas Valley Water District; and, on June 9, 1976, by the State of Nevada, Division of Forestry. Each of the protestants prays that the application be denied, and the essential grounds of the protests are that approval of the application would adversely affect existing ground water rights and that to allow the proposed appropriation would be detrimental to the public interest and welfare. The specific grounds of protest are incorporated in this Ruling by reference.

A hearing in the matter of Application 30159, and the protests thereto, was held on October 5, 1976 after due notice to all parties by certified mail dated September 10, 1976. The authority for such hearing is provided for in the Nevada Revised Statute 533.365. The applicant and protestants were either present or represented at the October 5 hearing.

The Las Vegas Artesian Basin was designated by the State Engineer on January 10, 1941 under authority provided within NRS 534.030. The boundaries of the designated basin have been revised and amended by subsequent orders of the State Engineer. The area included within the place

of use under Application 30159 is within the Las Vegas Artesian Basin. Since 1955, under authority of NRS 534.120, the State Engineer has issued temporary permits to appropriate ground water, which are limited as to time and which may be revoked if and when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water.

The State Engineer has initiated and pursued an active revocation program as the City of North Las Vegas and the Las Vegas Valley Water District extend their service areas to encompass locations where temporary revocable permits have been issued.

At the October 5 hearing, the applicants indicated that they were applying for such a temporary and revocable permit. Mr. Blackmer, representative of the protestant, the Las Vegas Valley Water District, testified that Water District service to the area under Application 30159 would probably not be available until the turn of the century.

The evidence and testimony received at the October 5 hearing established the following facts:

1. The location of the proposed point of diversion of Application 30159, and the proposed place of use, are in an area where there is a record of declining water tables. The average decline between 1958 and 1976 was approximately 3 feet per year; and for the period 1971 through 1976, approximately 5 feet per year.
2. Existing approved appropriations of underground water exceed estimates of the ground water system yield.
3. The 40 acres within the place of use described as the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, T19S, R60E, MDB&M are located within the City of Las Vegas, and the applicant has received a variance for installation of the moto-cross operation on the 40 acres.
4. The 40 acres included within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, T19S, R60E, MDB&M are within the County of Clark and are the subject of a request for annexation to the City of Las Vegas. There are no existing permits or variances for equipping a well or installation of a moto-cross track on these 40 acres.

5. There was extensive testimony regarding water requirements for the various phases of the moto-cross operation. In spite of this testimony, it is not clear as to the actual intended use, and water requirements under the proposed appropriation for the entire 80 acres described within the place of use under Application 30159.

6. The State Engineer has authority under NRS 534.120 to designate preferred uses of water within areas so designated by him from which the ground water is being depleted.

RULING

The protests to Application 30159 are upheld, and the application is denied on the following grounds:

1. The applicant has failed to confirm and document the purposes and quantities of water sought to be placed to beneficial use under Application 30159 and thereby has failed to meet the criteria of NRS 533.370, which provides in part, "The State Engineer shall approve all applications made in proper form where all fees, as provided in this chapter, have been paid which contemplate the application of water to beneficial use..."

2. Approval of a temporary permit would authorize a use of underground water for at least 25 years into the future from a ground water basin where the resource is overappropriated.

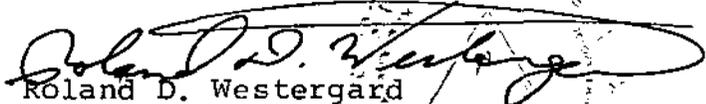
3. Issuance of a temporary permit to appropriate ground water in this area where there is a record of declining water tables would adversely affect and tend to impair the value of existing rights.

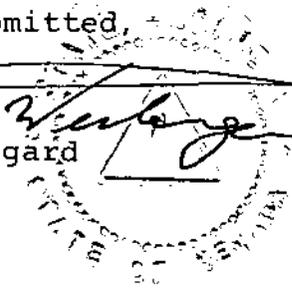
4. Approval of the proposed appropriation would essentially authorize a project which would result in generation of dust and a resulting requirement and appropriation of water for control of such dust. It cannot be

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considered in the interest of the public welfare to consider such a proposed use as a preferred use of water in an area where the ground water is being depleted.

Respectfully submitted,


Roland D. Westergard
State Engineer



RDW/gs

Dated this 18th day
of November, 1976.