

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 51755)
FILED TO CHANGE THE MANNER AND)
PLACE OF USE OF THE WATERS OF AN)
UNDERGROUND SOURCE HERETOFORE)
APPROPRIATED UNDER PERMIT 38085)
WITHIN THE DESIGNATED PAHRUMP)
VALLEY GROUNDWATER BASIN, NYE)
COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 51755 was filed on January 12, 1988, by Jacquelin L. Ruud, Trustee for 1983 Living Trust to change the manner and place of use of 25 acre-feet from an underground source heretofore appropriated under Permit 38085. The proposed use is for irrigation purposes on 5.0 acres of land within the E1/2 NE1/4 NE1/4 Section 9, T.21S., R.53E., M.D.B.&M. The proposed point of diversion is described as being within the NE1/4 NE1/4 Section 9, T.20S., R.53E., M.D.B.&M. The existing use was for irrigation and domestic purposes on 5.0 acres of land within the W1/2 SW1/4 NE1/4 SE1/4 Section 28, T.19S., R.53E., M.D.B.&M. The existing point of diversion is within the SW1/4 NE1/4 Section 28, T.19S., R.53E., M.D.B.&M.¹

In 1986, U.S. Geological Survey Water Supply Paper 2279, "Ground Water Storage Depletion in Pahrump Valley, Nevada-California, 1962-1975", by James R. Harrill, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Department of the Interior, Geological Survey. This report is available for review in the office of the State Engineer.

In 1975, Geological Survey Professional Paper 712-C, "Hydrogeologic and Hydrochemical Framework, South-Central Great Basin, Nevada-California, with Special Reference to the Nevada Test Site", was prepared by the United States Department of the Interior, Geological Survey. This report is available for review in the office of the State Engineer.

¹ Public record in the office of the State Engineer.

In 1967, Geological Survey Water-Supply Paper 1832, "Hydrology of the Valley-Fill and Carbonate-Rock Reservoirs, Pahrump Valley, Nevada-California", was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Department of the Interior, Geological Survey. This report is available for review in the office of the State Engineer.

In 1948, Water Resources Bulletin No. 5, "Geology and Water Resources of Las Vegas, Pahrump, and Indian Springs Valleys, Clark and Nye Counties, Nevada", was prepared by G.B. Maxey and C.H. Jameson. This report is available for review in the office of the State Engineer.

FINDINGS OF FACT

I.

Application 51755 has its proposed point of diversion located on the Pahrump Fan within the area described as the Pahrump Valley Artesian Ground Water Basin. The existing point of diversion under the base right, Permit 38085, is not located on the Pahrump Fan.²

II.

By order No. 176, dated March 11, 1941, Order No. 193, dated January 15, 1948, and Order No. 205, dated January 23, 1953, the State Engineer designated a portion of the Pahrump Valley Ground Water Basin under the provisions of the underground water law (Chapter 178, Nevada Revised Statutes, 1939). Order No. 206, dated May 4, 1953, required the installation of a suitable measuring device for each and every permit holder in the Pahrump Valley Artesian Basin. Order No. 381, dated June 1, 1970, excluded irrigation from being a preferred use within the designated portion of the Pahrump Artesian Basin. The point of diversion for Application 51755 is located within the designated portion of the Pahrump Valley Ground Water Basin.¹

² U.S. Geological Survey, Water Supply Paper 2279. Plate 1 map indicating "Generalized Geology of Pahrump Valley, Nevada and California."

By Order No. 955, dated October 26, 1987, the State Engineer declared that all applications filed to appropriate groundwater from the Pahrump Valley Artesian Basin for quasi-municipal purposes will be denied.³

III.

Several applications to appropriate ground water with proposed points of diversion located on the Pahrump Fan have been previously denied. These applications were denied on the grounds that an overdraft of the groundwater resources exists on the Pahrump Fan; that the granting thereof would increase the overdraft condition, and therefore would conflict with existing rights and be detrimental to the public interest. The manner of use for eight of the denied applications was for quasi-municipal purposes and four were for commercial/industrial purposes.⁴

IV.

Several applications to change have been previously denied with proposed points of diversion located on the Pahrump Fan whereas the existing points of diversion under the base right permits were located off of the Pahrump Fan. These applications to change were denied on the grounds that the granting thereof would constitute an additional appropriation of groundwater on the Pahrump Fan, causing an increase in the overdraft condition on the Pahrump Fan, and therefore would conflict with existing rights and be detrimental to the public interest. The manner of use for nine of the denied applications to change was for quasi-municipal purposes and one was for irrigation and domestic purposes.⁵

V.

Application 48973, filed on April 8, 1985, by Floyd B. and Shirley B. Neth to change the point of diversion and place of use of Permit 38085, was previously denied on the grounds set forth under Findings of Fact No. IV.⁶

³ The State Engineer's Order delineates between the valley floor and the alluvial fan areas referred to as the "Manse" and "Bennett" fans or collectively as the Pahrump Fan. Public record in the office of the State Engineer.

⁴ See State Engineer's Ruling Nos. 1854, 1897, 1918, 1919, 2836, 3216 and 3248.

⁵ See State Engineer's Ruling Nos. 1833, 1862 and 3253. Public record in the office of the State Engineer.

VI.

Permit 38085 was issued on November 8, 1985, in the name of Floyd B. and Shirley B. Neth for 0.057 c.f.s. and 25.0 acre-feet annually for irrigation and domestic purposes. Permit 38085 was assigned into the name of Jacqueline L. Ruud-Trustee of 1983 Living Trust by a document filed on March 9, 1988.¹

VII.

The proposed point of diversion described under Application 51755 is the same well location as the point of diversion under Permit 29198, Certificate 8769, in the name of Jacqueline L. Ruud.¹ The State Engineer has determined that Application 51755 is in fact changing the point of diversion of Permit 38085 in addition to changing the manner and place of use.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁷

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁸

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public welfare.

⁷ NRS Chapters 533 and 534.

⁸ NRS 533.370(2)(3).

III.

The State Engineer is authorized to deny an application prior to publication when a previous application for a similar use of water within the same basin has been rejected.⁸ State Engineer's Ruling Nos. 1833, 1854, 1897, 1918, 1919, 2836, 3216, 3248 and 3253 are incorporated in this ruling by reference.

IV.

An overdraft of the groundwater resource exists on the Pahrump Fan area. The granting of Application 51755 would constitute an additional appropriation of groundwater from the Pahrump Fan area, causing an increase in the overdraft condition on the Pahrump Fan, and therefore would conflict with existing rights and be detrimental to the public interest.

RULING

Application 51755 is hereby denied on the grounds that the granting thereof would constitute an additional appropriation of groundwater from the Pahrump Fan, causing an increase in the overdraft condition on the Pahrump Fan, and therefore would conflict with existing rights and be detrimental to the public interest.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/SHF/bk

Dated this 22nd day of

April, 1988.