

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

IN THE MATTER OF APPLICATIONS 52254 AND)  
52614 FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE WITHIN )  
THE BLACK MOUNTAINS AREA GROUND WATER )  
BASIN, CLARK COUNTY, NEVADA. )

RULING

GENERAL

I.

Application 52254 was filed by Charles Heisen on June 21, 1988 to appropriate 3.0 c.f.s. of underground water for mining purposes, within the Black Mountains Area Ground Water Basin. The proposed point of diversion is described as being within the SE1/4 SE1/4 Section 29, T.20S., R.64E., M.D.B.&M.<sup>1</sup>

Application 52614 was filed by Charles Heisen on October 18, 1988 to appropriate 3.0 c.f.s. of underground water for mining purposes within the Black Mountains Area Ground Water Basin. The proposed point of diversion is described as being within the NE1/4 SE1/4 Section 29, T.20S., R.64E., M.D.B.&M.<sup>2</sup>

II.

Applications 52254 and 52614 were published for the statutory period and subsequently no protests were filed.<sup>3</sup>

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<sup>1</sup> State's Exhibit No. 2.

<sup>2</sup> State's Exhibit No. 5.

<sup>3</sup> Records in the office of the State Engineer.

III.

After all of the subject parties had been duly notified as required under NRS 533.365(3), an administrative hearing was held on March 19, 1990 for taking evidence and testimony deemed necessary by the State Engineer for a full understanding of the above referenced applications. The State Engineer took administrative notice of certain matters more fully set forth in the transcript of the hearing.<sup>4</sup>

FINDINGS OF FACT

I.

Charles Heisen transferred and conveyed all his right, title and interest in Applications 52254 and 52614 to International Silica Corporation by Assignment executed on February 10, 1989 and received in the State Engineer's Office on March 5, 1990.<sup>5</sup>

II.

International Silica Corporation reduced its request for water to one and one half (1 1/2) c.f.s. under each application, during the hearing.<sup>6</sup>

III.

The points of diversion under Applications 52254 and 52614 are located approximately 4-5 miles north of Lake Mead at an elevation approximately 300 feet above the present surface elevation of Lake Mead within an area generally referred to as Government Wash, a north/south trending drainage adjoining Lake Mead to the South.<sup>7</sup>

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4 Transcript of March 19, 1990.

5 Records in the office of the State Engineer.

6 Transcript, pg. 9.

7 Transcript, pgs. 31-32.

IV.

Water Resources-Reconnaissance Series Report 50, "Water Resources Appraisal of the Lower Moapa-Lake Mead Area, Clark County, Nevada", (hereinafter, "Report 50") was prepared by the United States Geological Survey in cooperation with the Nevada Department of Conservation and Natural Resources. The State Engineer takes administrative notice of Report 50 and recognizes it as a reconnaissance level compilation of hydrologic data from which preliminary estimates were made regarding the amount of groundwater available for appropriation. The estimates of annual recharge and average annual precipitation for the Black Mountains Area Ground Water Basin stated in Report 50 are less than 100 acre feet and 0.5 feet, respectively.<sup>8</sup>

V.

Testimony provided by Charles Heisen, the previous owner of Applications 52254 and 52614, challenged the Report's estimate of recharge within the Black Mountains Area Ground Water Basin, more specifically the Government Wash subregion. Heisen testified that the general geology of the Government Wash primary drainage channel is characterized by alluvial deposits of sand and gravel, which overlie a network of fault zones. Subsequently the majority of the regions precipitation penetrates through these deposits and structures, to recharge the aquifer at depth, with only a very small percentage moving laterally towards Lake Mead.<sup>9</sup>

<sup>8</sup> Water Resources Reconnaissance Series Report 50 pg. 25, Table 6.

<sup>9</sup> Transcript pgs. 35-37.

VI.

Additional testimony by Heisen contended that the existence of significant quantities of groundwater above and beyond previous estimates was confirmed by the flows encountered during the construction of the wells under Applications 52254 and 52614. After penetrating approximately 300 feet of volcanic rock both drill holes progressed an additional 4-5 feet into a zone of stream washed gravels where a "large flow of water" was encountered.<sup>10</sup>

VII

Melvin Bruce Martin appearing on behalf of International Silica Corporation testified that limited pumping of both wells revealed flow rates ranging from 500 gpm to 1200 gpm.<sup>11</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>12</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>13</sup>

1. There is no unappropriated water at the proposed source, or
2. The proposed use conflicts with existing rights, or
3. The proposed use threatens to prove detrimental to the public interest.

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<sup>10</sup> Transcript pgs. 40-41, 51.

<sup>11</sup> Transcript pgs. 23-24.

<sup>12</sup> NRS Chapter 533.

<sup>13</sup> NRS Chapter 533.370.

III.

The record of evidence and testimony provides substantial evidence to support the finding that there is unappropriated underground water in the proposed source of supply under Applications 52254 and 52614.

RULING

Applications 52254 and 52614 will be approved subject to prior rights and payment of statutory fees.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MB/pm

Dated this 13th day of  
August, 1990