

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

IN THE MATTER OF APPLICATION)
52380 FILED TO CHANGE THE POINT)
OF DIVERSION AND PLACE OF USE)
OF A PORTION OF AN UNDERGROUND)
SOURCE HERETOFORE APPROPRIATED)
UNDER PERMIT 26915, CERTIFICATE)
9942, IN THE LAS VEGAS ARTESIAN)
BASIN, CLARK COUNTY, NEVADA.)

RULING

#3782

FINDINGS OF FACT

I.

Application 52380 was filed August 5, 1988 by the City of Las Vegas to change the point of diversion and place of use of 0.02 c.f.s., 8.5 acre-feet, of underground water, a portion of Permit 26915, Certificate 9942. The proposed point of diversion is within the NW1/4 NE1/4 Section 32, T.20S., R.60E., M.D.B.&M. The proposed place of use is within the E1/2 Section 29, N1/2 N1/2 Section 31, and N1/2 N1/2 Section 32, T.20S., R.60E., M.D.B.&M. The use will be recreation and domestic purposes for golf course and park landscaping.¹

II.

On November 22, 1988, the Las Vegas Valley Water District timely protested the granting of a permit under Application 52380 for the following reasons and on the following grounds:

"The diversion to be changed under the existing Permit No. 26915, Certificate No. 9942 has not been placed to beneficial use within the last 5 years, the manner of requested use is in conflict with State Engineer Order No. 196 dated December 1, 1949, and amended by State Engineer Order No. 833 dated December 27, 1983, and there are existing Las Vegas Valley Water District pipelines in El Capitan Way and Durango Drive already providing metered water service for park landscaping

¹ Public records in the office of the State Engineer.

and golf course use and which carry sufficient capacities and pressures to provide all such future water service.

Therefore the protestant requests that the application be denied."¹

III.

The State Engineer finds that Permit 26915 was issued July 17, 1974 to change the place and manner of use of Permit 10722, Certificate 3008. Certificate 9942 was issued under Permit 26915 April 8, 1982 for 0.26 c.f.s but not to exceed 188.23 acre-feet per annum. Certificate 3008 was issued under Permit 10722 November 15, 1946 for 0.594 c.f.s. but not to exceed 429.0 acre-feet per annum.¹

IV.

The State Engineer finds that Permit 10722, Certificate 3008, has a priority date of September 5, 1941.¹

The State Engineer finds that Permit 26915, Certificate 9942, has the same priority date as Permit 10722, Certificate 3008; and that Application 52380 has the same priority date, September 5, 1941, as Permit 26915, Certificate 9942, and Permit 10722, Certificate 3008.¹

V.

The State Engineer finds that water usage has been continuous under Permit 26915 for the years 1977 through 1989.²

VI.

The State Engineer issued Order No. 196 December 1, 1949, to curtail the granting of appropriations of underground waters for irrigation purposes in certain areas of the Las Vegas Artesian Groundwater Basin, in the interests of conservation of the resource.¹

² The Las Vegas Valley Water Usage Report, years 1977 through 1989. Public record in the office of the State Engineer.

VII.

The State Engineer issued Order No. 833 December 27, 1983, amending the boundaries of the designated area of the Las Vegas Artesian Groundwater Basin and ordering denial of all applications filed to appropriate underground water to irrigate land within the designated Las Vegas Artesian Basin.¹

VIII.

The State Engineer has information showing existing Las Vegas Valley Water District water pipelines in Durango Drive and El Capitan Way that can provide service to the property described under the place of use under the subject application.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.³

II.

The State Engineer is required by law to approve an application submitted in proper form which contemplates the application of water to beneficial use.⁴

III.

The State Engineer is prohibited by law from granting a permit where:

- 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.⁵

³ NRS 533.025 and NRS 533.030, subsection 1.

⁴ NRS 533.370 subsection 1.

⁵ NRS 533.370 subsection 3.

IV.

The State Engineer concludes that Permit 26915, Certificate 9942, has been putting water to beneficial use and is in good standing and therefore not subject to forfeiture.

V.

The State Engineer concludes that Application 52380 proposes to change a portion of Permit 26915, Certificate 9942, and proposes to put water to beneficial use for recreation and domestic purposes, and that Application 52380 is not an application to appropriate a new or additional quantity of water.

VI.

The State Engineer concludes that Order Nos. 196 and 833 do not apply to Application 52380 because Application 52380 and Permit 25915, Certificate 9942, have priority dates of September 5, 1941, prior to the issuance of Order Nos. 196 and 833; and that Order Nos. 196 and 833 apply to applications to appropriate new or additional quantities of water for irrigation purposes.

VII.

The State Engineer concludes that because the priority date of Application 52380 is September 5, 1941, Nevada Revised Statutes 534.120 requiring revocation or denial when water can be furnished by a water district does not apply to Application 52380.

VIII.

The State Engineer concludes that issuance of Application 52380 to change the point of diversion and place of use of a portion of Permit 26915, Certificate 9942, is not prohibited by NRS 533.370(3).

RULING

The protest of the Las Vegas Valley Water District to the granting of Application 52380 is overruled. Application 52380 will be approved upon receipt of the statutory permit fee.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/pm

Dated this 14th day of
February, 1991