

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

IN THE MATTER OF APPLICATIONS 46027)
AND 46028 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF THE LAS VEGAS WASH)
A SURFACE SOURCE IN THE BLACK)
MOUNTAIN AREA, CLARK COUNTY,)
NEVADA.)

RULING
4088

GENERAL

I.

Application 46027 was filed on August 18, 1982, by Alfred A. Wiesner to appropriate 25.0 c.f.s. of water from Las Vegas Wash for irrigation and domestic purposes within portions of Sections 14, 15, 22 and 23, T.21S., R.63E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22, T.21S., R.63E., M.D.B.&M.¹

Application 46028 was filed on August 18, 1982, by Alfred A. Wiesner to appropriate 25.0 c.f.s. of water from Las Vegas Wash for irrigation and domestic purposes within portions of Sections 14, 15, 22 and 23, T.21S., R.63E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22, T.21S., R.63E., M.D.B.&M.²

II.

Applications 46027 and 46028 were timely protested on January 21, 1983, by the Colorado River Commission on the grounds that:^{1,2}

The Colorado River Commission of Nevada (formerly the Division of Colorado River Resources) currently holds a permitted water right to appropriate water in the amount of 638 c.f.s. from the Las Vegas Wash. This right is granted by the State Engineer in Permit 29814 on November 28, 1975. The protested applications are in direct conflict with Permit No. 29814 assigned to the Commission.

Factors of importance which are relevant in your consideration of this protest are provided as follows:

¹ Public record in the office of the State Engineer under Application 46027.

² Public record in the office of the State Engineer under Application 46028.

1. Permit No. 29814 is absolutely essential for the Commission to meet its contractual municipal and industrial water delivery commitments of 299,000 acre feet per year (AFY) through the Southern Nevada Water System (SNWS), a \$250,000,000 public water treatment and transmission facility serving the Las Vegas Valley and vicinity.
2. Notwithstanding the overcommitted Las Vegas groundwater supply, no other economically feasible municipal and industrial water supply exists which can meet the contractual demands of the Las Vegas Valley and vicinity other than the Colorado River water which is treated and delivered through SNWS.
3. The State of Nevada has an adjudicated consumptive use Colorado River water allocation of 300,000 AFY, whereas existing water diversion contracts, and other water rights in Nevada, amount to approximately 400,000 AFY; therefore, return flow as that which is created under Permit No. 29814 is essential for the State of Nevada to meet its Colorado River water commitments.
4. A study prepared by Commission staff entitled "Impacts on Nevada's Colorado River Diversion Capability By Changing the Magnitude of Factors Involved on Return Flow Calculations" (copy formerly provided by letter dated December 13, 1982) demonstrates a depletion of 1 AFY in return flows in the Las Vegas Wash will reduce diversion of Colorado River water by approximately 1.8 AFY, thereby reducing Nevada's capability to fully utilize its Colorado River resources.
5. The water resources of the Colorado River are principally designated for, and the Colorado River water delivered through SNWS is specifically used for, municipal and industrial purposes, the highest priority for a water supply.

Therefore the protestant requests that the applications be denied.

FINDINGS OF FACT

I.

Applications 46027 and 46028 propose to irrigate 1,000 acres of private land and would consumptively use 5,000 acre-feet annually based on a duty of 5.0 acre-feet per annum. Applications 46027 and 46028 both state that the water is to be a, "Direct diversion from Las Vegas Valley Wash..."

II.

Permit 29814 was issued on March 21, 1977, to the State of Nevada - Division of Colorado River Resources for 638 c.f.s. of water from the Las Vegas Wash for municipal and domestic purposes.³

III.

The State Engineer finds that all return flows to the Colorado River are credited to Nevada's consumptive use apportionment from the Colorado River based upon a formula developed by the U.S. Bureau of Reclamation.⁴

IV.

Permits have been issued for over 471,000 acre-feet per annum from Las Vegas Wash.⁵

V.

The State Engineer finds that the gauged flows in the Las Vegas Wash at a station near Three Kids Wash have not exceeded 125,000 acre-feet per annum in the period of record since 1983 nor is the flow expected to exceed 135,000 acre-feet per annum until 1995.⁵

VI.

The State Engineer finds that flows in excess of the diversion rates of existing rights occur infrequently and only during flash floods.⁵ The times when flash flooding occur would not be sufficient to sustain beneficial use for irrigation.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁶

³ Public record in the office of the State Engineer, under Permit 29814.

⁴ Southern Nevada Water Authority 1992, Water Budget, April 16, 1992, Walter E. Fite, General Manager.

⁵ Public records in the office of the State Engineer.

⁶ NRS 533.325.

II.

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

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.⁷

III.

The State Engineer concludes that the granting of Applications 46027 and 46028 would reduce the water available in Las Vegas Wash for Colorado River return flow credit.

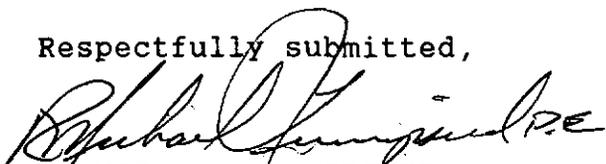
IV.

The State Engineer concludes that there is not unappropriated water at the proposed source on an annual basis. The flow in Las Vegas Wash during storm events does exceed the diversion rates of all existing right holders, but is not sufficient to sustain beneficial use for irrigation since it occurs at random and infrequent times and only for short durations.

RULING

The protests to Application 46027 and 46028 are hereby upheld and Applications 46027 and 46028 are hereby DENIED on the grounds that the granting thereof would conflict with existing rights and prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MA/pm

Dated this 8th day of
February, 1994.

⁷ NRS 533.370 subsection 3.