

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

IN THE MATTER OF APPLICATION 63592 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNDERGROUND SOURCE )  
WITHIN THE PAHRUMP VALLEY GROUNDWATER )  
BASIN (162), NYE COUNTY, NEVADA. )

RULING  
#4597

GENERAL

I.

Application 63592 was filed on November 26, 1997, by Theodore L. Blosser, to appropriate 0.5 cubic feet per second (cfs), not to exceed 60 acre-feet annually, from the underground waters of the Pahrump Valley Groundwater Basin, Nye County, Nevada, for irrigation of a 160 acre parcel described as being the "discontinued farming operations on certain portions of Blosser Ranch." The proposed point of diversion is described as being located within the SW¼ NW¼ of Section 34, T.19S., R.53E. M.D.B.&M.<sup>1</sup>

II.

The State Engineer initially described and designated a portion of the Pahrump Valley Groundwater Basin on March 11, 1941, under provisions of NRS § 534.030, as a basin in need of additional administration.<sup>2</sup> The State Engineer subsequently extended the boundaries of the designated area of the Pahrump Valley Artesian Groundwater Basin on January 15, 1948,<sup>3</sup> and on January 23, 1953.<sup>4</sup>

On October 26, 1987, the State Engineer issued Order No. 955 wherein he found that the groundwater levels in the Pahrump Valley were declining and ordered that all pending applications filed to appropriate water from the east side of the groundwater basin on

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<sup>1</sup> File No. 63592, official records in the office of the State Engineer.

<sup>2</sup> State Engineer's Order No. 176, dated March 11, 1941, official records in the office of the State Engineer.

<sup>3</sup> State Engineer's Order No. 193, dated January 15, 1948, official records in the office of the State Engineer.

<sup>4</sup> State Engineer's Order No. 205, dated January 23, 1953, official records in the office of the State Engineer.

the Pahrump and Manse Fans would be denied; all pending applications for all uses, except small commercial uses on the valley floor up to 5,000 gallons per day, would be denied; and further ordered that all new applications filed to appropriate water for irrigation purposes on lands in Pahrump Valley that have had a certificated water right forfeited where the forfeiture occurred prior to January 1, 1988, would be considered for approval on an individual basis; however, such applications would only be considered if they had been filed within 60 days of the date the water right had been declared forfeited.<sup>5</sup>

On November 8, 1994, the State Engineer issued Order No. 1107<sup>6</sup> wherein he further restricted water right application approvals to only those applications filed for commercial (non-living units) or industrial purposes off the fan and only those applications which seek to appropriate 1,800 gallons per day (gpd) or less and where the property is zoned for such purposes, or those applications filed for environmental purposes filed pursuant to NRS § 533.437. All other applications to appropriate ground water within the designated Pahrump Valley Artesian Basin would be denied. The purpose of Order No. 1107 was to clarify that no additional living units were going to be permitted, that commercial or industrial uses would only be allowed for non-living units, and further restricted the quantity that would be allowed from 5,000 gpd to 1,800 gpd.

#### FINDINGS OF FACT

##### I.

In Application 63592 under remarks it is stated that the quantity of water applied for is that which has been previously declared forfeited by State Engineer's Ruling No. 4480, issued

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<sup>5</sup> State Engineer's Order No. 955, dated October 26, 1987, official records in the office of the State Engineer.

<sup>6</sup> State Engineer's Order No. 1107, dated November 8, 1994, official records of the office of the State Engineer.

December 18, 1996. The applicant further stated that the application was filed in accordance with NRS § 534.090(1), which provides that upon forfeiture of a water right the water reverts to the public and is available for further appropriation, subject to existing rights. The State Engineer finds that the quantity of water declared forfeited under State Engineer's Ruling No. 4480 is not available for appropriation due to the fact that current exercise of, and the total quantity allowed under the existing water rights in the Pahrump Valley Artesian Basin exceeds the perennial yield of the basin. The State Engineer further finds that the subject application cannot be accepted as a re-file on the quantity of water forfeited under State Engineer's Ruling No. 4480 as the forfeiture occurred after 1988; therefore, the application does not comply with the re-file provisions of State Engineer's Order No. 955.

II.

As Application 63592 does not comply with the provisions of State Engineer's Order No. 955 allowing for re-filing on water rights declared forfeited prior to January 1, 1988, Application 63592 is actually a request for a new appropriation. The State Engineer finds that applications to appropriate ground water for similar purposes in the Pahrump Valley Artesian Groundwater Basin have been denied.<sup>7</sup>

III.

State Engineer's Order No. 1107 states that the United States Geological Survey estimates the perennial yield<sup>8</sup> of the

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<sup>7</sup> State Engineer's Ruling No. 2025, dated February 4, 1975, official records in the office of the State Engineer.

<sup>8</sup> The perennial yield of a hydrologic basin is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural recharge that can be salvaged for beneficial use. If the perennial yield is continually exceeded ground water

Pahrump Valley Artesian Basin to be 19,000 acre-feet annually and that the State Engineer estimates the perennial yield to be on the order of 12,000 acre-feet annually. The Order further stated that existing groundwater rights of record exceeded 75,000 acre-feet and that pumpage of ground water in the basin was in excess of the perennial yield. Application 63592 is a request for a new appropriation proposing to use ground water for irrigation purposes. The State Engineer finds the consumptive use of additional ground water to irrigate additional land, or to more intensively and frequently irrigate other land, is in direct conflict with the above referenced orders regulating the Pahrump Valley Artesian Groundwater Basin and to grant a permit under Application 63592 would interfere with existing rights.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>9</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>10</sup>

- 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 interest.

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levels will decline until the ground water reservoir is depleted. Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing wells, increased economic pumping lifts, land subsidence and possible reversal of ground water gradients which could result in significant changes in the recharge-discharge relationship. State Engineer's Office, WATER FOR NEVADA, STATE OF NEVADA REPORT NO.3, p. 13, Oct. 1971.

<sup>9</sup> NRS Chapters 533 and 534.

<sup>10</sup> NRS § 533.370(3).

III.

The State Engineer may deny an application without going to publication where a previous application for a similar use in the same basin has been denied.<sup>11</sup>

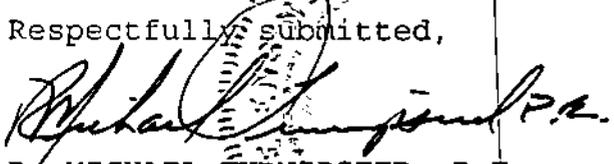
IV.

The State Engineer concludes that approval of Application 63592 would result in the withdrawal and consumptive use of the ground water resource and would adversely affect the availability of ground water in the Pahrump Valley Artesian Basin. Such withdrawal and use would deplete the water resource, would interfere with and impair the value of existing water rights and would be detrimental to the public interest.

RULING

Application 63592 is hereby denied on the grounds that the appropriation of additional underground water for irrigation purposes in the area described is in direct conflict with the State Engineer's Orders regarding the Pahrump Valley Artesian Ground Water Basin, and would impair the value of existing rights and be detrimental to the public welfare.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/RKM/bk

Dated this 20th day of  
January, 1998.

<sup>11</sup> NRS § 533.370(3).