

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

IN THE MATTER OF APPLICATION 63134 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE LAS VEGAS VALLEY ARTESIAN )  
GROUND WATER BASIN (212), CLARK )  
COUNTY, NEVADA )

RULING  
#4598

GENERAL

I.

Application 63134 was filed May 20, 1997, by John T. Gilcrease, et al. to appropriate 1000 gallons per day (0.00155 cubic feet per second) from the Las Vegas Artesian Ground Water Basin for commercial purposes on 3.214 acres within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 15, T.19S., R.60E., M.D.B. & M. The point of diversion is described as being located at an existing domestic well within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 15.<sup>1</sup>

II.

Permit 36332 was granted February 26, 1980, to John T. Gilcrease and William O. Gilcrease to change the place of use of 0.384 cfs, a portion of Permit 10940, Certificate 4402. Certificate 10844 was issued under Permit 36332 on December 15, 1983, for 0.384 cubic feet per second, not to exceed 192.0 acre-feet per year, from the Las Vegas Artesian Ground Water Basin for the irrigation of 38.4 acres. The water is appurtenant to lands described as 3.6 acres within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 15 and 34.8 acres within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 15, T.19S., R.60E., M.D.B. & M. The point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 9, T.19S., R.60E., M.D.B. & M.<sup>2</sup>

III.

The State Engineer initially described and designated a portion of the Las Vegas Artesian Basin on January 10, 1941, under

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<sup>1</sup> File No. 63134 and supporting map, official records in the office of the State Engineer.

<sup>2</sup> File No. 36322 and Proof of Beneficial Use map, official records in the office of the State Engineer.

the provisions of NRS 534.030, as a basin in need of additional administration.<sup>3</sup> The State Engineer subsequently extended the boundaries of the designated area of the Las Vegas Artesian Basin on February 29, 1944,<sup>4</sup> November 22, 1946,<sup>5</sup> April 18, 1961,<sup>6</sup> May 25, 1964,<sup>7</sup> and December 27, 1983.<sup>8</sup>

On April 15, 1992, the State Engineer issued State Engineer's Amended Order No. 1054, which provides that after March 23, 1992, with a few exceptions, all applications filed pursuant to NRS § 534.120 within the designated Las Vegas Artesian Ground Water Basin would be denied.<sup>9</sup> Amended Order No. 1054 provides that applications filed for commercial or industrial purposes which seek to appropriate 1,800 gallons per day or less and where the property is zoned for such purpose shall be processed and subject to NRS Chapter 533 and 534.

#### IV.

The State Engineer has recognized four areas in the Las Vegas Valley Artesian Ground Water Basin as having localized problems caused by groundwater pumpage. One of those areas is known as the

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<sup>3</sup> State Engineer's Order No. 175, dated January 10, 1941, official records in the office of the State Engineer.

<sup>4</sup> State Engineer's Order No. 182, dated February 29, 1944, official records in the office of the State Engineer.

<sup>5</sup> State Engineer's Order No. 189, dated November 22, 1946, official records in the office of the State Engineer.

<sup>6</sup> State Engineer's Order No. 249, dated April 18, 1961, official records in the office of the State Engineer.

<sup>7</sup> State Engineer's Order No. 275, dated May 25, 1964, official records in the office of the State Engineer.

<sup>8</sup> State Engineer's Order No. 833, dated December 27, 1983, official records in the office of the State Engineer.

<sup>9</sup> State Engineer's Amended Order No. 1054, dated April 15, 1992, official records in the office of the State Engineer.

Tule Springs/Gilcrease Ranch Area and is described as encompassing all of Sections 3, 4, 5, 8, 9, 10, 15, 16, and 17, T.19S., R.60E., M.D.B. & M.<sup>10</sup> This is the same area in which Application 63134 seeks to appropriate additional water.

V.

The Nevada Division of Water Resources has cooperated with the U.S. Department of Interior, Geological Survey, in studying land subsidence, water pumpage and ground water level changes in the Las Vegas Valley and has published the study results in various reports. Included in these reports are ground water level measurements of the J. P. Goumond well located in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 9, T.19S., R.60E., M.D.B. & M.<sup>11</sup>

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<sup>10</sup> State Engineer's correspondence to Clark County Department of Comprehensive Planning, February 4, 1993, and July 28, 1993, official records in the office of the State Engineer.

<sup>11</sup> Maxey, G.B. and Jameson, C.H., Well Data in Las Vegas and Indian Spring Valleys, Nevada, Water Resources Bulletin No. 4, Office of the State Engineer and U.S.G.S., pp. 22-23 (1946); Harrill, James R., Water-level Changes Associated with Ground-water Development in Las Vegas, Valley, Nevada, 1971-1975, Water Resources-Information Series Report 22, Nevada Division of Water Resources and U.S.G.S., p. 6 (1976); Harrill, James R., Water-level Changes Associated with Ground-water Development in Las Vegas, Valley, Nevada, March 1975 to March 1976, Water Resources-Information Series Report 26, Nevada Division of Water Resources and U.S.G.S., p. 4 (1977); Katzer, Terry, Water-level Changes Associated with Ground-water Development in Las Vegas, Valley, Nevada, March 1976 to March 1977, Water Resources-Information Series Report 27, Nevada Division of Water Resources and U.S.G.S., p. 6 (1977); Wood, David B., Water-level Changes Associated with Ground-water Development in Las Vegas, Valley, Nevada, March 1977 to March 1978, Water Resources-Information Series Report 29, Nevada Division of Water Resources and U.S.G.S., p. 4 (1979); Wood, David B., Water-level Changes Associated with Ground-water Development in Las Vegas, Valley, Nevada, 1978-1979, Water Resources-Information Series Report 30, Nevada Division of Water Resources and U.S.G.S., p. 17 (1988); Wood, David B., Water-level Changes Associated with Ground-water Development in Las Vegas, Valley, Nevada, 1979-1981, Water Resources-Information Series Report 31, Nevada Division of Water Resources and U.S.G.S., p. 17 (1988); Wood, David B., Water-

FINDINGS OF FACT

I.

Application 63134 proposes to appropriate 1,000 gallons per day (1.12 acre-feet) of water per year for commercial purposes. The proposed place of use under Application 63134 is described as 3.214 acres located within the SW¼ NW¼ NE¼ of Section 15, T.19S., R.60E., M.D.B.& M.<sup>1</sup> The State Engineer finds that the water right granted under Certificate 10844 for irrigation of 34.8 acres in the NE¼ NW¼ Section 15, T.19S., R.60E., M.D.B.& M., includes the 3.214 acres proposed as the place of use under Application 63134.<sup>1,2</sup>

II.

Clark County Department of Comprehensive Planning, Current Planning Division has indicated that the place of use under Application 63134 is zoned residential agricultural (RA) and that RA zoning does not allow for commercial uses.<sup>12</sup> The State Engineer finds that Application 63134 does not comply with the exception provisions under State Engineer's Amended Order No. 1054 as the proposed place of use under the application is not zoned for the manner of use requested under the application.

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level Changes Associated with Ground-water Withdrawals and Surface-water Imports, Las Vegas, Valley, Nevada, 1981-1983, Water Resources-Information Series Report 32, Nevada Division of Water Resources and U.S.G.S., pp. 16-20 (1991); Wood, David B., Water-level Changes Associated with Ground-water Withdrawals and Surface-water Imports, Las Vegas, Valley, Nevada, 1983-1985, Water Resources-Information Series Report 33, Nevada Division of Water Resources and U.S.G.S., pp. 15-19 (1991); Burbey, Thomas J., Pumpage and Water-level Change in the Principal Aquifer of Las Vegas Valley, Nevada, 1980-1990, Nevada Division of Water Resources and U.S.G.S., pp. 36-44 (1995).

<sup>12</sup> Zoning information from Clark County Department of Comprehensive Planning, facsimile dated January 9, 1998, and report of telephone conversation, January 12, 1998, File No. 63134, official records in the office of the State Engineer.

III.

Water-level measurements taken in the J. P. Goumond well located within Section 9, T.19S., R.60E., M.D.B. & M. indicate that the ground water level has declined from approximately 44 feet below land surface as measured in 1944 to 186 feet below land surface as measured in October 1992.<sup>11</sup> This represents an average decline of approximately 3 feet per year and is a clear indication that the area is a critical ground water management area.

The State Engineer finds that the proposed point of diversion under Application 63134 is located within the NW¼ NE¼ of Section 15, T.19S., R.60E., M.D.B. & M., which is located within the Tule Springs/Gilcrease Ranch Area recognized by the State Engineer as having localized problems caused by ground water pumpage. The State Engineer finds that to issue any new right to appropriate ground water in the Tule Springs/Gilcrease Ranch Area would only further exacerbate the problem of ground water level declines, would interfere with existing water rights and would threaten to prove detrimental to the public interest.

IV.

The State Engineer finds that the map filed in support of Application 63134 indicates that it covers the same area as is certificated for irrigated fields under Permit 36332, Certificate 10844. The State Engineer finds there is already an existing permitted use of water on the lands applied for under Application 63134.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>13</sup>

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<sup>13</sup> NRS Chapters 533 and 534.

II.

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

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.<sup>14</sup>

III.

The State Engineer concludes that to issue a permit for a new appropriation for ground water for commercial use on a 3.214 acre place of use which already has an existing water right for irrigation use would conflict with existing rights and would threaten to prove detrimental to the public interest.

IV.

The State Engineer concludes that Application 63134 does not comply with any of the exceptions under State Engineer's Amended Order No. 1054 as the proposed place of use is not zoned for commercial uses; therefore, to issue a permit under the application would be in violation of State Engineer's Amended Order No. 1054 and would threaten to prove detrimental to the public interest.

V.

The State Engineer concludes that to issue a permit for a new appropriation of ground water in the Tule Springs/Gilcrease Ranch Area, an area already recognized as having problems caused by ground water pumpage as evidenced by severe ground water level declines, would conflict with existing rights and would threaten to prove detrimental to the to the public interest.

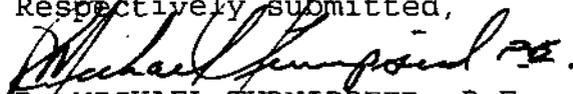
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<sup>14</sup> NRS § 533.370(3).

RULING

Application 63134 is hereby denied on the grounds that the granting of a permit would conflict with existing rights and would threaten to prove detrimental to the public interest.

Respectively submitted,

  
R/ MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CAB/bk

Dated this 22nd day of  
January, 1998.