

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

IN THE MATTER OF APPLICATIONS 62857)
AND 62858 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE MIDDLE REESE RIVER)
VALLEY GROUNDWATER BASIN (058),)
LANDER COUNTY, NEVADA.)

RULING

4657

GENERAL

I.

Application 62857 was filed on February 13, 1997, by Richard H. Guelich III and Charles M. McGee to appropriate 2.7 cubic feet per second (cfs) of underground water for irrigation and domestic purposes. The proposed place of use is described as being 320 acres of land located within the W½ of Section 10, T.26N., R.43E., M.D.B. & M. The proposed point of diversion is described as being located within the SE¼ NW¼ of said Section 10.¹

II.

Application 62858 was filed on February 13, 1997, by Richard H. Guelich III and Charles M. McGee to appropriate 2.7 cfs of underground water for irrigation and domestic purposes. The proposed place of use is identical to that described under Application 62857. The proposed point of diversion is described as being located within the SE¼ SW¼ of Section 10, T.26N., R.43E., M.D.B. & M.²

III.

Applications 62857 and 62858 were timely protested by the Pershing County Water Conservation District on the following grounds:^{1,2}

The granting of said application will affect the water table and drainage and adversely affect the decreed

¹ File No. 62857, official records in the office of the State Engineer.

² File No. 62858, official records in the office of the State Engineer.

waters of the Humboldt River. Also, said application is for basin #058 which is currently over appropriated.

FINDINGS OF FACT

I.

By Order No. 276 dated August 5, 1964, the State Engineer designated and described the Middle Reese River Valley Groundwater Basin under the provisions of NRS § 534.030 as a groundwater basin in need of additional administration.³ The State Engineer finds that the points of diversion proposed under Applications 62857 and 62858 are within the designated groundwater basin.

II.

The State Engineer has previously denied applications to appropriate underground water for irrigation purposes within the Middle Reese River Valley Groundwater Basin on the grounds that the groundwater basin was fully appropriated and that the granting of new permits would impair the value of senior existing underground water rights.⁴

III.

By correspondence dated March 30, 1998, the applicant requested the office of the State Engineer consider Applications 62857 and 62858 in reference to any underground water which may have become available for appropriation due to a reduction in water rights allocated in the basin by forfeiture of any of the certificated water rights in the Middle Reese River Valley Groundwater Basin.¹ The committed groundwater resource for the Middle Reese River Valley Groundwater Basin in the form of permits and certificates issued by the office of the State Engineer to appropriate underground water currently exceeds 39,114 acre-feet of

³ State Engineer's Order No. 276, dated August 5, 1964, official records in the office of the State Engineer.

⁴ File Nos. 31274, 31275, 31276, 32840, 30766, 30670, 30671, 30672, 30677, 30678, 30767, 33051, 45083 and 34899, official records in the office of the State Engineer.

which 1,664 acre-feet is represented by non-certificated water right permits.⁵ An annual groundwater pumpage inventory has been conducted by personnel from the State Engineer's office in the Middle Reese River Valley Groundwater Basin since 1981. Contained within each annual pumpage inventory is an estimate of the irrigated acreage in the basin and its associated annual duties of water which in 1997 was 7,470 acres of land irrigated using 22,140 acre-feet of underground water.⁶ If the assumption is made that the 1,664 acre-feet of non-certificated water right permits contributed 100% of their respective annual water right duties to the basin wide pumping estimate, and this number is subtracted from the 22,140 acre-feet of water found in the basin pumpage inventory, the remaining portion of the pumping represented exclusively by certificated water right permits would be 20,476 acre-feet.

The State Engineer finds that at a minimum 20,476 acre-feet of certificated underground water was placed into beneficial use within the Middle Reese River Valley Groundwater Basin during the 1997 irrigation season, and this figure represents the amount of certificated water rights which by the nature of their use were in good standing at that particular point in time.

V.

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. The 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 groundwater levels will

⁵ Hydrographic Basin Summary, Nevada Division of Water Resources, Water Rights Database, August 10, 1998, official records in the office of the State Engineer.

⁶ Antelope Valley - Middle Reese River Valley 1997 Pumpage Inventory, official records in the office of the State Engineer.

decline until the groundwater 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 yield of wells, increased economic pumping lifts, land subsidence and possible reversal of groundwater gradients which could result in significant changes in the recharge-discharge relationship.⁷ The United States Geological Survey (USGS) estimates that the perennial yield of the Middle Reese River Valley Groundwater Basin is 14,000 acre-feet. The committed ground water resource in the form of certificated water right permits alone currently exceeds 37,450 acre-feet annually of which a minimum of 20,476 acre-feet was utilized and considered to have been in good standing as recently as the 1997 irrigation season.^{6,8} The State Engineer finds that the committed groundwater resource in the form of certificated water right permits which in 1997 were considered to be in good standing by itself exceeds the groundwater basin's estimated perennial yield.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:¹⁰

⁷ State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, Nevada Division of Water Resources, p. 13, October 1971.

⁸ Nowlin, Jon, Ground-water Quality in Nevada - A Proposed Monitoring Program, Open-File Report 78-768, U.S. Department of Interior, Geological Survey, p. 193.

⁹ NRS § Chapters 533 and 534.

¹⁰ NRS § 533.370(3).

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

Applications requesting a new appropriation of underground water for irrigation purposes from within the Middle Reese River Valley Groundwater Basin have previously been denied by the State Engineer due primarily to the imbalance which exists between the basin's committed groundwater resource and its perennial yield. A reduction of this imbalance can be accomplished, in part, through the forfeiture of those existing certificated underground water right permits which have fallen into the five year period of non-use as defined under NRS § 534.090(1). Should the reduction in certificated water rights be of a magnitude which brings the committed groundwater resource below the basin's perennial yield, ground water may become available for appropriation. Current basin wide pumping estimates for the Middle Reese River Valley Groundwater Basin indicate that 22,140 acre-feet of water was put to beneficial use primarily for irrigation purposes during the 1997 irrigation season.

Recognizing that only 1,664 acre-feet of water is held under water rights permits which have yet to attain certificate status, it can be assumed that the remaining 20,476 acre-feet of water right can be attributed to certificated water right permits, which by virtue of their beneficial use during 1997 irrigation season, are considered to be in good standing. Therefore, the committed groundwater resource in the form of certificated water right permits which are currently considered to be in good standing exceeds, on its own, the perennial yield of the groundwater basin. The State Engineer concludes that a reduction of the committed groundwater resource by forfeiture determinations can not be

accomplished at this time to a level which would allow for additional new appropriations of water from the groundwater basin to occur as requested by Applications 62857 and 62858.

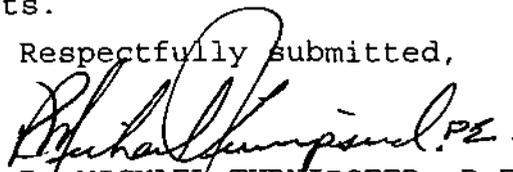
IV.

The total certificated and permitted groundwater resource of the Middle Reese River Valley Groundwater Basin currently exceeds 39,114 acre-feet annually. The USGS has estimated that the perennial yield of said basin is approximately 14,000 acre-feet per year. Applications 62857 and 62858 request an additional combined appropriation of underground water totaling 1,280 acre-feet annually from the Middle Reese River Valley Groundwater Basin. The State Engineer concludes that to grant permits under Applications 62857 and 62858 in a groundwater basin where the quantity of water under existing appropriations exceeds the basin perennial yield would conflict with existing rights and prove detrimental to the public interest.

RULING

Applications 62857 and 62858 are hereby denied on the grounds that granting the applications would interfere with existing rights and prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

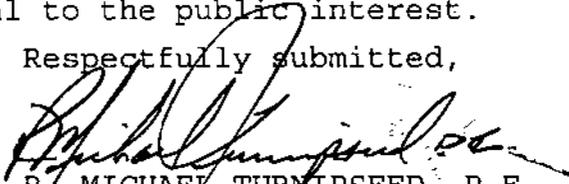
RMT/MDB/cl

Dated this 13th day of
August, 1998.

RULING

Applications 64083, 64084 and 64085 are hereby denied on the grounds that the granting thereof would adversely affect existing rights and be detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 13th day of
August, 1998.