

IN THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS)
54484, 54634, 62996, 62997, 62998,)
AND 62999 FILED TO APPROPRIATE THE)
PUBLIC WATER OF UNDERGROUND SOURCES)
LOCATED WITHIN THE GARNET VALLEY)
GROUNDWATER BASIN (216), CALIFORNIA)
WASH GROUNDWATER BASIN (218),)
HIDDEN VALLEY-NORTH GROUNDWATER)
BASIN, CLARK COUNTY, NEVADA.)

RULING

4736

GENERAL

I.

Application 54484 was filed on February 26, 1990, by Nevada Power Company (NPC) to appropriate 2.0 cubic feet per second (cfs) of underground water for industrial (cooling) purposes with an estimated consumptive water use of 1,000 acre-feet annually (afa). The proposed place of use is described as being within the SE $\frac{1}{4}$, a portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and a portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12; the NE $\frac{1}{4}$, the SE $\frac{1}{4}$, the SW $\frac{1}{4}$, the NE $\frac{1}{4}$ NW $\frac{1}{4}$, the SE $\frac{1}{4}$ NW $\frac{1}{4}$, a portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, and a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13; the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 35; and all of Sections 24, 25, and 36, T.17S., R.63E., M.D.B.&M.; together with the SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 7, and all of Sections 18, 19, 30, and 31, T.17S., R.64E., M.D.B.&M.; together with the NE $\frac{1}{4}$ of Section 2; and the NW $\frac{1}{4}$ of Section 1, T.18S., R.63E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T.18S., R.63E., M.D.B.&M.¹

¹ File No. 54484, official records in the office of the State Engineer.

II.

Application 54634 was filed on April 6, 1990, by NPC to appropriate 3.5 cfs of underground water for industrial (cooling) and environmental control purposes with an estimated consumptive use of water of 2,534 afa. The proposed place of use is described as being within the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T.15S., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, T.15S., R.66E., M.D.B.&M.²

III.

Application 62996 was filed on April 3, 1997, by NPC to appropriate 8.35 cfs of underground water for industrial (cooling) purposes within the SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 12, E $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 13, Section 24, Section 25, the E $\frac{1}{2}$ of Sections 35 and 36, T.17S., R.63E.; and the NW $\frac{1}{4}$ of Section 1, T.18S., R.63E.; the NE $\frac{1}{4}$ of Section 2, T.18S., R.64E.; and the S $\frac{1}{2}$ of Section 7, Section 18, Section 19, Section 30 and Section 31, T.17S., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.16S., R.63E., M.D.B.&M. Information contained within the remarks section of the application indicates that the consumptive use of water for the entire NPC well field is estimated to be 16,131 afa.³

IV.

Application 62997 was filed on April 3, 1997, by NPC to appropriate 5.57 cfs of underground water for industrial (cooling) purposes within the same place of use described under Application

² File No. 54634, official records in the office of the State Engineer.

³ File No. 62996, official records in the office of the State Engineer.

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62996. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 27, T.15S., R.63E., M.D.B.&M.⁴

V.

Application 62998 was filed on April 3, 1997, by NPC to appropriate 8.35 cfs of underground water for industrial (cooling) purposes within the same place of use described under Applications 62996 and 62997. The proposed point of diversion is described as being located within the SW¼ NE¼ of Section 11, T.16S., R.63E., M.D.B.&M.⁵

VI.

Application 62999 was filed on April 3, 1997, by NPC to appropriate 22.28 cfs of underground water for industrial (cooling) purposes within the same place of use described under Applications 62996, 62997, and 62998. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 29, T.16S., R.63E., M.D.B.&M.⁶

VII.

Application 54634 was timely protested by the United States Department of the Interior, National Park Service, and Applications 62996, 62997, 62998 and 62999 were timely protested by the United States Department of the Interior, National Park Service, the U.S. Fish and Wildlife Service, and the Moapa Valley Water District for various reasons and on several grounds.¹⁻⁶

⁴ File No. 62997, official records in the office of the State Engineer.

⁵ File No. 62998, official records in the office of the State Engineer.

⁶ File No. 62999, official records in the office of the State Engineer.

VIII.

All of the subject applications request appropriations of underground water for use within NPC's Harry Allen electrical generating facility.⁷

FINDINGS OF FACT

I.

NPC has previously filed water right applications in several groundwater basins to appropriate large amounts of underground water for industrial (cooling) purposes within its Harry Allen Station. Application 46777 was filed on March 31, 1983, requesting an appropriation of 55.0 cfs of underground water from the Coyote Springs Groundwater Basin. At the time Application 46777 was filed, the applicant estimated that the total consumptive use of water under the proposed manner of use would be 40,000 acre-feet annually. By letter dated May 22, 1996, NPC informed the State Engineer that its overall water needs for the Harry Allen Station would be substantially less than the 40,000 acre-feet originally applied for under Applications 46777, 49606 through 49610, inclusive and that it intended to amend its pending water right applications to reflect the total water needed for the Harry Allen Station, estimated to be 5,000 afa. Additional information, including a 1997 Water Resource Plan, submitted to the State Engineer by NPC indicated that NPC did not intend to develop all of its water right applications associated with the Harry Allen Station and was only interested in meeting its projected consumptive water needs. After reviewing this information, the State Engineer determined that 5,000 acre-feet was sufficient water to satisfy the energy production demands of

⁷ File No. 46777; See NPC 1997 Water Resource Plan, contained therein, official records in the office of the State Engineer.

NPC to the year 2015, and on October 7, 1997, the State Engineer issued Permit 46777 with the condition that its diversion rate would be reduced to 10.0 cfs, not to exceed 5,000 acre-feet annually.

The State Engineer finds that the amount of water granted under Permit 46777 is sufficient to meet the water demand associated with the operation of the Harry Allen Station, and that no additional large scale appropriations of water for this use need to be considered.

II.

Applications 54484, 54634, 62996, 62997, 62998, and 62999 were filed to appropriate additional water for use at the Harry Allen Station above and beyond the amount of water requested and granted under Permit 46777. Under the provision established under NRS 533.370(1)c, before an application to appropriate water can be approved by the State Engineer there must be a reasonable expectation that the water applied for will be put to beneficial use.⁸ The State Engineer finds that the consumptive water demands associated with industrial (cooling) uses occurring at the Harry Allen Station can be met under existing water rights held by NPC, therefore, any additional requests for water should be denied as there is no anticipated beneficial use for the water.

CONCLUSIONS

I.

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

⁸ NRS § 533.370 (1)c.

⁹ NRS Chapters 533 and 534.

II.

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

- 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.

The operation of the Harry Allen Station requires an appropriation of underground water which has been determined by the applicant and the State Engineer to be 5,000 afa. This consumptive water demand was met with the issuance of Permit 46777 by the State Engineer on October 7, 1997. The State Engineer concludes that it would not be in the public interest to approve additional water rights for a project whose water requirements can be satisfied by under the existing water rights held by the applicant.

¹⁰ NRS § 533.370(3).

RULING

Applications 54484, 54634, 62996, 62997, 62998, and 62999 are hereby denied on the grounds that their approval would threaten to 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 28th day of
May, 1999.