

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

IN THE MATTER OF APPLICATIONS 66099)
AND 66100 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE DRY VALLEY)
HYDROGRAPHIC BASIN (198), LINCOLN)
COUNTY, NEVADA.)

RULING

4930

GENERAL

I.

Application 66099 was filed on February 25, 2000, by Dan Frehner to appropriate 10.0 cubic foot per second (cfs) of underground water for the irrigation of 1,280 acres of land that are described as being located within the E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, and the SW $\frac{1}{4}$ of Section 27, the W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and the SE $\frac{1}{4}$ of Section 26, and the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 35, all within T.1N., R.68E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35.¹

II.

Application 66100 was filed on February 25, 2000, by Lee Pearson to appropriate 10.0 cfs of underground water for the irrigation of 960 acres of land that are described as being located within the SE $\frac{1}{4}$ of Section 22, the W $\frac{1}{2}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of Section 27, and the E $\frac{1}{2}$ SW $\frac{1}{4}$, the NW $\frac{1}{4}$, the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 28, all within T.1N., R.68E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 27.²

III.

By a Quitclaim Deed, dated April 20, 2000, ownership of Application 66100 was acquired by Dan Frehner. As required under the Nevada Revised Statutes, a Report of Conveyance accompanied by a copy of the April 20, 2000, deed was submitted to the office

¹ File Number 66099, official records in the office of the State Engineer.

² File Number 66100, official records in the office of the State Engineer.

of the State Engineer. At the same time, an amended Application 66100 was filed under the name of Dan Frehner.²

FINDINGS OF FACT

I.

Perennial yield of a groundwater reservoir may be defined as the maximum amount of ground water that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately 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 decline.³

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. The United States Geological Survey estimates the perennial yield of the Dry Valley Groundwater Basin is approximately 1,000 acre-feet.⁴ The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Dry Valley Groundwater Basin currently exceeds 7,712 acre-feet annually.⁵ The State Engineer finds that existing groundwater rights in the Dry Valley Groundwater Basin exceeds the perennial yield of the groundwater basin.

II.

Application 46955, that requested an additional appropriation of underground water from the Dry Valley Groundwater Basin for the irrigation of 200.48 acres was denied

³ State Engineer's Office, Water for Nevada, State of Nevada Water Planning Report No. 3, p. 13, Oct. 1971.

⁴ Nowlin, Jon, Groundwater Quality in Nevada - A Proposed Monitoring Program, Open File Report 78-768, U.S. Geological Survey, p. 201.

⁵ Special Hydrologic Basin Abstract, Water rights Database, Basin 198, April 26, 2000, official records within the office of the State Engineer.

by the State Engineer on the grounds that its approval would adversely affect existing rights and would be detrimental to the public interest and welfare.⁶ The State Engineer finds that Applications 66099 and 66100 request new appropriations of underground water for a manner of use that has previously been denied within the Dry Valley Groundwater Basin.

III.

Under the provisions of NRS § 533.370(3), if a previous application for a similar use of water within the same groundwater basin has been rejected because its approval would conflict with existing rights or threaten to prove detrimental to the public interest, the new application may be denied without publication. The State Engineer finds that Application 66099 can be denied prior to publication. Application 66100 was sent to publication, but can be denied on the same grounds.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁸

- 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.

⁶ State Engineer's Ruling Number 2922, dated April 2, 1984, official records in the office of the State Engineer.

⁷ NRS chapters 533 and 534.

⁸ NRS § 533.370(3).

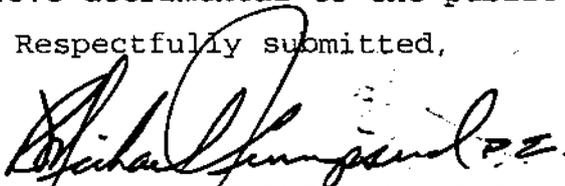
III.

Applications 66099 and 66100 request significant appropriations of underground water from the Dry Valley Groundwater Basin for irrigation purposes. The State Engineer has previously denied a similar request on the grounds that the approval of additional appropriations of underground water for irrigation purposes would adversely affect existing water rights within the groundwater basin while threatening to prove detrimental to the public interest. The State Engineer concludes that the approval of Applications 66099 and 66100 would have a similar effect on the existing water rights in the groundwater basin and the public interest, therefore, Applications 66090 and 66100 must be denied.

RULING

Applications 66099 and 66100 are hereby denied on the grounds that their approval would conflict with existing water rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



R/ MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 6th day of
June, 2000.