

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

IN THE MATTER OF APPLICATION)
67318 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE CARSON DESERT)
HYDROGRAPHIC BASIN (101),)
CHURCHILL COUNTY, NEVADA.)

RULING

5086

GENERAL

I.

Application 67318 was filed on March 12, 2001, by A & K Earth Movers, Inc., to appropriate 0.09 cubic feet per second (cfs) of underground water from the Carson Desert Hydrographic Basin. The proposed manner and place of use is described as being for commercial and domestic purposes on 160 acres of land located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, all within T.19N., R.29E., 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 said Section 21.¹

FINDINGS OF FACT

I.

The State Engineer finds that Application 67318 was filed to appropriate water from an underground source within the Carson Desert Hydrographic Basin, Churchill County, Nevada, as designated and described by Order No. 716 of the State Engineer issued July 6, 1978.²

II.

The State Engineer finds that any application to appropriate water from an underground source for irrigation purposes in the Carson Desert Hydrographic Basin must be denied as set forth under State Engineer's Order No. 722 issued on October 4, 1978.³

¹ File No. 67318, official records in the Office of the State Engineer.

² State Engineer's Order No. 716, dated July 6, 1978, official records in the Office of the State Engineer.

³ State Engineer's Order No. 722, dated October 4, 1978, official records in the Office of the State Engineer.

III.

Permit 57193 was issued to A & K Earth Movers, Inc., for commercial and domestic purposes on November 17, 1992. Permit 57193 was issued for 0.09 cfs, but not to exceed 48.4 acre-feet annually (afa). Permit 57193 was issued as a temporary permit to expire on November 17, 2002.⁴ The State Engineer finds that the place of use issued under Permit 57193 is the same as that applied for under Application 67318.

IV.

Application 61085 was filed on March 30, 1995 to appropriate 40.8 million gallons annually (about 125.21 afa) of underground water from within the Carson Desert Hydrographic Basin for industrial and domestic purposes.⁵ The State Engineer finds that the place of use issued under Permit 57193 is the same as that applied for under Application 61085.

V.

The State Engineer finds that existing groundwater permits and certificates for the Carson Desert Hydrographic Basin exceed the estimated potential recharge from precipitation. This same condition caused the State Engineer to issue Order No. 1116 on August 22, 1995. Order No. 1116 curtailed the appropriation of more than 4,000 gallons of water per day (4.48 afa), except for environmental and geothermal purposes, from underground sources in the Carson Desert Hydrographic Basin.⁶

⁴ File No. 57193, official records in the Office of the State Engineer.

⁵ File No. 61085, official records in the Office of the State Engineer.

⁶ State Engineer's Order No. 1116, dated August 22, 1995, official records in the Office of the State Engineer.

VI.

The State Engineer finds that a permit was issued under Application 61085 for 0.2 cfs, but not to exceed 4.48 afa (4,000 gallons per day), on February 21, 1996. Certificate 15003 was issued under Permit 61085 for the entire permitted amount, on August 25, 1998.⁷

VII.

The State Engineer finds that the proposed point of diversion and place of use under Application 67318 are identical to the point of diversion and place of use under Permit 61085, Certificate No. 15003.⁸

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that to grant additional water rights from this limited groundwater resource would adversely affect existing rights and threaten to prove detrimental to the public interest.

⁷ File No. 61085, official records in the Office of the State Engineer.

⁸ File Nos. 61085 and 67318, official records in the Office of the State Engineer.

⁹ NRS chapters 533 and 534.

¹⁰ NRS § 533.370.

IV.

The issuance of multiple redundant permits for 4,000 gallons per day for the same place of use and for similar, if not identical, manners of use would be contrary to Order No. 1116.¹¹

RULING

Application 67318 is hereby denied on the grounds that the granting of said application for commercial and domestic use as applied for would tend to impair the value of existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/KC/jm

Dated this 3rd day of
January, 2002.

¹¹ State Engineer's Order No. 1116, dated August 22, 1995, official records in the Office of the State Engineer.