

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

IN THE MATTER OF APPLICATIONS )  
63379, 63380 AND 63381 FILED TO )  
APPROPRIATE THE UNDERGROUND )  
WATERS OF LOWER MEADOW )  
VALLEY WASH HYDROGRAPHIC )  
BASIN (205), CLARK COUNTY, )  
NEVADA. )

**RULING**

**# 6031**

**GENERAL**

**I.**

Application 63379 was filed on August 28, 1997, by the Moapa Valley Water District to appropriate 6.0 cubic feet per second (cfs), not to exceed 4,344 acre-feet annually (afa), of the underground water of the Lower Meadow Valley Wash Hydrographic Basin (205), Clark County, Nevada, for municipal purposes within Sections 5, 6, 8, 9, 13, 14, 15, 16, 23, 24, 25, 26, 35 and 36, T.14S., R.65E., M.D.B.&M., Sections 15, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, T.14S., R.66E., M.D.B.&M., Sections 1, 2, 3, 4, 5, 6, 9 and 12, T.15S., R.66E., M.D.B.&M., Sections 6, 7, 8, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35 and 36, T.15S., R.67E., M.D.B.&M., Section 31, T.15S., R.68E., M.D.B.&M., Sections 1, 2, 3, 10, 11, 12, 13, 14, 24 and 25, T.16S., R.67E., M.D.B.&M., and Sections 6, 7, 8, 17, 18, 19, 20, 30 and 31, T.16S., R.68E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 7, T.13S., R.66E., M.D.B.&M.<sup>1</sup>

**II.**

Application 63380 was filed on August 28, 1997, by the Moapa Valley Water District to appropriate 6.0 cfs, not to exceed 4,344 afa, of the underground water of the Lower Meadow Valley Wash Hydrographic Basin (205), Clark County, Nevada for municipal purposes within the same place of use as described under Application 63379. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 26, T.12S., R.65E., M.D.B.&M.<sup>2</sup>

**III.**

Application 63381 was filed on August 28, 1997, by the Moapa Valley Water District to appropriate 6.0 cfs, not to exceed 4,344 afa, of the underground water of the Lower Meadow Valley

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<sup>1</sup> File No. 63379, official records in the Office of the State Engineer.

<sup>2</sup> File No. 63380, official records in the Office of the State Engineer.

Wash Hydrographic Basin (205), Clark County, Nevada for municipal purposes within the same place of use as described under Application 63379. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 12, T.13S., R.65E., M.D.B.&M.<sup>3</sup>

#### IV.

Applications 63379, 63380 and 63381 were timely protested by the United States Department of Interior, National Park Service on grounds as summarized below:

1. There is no water available for appropriation because the committed water resources exceed groundwater recharge.
2. The approval and development of the appropriation proposed by this application will impair the water rights of the United States.
3. The public interest would not be served by the granting of this application because it would sanction groundwater mining, the applicant does not control the proposed well location or proposed place of use and the water and water-related resources in the Lake Mead National Recreation Area would be diminished or impaired.<sup>1,2,3</sup>

#### V.

Application 63379, 63380 and 63381 were also timely protested by the United States Department of Interior, Fish and Wildlife Service on grounds as summarized below:

1. Granting of this application may cause injury to a pending United States water right for water on the Moapa Valley National Wildlife Refuge and for other senior water right holders in the Muddy River area.
2. Water may not be available to appropriate in the manner described.
3. The public interest would not be served by the granting of this application because it would damage habitat for species that are endangered or threatened under the Endangered Species Act or other species of concern.

### **FINDINGS OF FACT**

#### I.

Nevada Revised Statute § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the state of Nevada. The State Engineer finds that in the case of protested Applications 63379, 63380 and 63381 there is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on this matter is not required.

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<sup>3</sup> File No. 63381, official records in the Office of the State Engineer.

## II.

By Order No. 803, the State Engineer designated and described the Lower Meadow Valley Wash Hydrographic Basin (205) under the provisions of NRS § 534.030 as a basin in need of additional administration.<sup>4</sup> The State Engineer finds that the proposed points of diversion under Applications 63379, 63380 and 63381 are within the designated groundwater basin.

## III.

Applications 63379, 63380 and 63381 seek to appropriate 4,344 afa each for a total of over 13,000 afa of new permanent appropriations of groundwater for municipal purposes from the Lower Meadow Valley Wash Hydrographic Basin (205). However, it is the understanding of the State Engineer that the Applicant is proposing a total duty of 4,344 afa under the subject application.<sup>5</sup> A review of records on file in the Office of the State Engineer show that there have been 106 applications for groundwater that were denied in the Lower Meadow Valley Wash Hydrographic Basin (205) by State Engineer's ruling.<sup>6</sup> The rulings were based, in part, that there was no significant amount of groundwater available for appropriation from the basin when considering the committed groundwater resource versus the estimated perennial yield and additional appropriations of groundwater would tend to impair the value of existing water rights and would be detrimental to the public interest and welfare. The State Engineer finds that Applications 63379, 63380 and 63381 were filed to appropriate 4,344 afa of groundwater in the same hydrologic basin as prior applications to appropriate groundwater that were denied in the past.

## IV.

The Nevada Revised Statutes (NRS) Chapters 533 and 534 and the policies developed by the Office of the State Engineer control the appropriation of water within the State of Nevada. Under the provisions found under NRS § 533.370(5), before an application that requests a new appropriation of underground water can be considered for approval it must be determined, among other things, that there is unappropriated water available at the targeted source. The answer to the question of what amount of underground water is available for additional appropriation from the Lower Meadow Valley Wash Hydrographic Basin (205) can be found in an analysis of the basin's recharge-discharge relationship.

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<sup>4</sup> State Engineer's Order No. 803, dated November 23, 1982, official records in the Office of the State Engineer.

<sup>5</sup> See, Letter dated May 6, 1999, from the United States Department of Interior, National Park Service to R. Michael Turnipseed, State Engineer, File No. 63379, official Records in the Office of the State Engineer.

<sup>6</sup> State Engineer's Ruling No. 2792, dated November 29, 1982, and State Engineer's Ruling No. 2802, dated March 31, 1983, official records in the Office of the State Engineer.

The Office of the State Engineer estimates that the perennial yield of the Lower Meadow Valley Wash Hydrographic Basin (205) along with the hydrologically interrelated basins 198 thru 204, inclusive, is 25,000 afa.<sup>7</sup> The committed groundwater resources in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Lower Meadow Valley Wash Hydrographic Basin (205) alone are over 23,600 afa, and the combined committed groundwater resource for basins 198 through 205 totals over 69,000 afa.<sup>8</sup> Applications 63379, 63380 and 63381 seek to appropriate 4,344 afa each for a total of over 13,000 afa of new permanent appropriations of groundwater for municipal purposes from the Lower Meadow Valley Wash Hydrographic Basin (205).

The State Engineer finds there is no unappropriated water in the Lower Meadow Valley Wash Hydrographic Basin (205) in a quantity sufficient to support Applications 63379, 63380 and 63381.

#### V.

By letter dated February 23, 2009, the State Engineer requested that the Applicant provide information in support of the applications, which was to include an analysis as to the total groundwater resource available in the hydrographic basin, the existing water rights in the basin, the approximate number of persons to be served, the approximate future requirement, an estimation of time required to construct the works and apply the water to beneficial use, a compilation of the water rights presently held by the Moapa Valley Water District, and a quantification as to how much of that water is presently being placed to beneficial use.

By letter dated September 23, 2009, the Applicant provided the State Engineer with a report in response to the request for information. The Applicant relied on a 2001 report by the Las Vegas Valley Water District that suggests that the recharge to the groundwater basin is at least 23,000 acre-feet per year,<sup>9</sup> which is appreciably higher than the perennial yield historically relied upon by the Office of the State Engineer. The Applicant's report also indicated that the existing water rights in the Lower Meadow Valley Wash Hydrographic Basin (205) are 19,718 afa.

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<sup>7</sup> F. Eugene Rush *Ground-Water Appraisal of the Meadow Valley Area, Lincoln and Clark Counties, Nevada*; Ground-Water Resources – Reconnaissance Series Report 27, (Department of Conservation and Natural Resources in cooperation with the U.S. Geological Survey), p. 26, 1964.

<sup>8</sup> Nevada Division of Water Resources Water Rights Database, Hydrographic Area Summary Basins 198, 199, 200, 201, 202, 203, 204 and 205, January 22, 2010, official records in the Office of the State Engineer.

<sup>9</sup> Office of the State Engineer, Las Vegas Valley Water District, *Water Resources and Ground-Water Modeling in the White River and Meadow Valley Flow Systems, Clark, Lincoln, Nye and White Pine Counties, Nevada*, June 2001.

The Office of the State Engineer has reviewed the report titled *Water Resources and Ground-Water Modeling in the White River and Meadow Valley Flow Systems, Clark, Lincoln, Nye and White Pine Counties, Nevada*, that the Applicant relies upon for its recharge estimate, and based on this review, the State Engineer finds that he cannot accept the recharge values contained therein. The accepted perennial yield, at this time, is a combined yield for hydrographic basins 198 through 205 of 25,000 afa.<sup>10</sup> A review of records on file in the Office of the State Engineer show the committed groundwater resource in the form of vested rights, permits and certificates for the Lower Meadow Valley Wash Hydrographic Basin (205) totals over 23,600 afa.<sup>11</sup> The combined committed groundwater resources for hydrographic basins 198 through 205 total over 69,000 afa.<sup>12</sup>

The State Engineer finds that the perennial yield in the Lower Meadow Valley Wash Hydrographic Basin (205) is hydrologically interrelated to basins 198 thru 204, inclusive, and that the total perennial yield for all of these basins combined is 25,000 afa. The records of the Office of the State Engineer indicate that the existing groundwater rights in basins 198 through 205 total over 69,000 afa.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:<sup>14</sup>

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

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<sup>10</sup> F. Eugene Rush *Ground-Water Appraisal of the Meadow Valley Area, Lincoln and Clark Counties, Nevada*; Ground-Water Resources – Reconnaissance Series Report 27, (Department of Conservation and Natural Resources in cooperation with the U.S. Geological Survey), p. 26, 1964.

<sup>11</sup> Nevada Division of Water Resources' Water Rights Database, Hydrographic Area Summary, Lower Meadow Valley Wash Hydrographic Basin (205), January 12, 2010, official records in the Office of the State Engineer.

<sup>12</sup> Nevada Division of Water Resources' Water Rights Database, Hydrographic Area Summary, hydrographic basins 198, 199, 200, 201, 202, 203, 204 and 205, January 12, 2010, official records in the Office of the State Engineer.

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

<sup>14</sup> NRS § 533.370(5).

D. the proposed use or change threatens to prove detrimental to the public interest.

**III.**

Applications 63379, 63380 and 63381 request new appropriations of groundwater in excess of 4,344 afa. A review of this basin's available groundwater supply and existing committed groundwater resources show that there is insufficient water available to satisfy an additional draw of 4,344 afa. The State Engineer concludes that the approval of the subject applications would adversely affect existing rights and would threaten to prove detrimental to the public interest.

**RULING**

The protests are upheld in part and Applications 63379, 63380 and 63381 are hereby denied on the grounds that there is no unappropriated water in sufficient quantity to approve these applications and to grant the applications would conflict with existing rights and thereby threaten to prove detrimental to the public interest. No ruling is made on the merits of other protest grounds.

Respectfully submitted,

  
TRACY TAYLOR, P.E.  
 State Engineer

Dated this 17th day of  
March, 2010.