

WHEREAS, the State Engineer and the USAF desire to amicably resolve disputes between them as to the applicability or inapplicability of the reserved rights doctrine to groundwater without protracted litigation and in such a manner as to assure a relatively greater degree of stability and certainty with respect to the nature and extent of groundwater rights claimed by any interest participating in the Las Vegas Artesian Basin Adjudication.

NOW, THEREFORE, IT IS HEREBY STIPULATED:

1. The Nevada State Engineer recognizes a National Defense/National Security water right to groundwater from the Las Vegas Artesian Basin in the name of the USA, USAF, to support all operations and activities at Nellis Air Force Base, Nevada. Such water rights shall be included in the Order of Determination prepared pursuant to N.R.S. 533.160 and filed pursuant to N.R.S. 533.165.
2. This National Defense/National Security water right will include a water right to groundwater, artesian and/or percolating groundwater, to be used in support of operations and activities at Nellis Air Force Base, with a priority date of 1 Jan 1941. This National Defense/National Security water right shall not be transferable or marketable and can only be used on behalf of Nellis Air Force Base.
3. This National Defense/National Security water right will be in addition to whatever certificated, permitted, or vested water rights, or contractual rights to reclamation water, and/or other water rights, held by the USA on behalf of the USAF and Nellis Air Force Base. This National Defense/National Security water right is available for use after the USAF has utilized, to the extent practicable, (1) its water rights held under existing State certificated, permitted, or vested water rights, and/or (2) its contractual right to reclamation water, if any, to the extent that the USAF has a contractual right to continue to use reclamation water in the future.
4. Nothing in this Settlement obligates the USAF to assume increased capitalization costs or new expenditures, to increase its reclamation water allotment or capacity, or to otherwise maximize its use of reclamation water. To the extent that the USAF maintains its present right to use reclamation water, the USAF will attempt to utilize said water to the extent practicable, prior to using this National Defense/National Security water right.
5. This National Defense/National Security water right will not be subject to State law doctrines of forfeiture, partial forfeiture, or abandonment. No adverse action will be taken against this water right for non-usage.
6. The parties agree that, to the extent the USAF's mission is not impaired, as a matter of federal/state comity and to the extent not inconsistent with federal law, N.R.S. Chapter 533 governs the procedures to be followed by both the USAF and the State

Engineer should the USAF desire to change its point of diversion, place or manner of use of water rights held by the USAF.

7. The USAF and State Engineer will cooperate in the future to transfer points of diversion and places or manner of use of water rights represented by certificates, permits, and vested rights, held by the USAF to wells located on Nellis Air Force Base, if necessary and/or practicable, in order to more efficiently use these rights and its National Defense/National Security water right, and to facilitate cohesive well development.

8. The USAF will utilize reasonable efforts to develop water conservation and well management plans.

9. The State Engineer will allow well drilling training units to train in well drilling on Nellis Air Force Base and Nellis Range, upon notice to the State Engineer. The State Engineer may inspect these training activities to assure no negative impact upon the water in the Las Vegas Artesian Basin.

10. The USAF agrees to file a claim for, and the State Engineer agrees to recognize, a vested water right to percolating groundwater as follows:

- a. Claimant - USAF;
- b. Source - Nellis Air Force Base, Well No. 1;
- c. Point of Diversion - Well No. 1 located at or about Section 4, T. 20 S., R. 62 E., M.D.B.&M.; being S. 04°30'23" W, a distance of 2604.23 feet from the NE corner of SEC. 4, T20S, R 62E.
- d. Period of Use - January 1 - December 31, annually;
- e. Purpose and Priority - Quasi-municipal, in support of military operations at Nellis AFB, June 16, 1929;
- f. Duty - 50 acre-feet annually;
- g. Place of use - Nellis Air Force Base.

11. The USAF agrees to relinquish its revocable water permit to Well No. 10, Permit No. 16936, upon the final entry of the decree in the Las Vegas Artesian Basin Adjudication, incorporating the terms of this Settlement. The USAF holds two additional state revocable permits pertaining to Well No. 8. The USAF agrees that the State Engineer may revoke those two revocable Permits, Nos. 17522 and 18722, five years after the final entry of the water decree in this adjudication, which incorporates the terms of this Settlement. However, the USAF will use reasonable efforts to relinquish these rights


earlier. The water represented by such permits shall revert back to the benefit of the Las Vegas Artesian Basin, when relinquished.

12. The State Engineer agrees not to rule on the applicability of the Federal Reserved Rights Doctrine to groundwater in the final Order of Determination to be prepared and filed in this adjudication, pursuant to N.R.S., Chapter 533.163, on the basis that the Settlement will equitably resolve the USAF's water rights claims herein. In the event the approving court decrees, in a partial judgment or final decree, a water right for the USA/USAF in a lesser amount, with a later priority date, or on terms contrary to those agreed to by the parties and incorporated into this Settlement and the accompanying Order of Determination, the USAF may void this Settlement and reassert its claims to Federal Reserved Rights and/or other rights associated with its filed claims. Similarly, in the event the USAF reasserts its claims to Federal Reserved Rights and/or other rights associated with its filed claims, the parties recognize the State Engineer's right to void this settlement and assert his position with respect to the USAF's reasserted claims.

13. In the event the court approves this Settlement of the water rights of the USA/USAF and no further appeal is taken, the parties agree that it resolves all outstanding matters involved in this adjudication.

14. The parties recognize that, due to the Las Vegas Artesian Basin's unique history, facts and circumstances, nothing in this Settlement shall be construed as establishing any standard to be used for the quantification of federal reserved rights or any other federal water claims in any other judicial or administrative proceeding in Nevada.


R. MICHAEL TURNPSEED
State Engineer
State of Nevada


FRANCIS H. ESPOSITO, COL, USAF
Chief, Environmental Law and
Litigation Division

Addendum to:
"U.S. Air Force Nellis AFB Stipulated Settlement of Water Rights Claims"

This Addendum hereby amends the "U.S. Air Force Nellis AFB Stipulated Settlement of Water Rights Claims" ("Air Force Settlement") which was executed by Col. Francis H. Esposito of the U.S. Air Force and R. Michael Turnipseed, the State Engineer of the State of Nevada. The Air Force Settlement was entered into for the purpose of settling the water rights claims of the United States of America, U.S. Air Force ("USAF") in the Las Vegas Artesian Basin Adjudication, to which the State Engineer entered his final Order of Determination on December 31, 1997.

This Addendum is being entered into for the purpose of settling the objections/exceptions filed in the Clark County District Court by the Las Vegas Valley Water District and the Coran Lane Water Users Association. The USAF and the State of Nevada understand that upon execution of this Addendum, both the Las Vegas Valley Water District and the Coran Lane Water Users Association will withdraw their respective objections/exceptions.

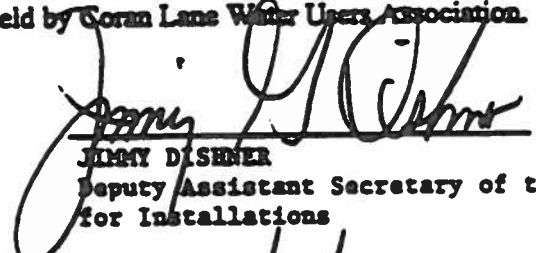
Pursuant to the express agreements set forth in this Addendum, the USAF and the State Engineer agree as follows:

The USAF hereby agrees to limit its total claim for present and future groundwater use on Nellis Air Force Base to a maximum of 4946 acre feet per year, including water from all groundwater sources. This limit includes the USAF's revocable and irrevocable permitted water rights, certificated water rights, vested water rights and National Defense/National Security water right. This limit does not in any way include or refer to surface water obtained from the Colorado River, although the USAF will attempt to utilize, to the extent practicable, its contractual right to Colorado River reclamation water, if any, to the extent that the USAF has a contractual right to continue to use such reclamation water in the future, prior to utilizing its National Defense/National Security water right.

The USAF agrees that it will accept, and the State Engineer agrees to recognize, a vested water right to groundwater at Nellis Air Force Base, Well No. 1, in the amount of 40 acre-feet annually. This agreement supercedes the prior agreement set forth in paragraph 10 of the Air Force Settlement in which the amount was originally 50 acre-feet annually.

Both the State Engineer and the USAF agree that to the extent the USAF is required to utilize its National Defense/National Security water right, such right will be treated as junior for administrative purposes to those water rights held by Coran Lane Water Users Association.


R. MICHAEL TURNIPSEED
State Engineer
State of Nevada


JIMMY DISHNER
Deputy Assistant Secretary of the Air Force
for Installations

Dated: 1/6/99

Dated: 12/2/98

1 SAO

2

3

4

5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

7

IN THE MATTER OF THE
8 DETERMINATION OF THE
9 RELATIVE RIGHTS IN AND
10 TO WATERS OF THE LAS VEGAS
VALLEY ARTESIAN BASIN (212)
IN CLARK COUNTY, NEVADA

Case No. A382950

Dept. No. XV

Docket No. "L"

11

12

STIPULATION AND ORDER

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

This Stipulation is hereby entered into this 17th day of December, 1998, between R. Michael Turnipseed, P.E., Nevada State Engineer, the Las Vegas Valley Water District, the United States Air Force, the United States Government, the Las Vegas Paiute Tribe and the Coran Lane Water Users Association, by and through their respective counsel of record, as follows:

1. The Las Vegas Valley Water District, by executing this Stipulation hereby agrees to withdraw its objections to the State Engineer's Order of Determination which approves the "United States Air Force Nellis AFB Stipulated Settlement of Water Rights Claims" with the United States Air Force (Exhibit F to Order of Determination).

2. The United States Air Force, by executing this Stipulation, hereby agrees that the Air Force Settlement Agreement, set forth in the State Engineer's Order of Determination as Exhibit F, is hereby amended pursuant to Exhibit A attached hereto, entitled "Addendum."

3. The State Engineer, by executing this Stipulation, hereby agrees to amend the Order of Determination for Proof of Appropriation 07660 in the name of the Water District to reflect a total duty of 510.0 acre-feet annually, none of which shall be considered supplemental to subsequent permits granted by the State Engineer.

4. The State Engineer, by executing this Stipulation, hereby agrees to amend the Order of

EXHIBIT 8

1 Determination for Proof of Appropriation 08966 in the name of the United States of America, United
2 States Air Force to reflect a total duty of 40.0 acre-feet annually.

3 5. Coran Lane Water Users Association, by executing this Stipulation, hereby agrees to
4 withdraw its objections filed to the District's Proof of Appropriation, the Las Vegas Paiute Tribe's
5 agreement with the State Engineer and Water District; and to the Air Force Settlement Agreement with
6 the Nevada State Engineer.

7 It is expressly understood that by entering into this agreement, the following issues are left as
8 issues to be determined by this Court and are therefore expressly excluded from this Stipulation.

- 9 (1) The Gregory Primm dispute regarding duty.
10 (2) This Court's decision of August 28, 1998 regarding forfeiture of various proofs of
11 appropriation.

12 FRANKIE SUE DEL PAPA
13 Attorney General

14 Dated: October 27, 1998

15 David C. Creekman
16 DAVID C. CREEKMAN NV Bar #4580
17 Deputy Attorney General
18 Attorneys for State Engineer

19 CHARLES K. HAUSER NV Bar #1606
20 MARSHALL HILL CASSAS & DE LIPKAU

21 Dated: October 28, 1998

22 Ross E. de Lipkau
23 ROSS E. DE LIPKAU NV Bar # 1628
24 EARL M HILL NV Bar # 679
25 Attorneys for Las Vegas Valley Water District

26 U.S. DEPARTMENT OF JUSTICE
27 Environment and Natural Resources Division

28 Dated: December 15, 1998

Stephen G. Bartell
STEPHEN G. BARTELL ESQ.
General Litigation Section
Attorneys for United States of America,
United States Air Force