

IN THE MATTER OF APPLICATIONS 31887)
AND 31928 FILED TO APPROPRIATE)
WATER FROM AN UNDERGROUND SOURCE IN)
SMITH VALLEY, LYON COUNTY, NEVADA.)

R U L I N G

INTRODUCTION

Applications 31887 and 31928 were filed in the State Engineer's Office in June, 1977 to appropriate underground water for irrigation purposes in Smith Valley, Nevada.

A protest to the granting of Application 31928 was filed in the State Engineer's Office on September 15, 1977.

In 1976 Water Resources Bulletin No. 43, "Geohydrology of Smith Valley, Nevada with Special Reference to the Water-Use Period, 1953-72" by F. E. Rush and C. V. Schroer was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources and the United States Department of the Interior, Geological Survey. This report is available from the State Engineer's Office.

A hearing before the State Engineer in the matter of Applications 27734, 28175, 28263, 28264, 28291, 28309, 29072, 29274, 30128 and 30137 was held in the District Court Room, Lyon County Courthouse, Yerington, Nevada, on December 16, 1976. A transcript of the hearing is on file in the State Engineer's Office.

FINDINGS OF FACT

Applications 31887 and 31928 were filed in the State Engineer's Office to appropriate water from an underground source for irrigation purposes in Smith Valley, Nevada.

Application 31887 was filed on June 1, 1977 by Peter K. and Nancy A. Oxsen to appropriate 5.4 c.f.s. of underground water to irrigate 320 acres. The point of diversion is within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, T.11N., R.23E., M.D.B. & M., and the place of use is within the E $\frac{1}{2}$ of said Section 12.

Application 31928 was filed on June 2, 1977 by Amos Mencarini, Jr., to appropriate 6.0 c.f.s. of underground water to irrigate 160 acres. The point of diversion is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2, T.11N., R.23E., M.D.B. & M., and the place of use is within the N $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ of said Section 2. 1 /

II

Application 31928 was protested on September 15, 1977 by John H. Neill, who prayed that the application be denied on the following grounds:

"I have an existing irrigation well within $\frac{1}{2}$ of a mile from the proposed site of applicant's well. I believe another well that close would jeopardize our underground water supply." 2 /

III

Applications 31887 and 31928 were filed to appropriate water from an underground source from within the Smith Valley Artesian Basin, Lyon County, Nevada, as designated and described by Order of the State Engineer issued June 27, 1960. 3 /

IV

Applications 31887 and 31928 are to appropriate water from an underground source. The land to be irrigated under each application does not have an existing underground water right. 4 /

V

The ground water reservoir water table has risen since the advent of farmland irrigation in Smith Valley and the water table is now substantially higher than under natural conditions before irrigation began. This rise in the water table has now nearly stabilized 5 / with water levels close to the surface in many parts of Smith Valley. 6 /

VI

The West Walker River is a gaining river below diversion canals in Smith Valley and serves as a drain for the irrigated farmlands. There is an estimated 30,000 ac-ft/yr of return ground water and tailwater flow to the West Walker River in Smith Valley. 7 /

VII

The recharge from precipitation to the Smith Valley ground water reservoir is estimated to be 17,000 ac-ft/yr. 8 / Any consumptive withdrawal in excess of the natural recharge from

precipitation will either deplete the ground water reservoir or cause additional surface water to percolate into the ground water reservoir. 9/ Discharge by evapotranspiration by low-value phreatophytes and discharging bare soil is estimated to withdraw 13,000 ac-ft/yr from the Smith Valley Ground Water Reservoir. 10/

VIII

Pumpage of ground water for irrigation was estimated to be 20,000 ac-ft in 1972 11/ and 21,000 ac-ft in 1976. 12/ Pumpage for irrigation is substantially less when surface water is available but is still estimated to average more than the 4,000 ac-ft/yr difference between recharge from precipitation and discharge by evapotranspiration by low-value phreatophytes and discharging bare soil.

IX

In the relatively dry year of 1972 approximately one-half of the water applied for irrigation was consumed, that is, it did not return to either the surface or the ground water system. 13/ If Applications 31887 and 31928 were granted it is estimated that one-half of the water withdrawn under these applications would also be consumptively used putting an additional draught on the ground water reservoir and the West Walker River water that recharges the underground reservoir.

X

Surface water appropriations and rights under Decree C-125 14/ from the West Walker River System far exceed the average annual flow of 179,000 ac-ft measured at Hoye Canyon from 1958 to 1972. 15/

XI

Ground water appropriations for irrigation from Smith Valley could be used to divert as much as 59,000 ac-ft/yr to irrigate 15,000 acres. Beneficial use has been proved and certificates of appropriation issued for 39,000 ac-ft/yr to irrigate 10,000 acres. 16/

XII

Large cones of depression have developed in areas of concentrated pumping in Smith Valley. During the irrigation

season of 1972, ground water levels had declined over 20 feet in areas of concentrated pumpage both south and north of the West Walker River in Smith Valley. 17/

In Section 31, T.12N., R.24E., M.D.B. & M., irrigation wells have had to be regulated and pumpage curtailed because of declining ground water levels. 18/

In 1976 the water table had declined in some areas to the extent that pumps on domestic and irrigation wells have had to be lowered. 19/

XIII

Applications to appropriate additional surface water from the Walker River Stream System have been denied on the grounds that their granting would tend to impair the value of existing rights, there is no unappropriated water in the source and the granting of the proposed appropriations would be detrimental to the public welfare. 20/

XIV

Applications to appropriate underground water to irrigate additional land in Smith Valley have been denied on the grounds that their granting would tend to impair the value of existing rights. 21/

XV

Should Applications 31887 and 31928 be granted, and should subsequent development of ground water pursuant thereto detrimentally affect prior ground water rights, or surface rights, as set forth under Decree C-125, and appropriated rights, the State Engineer is required by law to order withdrawals be restricted to conform to priority rights. 22/

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action. 23/

2. The State Engineer is prohibited by law from granting a permit where:

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public welfare. 24/

3. Existing water rights on the West Walker River Stream System and the Smith Valley Artesian Basin far exceed flow in the West Walker River Stream System and recharge from precipitation to the Smith Valley Artesian Basin. To grant irrigation rights that consume large quantities of additional water would conflict with existing rights and threaten to prove detrimental to the public welfare.

4. If Applications 31887 and 31928 were granted, additional lands would be irrigated and lands that are irrigated only part time would be irrigated more intensively and frequently. This would result in additional consumptive use by farmland irrigation. The additional withdrawals and consumption would remove water from the ground water reservoir which:

- a. would not be replaced resulting in depletion of the ground water reservoir, or;
- b. would be replaced by infiltrating surface water that otherwise would return to the stream system.

The additional withdrawals and consumption of underground water for irrigation would, therefore, conflict with existing rights and threaten to prove detrimental to the public welfare.

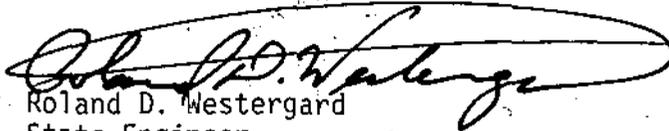
5. The State Engineer is authorized and directed to designate preferred uses of water within designated ground water areas such as the Smith Valley Artesian Basin. 25/ The consumptive use of additional ground water to irrigate additional land or to more intensely or frequently irrigate other land is not considered to be a preferred use of the limited water resources of the Smith Valley Artesian Basin.

6. The underground water applied for for irrigation under Applications 31887 and 31928 would diminish return underground and tailwater flow 26/ to the West Walker River and so would adversely affect the prior rights as set forth in Decree C-125 and would conflict with appropriated rights on the Walker River Stream System and threaten to prove detrimental to the public welfare.

RULING

Applications 31887 and 31928 are denied and the protest to Application 31928 is upheld on the grounds that the appropriation of underground water for irrigation and use of the water applied for and requested from the area described in the applications would tend to conflict with existing rights, and threaten to prove detrimental to the public interest and welfare.

Respectfully submitted,


Roland D. Westergard
State Engineer.

RDW/JC/dc

Dated this 19th day
of October 1977.

FOOTNOTES

1. Public records located within the Office of the State Engineer.
2. Public records located within the Office of the State Engineer.
3. NRS 534.
4. Public records located within the Office of the State Engineer.
5. Water Resources Bulletin No. 43, pp. 22, 25 and 60.
6. Reporter's transcript of proceedings on the hearing of testimony and evidence before Roland D. Westergard, State Engineer, on December 16, 1976 (hereafter referred to as Transcript) p. 18, lines 4 & 5, p. 21, lines 15 through 23, p. 26, lines 6 through 11, p. 27, lines 21 through 25, p. 38, lines 5 through 9, p. 61, line 8; Water Resources Bulletin No. 43, Plate 2.
7. Water Resources Bulletin No. 43, pp. 60 & 61.
8. Water Resources Bulletin No. 43, pp. 49 & 50.
9. Water Resources Bulletin No. 43, p. 65.
10. Water Resources Bulletin No. 43, pp. 62 & 63.
11. Water Resources Bulletin No. 43, p. 53.
12. Estimate made in State Engineer's office.
13. Water Resources Bulletin No. 43, p. 51, Transcript p. 43, lines 18, 19 & 20.
14. Public records located within the State Engineer's Office & United States v. Walker River Irrigation District, et al., United States District Court for the District of Nevada Equity No. C-125 as amended by the Order of the Honorable A. F. St. Sure, dated April 24, 1940, hereafter called Decree C-125.

15. Water Resources Bulletin No. 43, pp. 39 & 23.
16. Public records located within the State Engineer's Office.
17. Water Resources Bulletin No. 43, pp. 65, 66 & 67.
18. Public records located within the State Engineer's Office.
19. Transcript p. 80, lines 8 through 11, p. 81, lines 5 through 8.
20. Public records located within the State Engineer's Office.
See Denied Applications 30095 and 30096.
21. Public records located within the State Engineer's Office.
See Denied Applications 27242, 27328, 27572, 27701, 27734,
28175, 28263, 28264, 28291, 28309, 29072, 29274, 30128,
30137 and 30934.
22. NRS 534.110, subsections 3 and 6.
23. NRS 533.025 and 533.030, subsection 1.
24. NRS 533.370, subsection 4.
25. NRS 534.120, subsection 2.
26. Transcript p. 28, lines 17 through 26, p. 55, lines 4 through
10.