

IN THE MATTER OF APPLICATIONS)
31123 AND 31124 FILED TO AP-)
PROPRIATE THE WATERS OF AN)
UNDERGROUND SOURCE IN DIAMOND)
VALLEY, EUREKA COUNTY, NEVADA)

R U L I N G

153

INTRODUCTION

Applications 31123 and 31124 were filed in the State Engineers office on February 22, 1977 to appropriate underground water for irrigation purposes in Diamond Valley, Nevada.

In 1968 Water Resources Bulletin No. 35 "Hydrologic Response to Irrigation Pumping in Diamond Valley, Eureka and Elko Counties Nevada, 1950 to 1965" by J. R. Harril, with a section on surface water by R. D. Lamke was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources and U. S. Department of the Interior, Geological Survey. This report is available from the State Engineers office.

FINDINGS OF FACT

I

Application 31123 was filed on February 22, 1977 by Jerry L. Machacek to appropriate 5.4 c.f.s. of the waters of an underground source to be diverted within the E $\frac{1}{2}$ of Lot 5, Section 1, T.20N., R.53E., M.D.B. & M., and to be used for the irrigation of 301.2 acres within Lots 1, 2 and 5 of Section 1, T.20N., R.53E., and the SE $\frac{1}{4}$ of Section 36, T.21N., R.53E. 1/

II

Application 31124 was filed on February 22, 1977 by Jerry L. Machacek to appropriate 5.4 c.f.s. of the waters of an underground source to be diverted within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 36, T.21N., R.53E., and to be used for the irrigation of 301.2 acres within Lots 1, 2 and 5 of Section 1, T.20N., R.53E., and the SE $\frac{1}{4}$ of Section 36, T.21N., R.53E. 2/

III

Applications 31123 and 31124 were filed to appropriate water from an underground source within the Diamond Valley Ground Water Basin, Eureka and Elko Counties, Nevada as designated and described by orders of the State Engineer issued August 5, 1964 and August 28, 1964. 3/

IV

The U. S. Geological Survey estimates that 30,000 acre feet of water annually are available as a perennial yield from the Diamond Valley Ground Water Basin. Existing ground water rights of record in the State Engineer's office total approximately 125,000 acre feet per year for the irrigation of approximately 30,000 acres. Approximately 19,500 acres were irrigated during the 1977 irrigation season.^{4/}

V

Order No. 541 was issued by the State Engineer on December 22, 1975 entitled "Notice of Curtailment of Water Appropriation within the Diamond Valley Ground Water Basin". In the order, the State Engineer found that the ground water is being depleted in portions of the basin, particularly in the agricultural areas south of the South Boundary Line of T.22N., M.D.B.&M. The order contained a paragraph stating "all applications filed to appropriate water for irrigation of additional lands within that portion of the designated area of Diamond Valley south of the South Boundary Line of T.22N., M.D.B.&M., that have not had a previous water right lost through forfeiture, will be denied".^{5/} Notice of this order was published in the Eureka Sentinel on the following dates: December 27, 1975; January 3, 10, 17 and 24, 1976.^{6/}

VI

The lands covered under Applications 31123 and 31124 are within that portion of the designated area of Diamond Valley south of the South Boundary Line of T.22N., M.D.B.&M., are not covered by existing ground water rights and the lands have not had a previous water right lost through forfeiture.^{7/}

VII

The lands proposed to be irrigated under Applications 31123 and 31124 are presently covered by water right permit numbers 30842 through 30843 and 30933 for the waters of Torry Creek, Cottonwood Creek, Hildebrand Creek and Preston Creek.^{8/}

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties in the subject matter of this action.^{9/}

II

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.10/

III

Existing ground water rights in Diamond Valley, particularly in the concentrated agricultural area south of the South Boundary Line of T.22N., exceed the estimates of perennial yield to the ground water basin. The area in which the proposed points of diversion under Applications 31123 and 31124 are located has been experiencing lowering of the water tables and a depletion of the ground water reservoir. To grant additional new appropriations in this concentrated area would adversely effect existing rights and be otherwise detrimental to the public welfare.11/

RULING

Applications 31123 and 31124 are herewith denied on the grounds that the new appropriation of additional ground water in this concentrated area would tend to impair the value of existing rights and be otherwise detrimental to the public interest and welfare.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW/BR/bl

Dated this 15th day of

November, 1977.

FOOTNOTES

1. Public Records within the Office of the State Engineer.
2. Public Records within the Office of the State Engineer.
3. NRS 534 and State Engineer's Orders No. 277 and 280.
4. Water Resources Bulletin No. 35 and Public Records within the Office of the State Engineer.
5. State Engineer's Order No. 541.
6. Public Records within the State Engineer's Office.
7. Public Records within the Office of the State Engineer.
8. Public Records within the Office of the State Engineer.
9. NRS 533.025 and 533.030, Subsection 1.
10. NRS 533.370, Subsection 5.
11. Public Records within the Office of the State Engineer.