

IN THE MATTER OF APPLICATIONS 35374 AND)
35375 FILED FOR THE WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE DIAMOND)
VALLEY GROUND WATER BASIN)

R U L I N G

153

GENERAL

Applications 35374 and 35375 were filed on May 2, 1978, by W. E. and Barbara J. Rouse to appropriate the waters of an underground source within the Diamond Valley Ground Water Basin for the irrigation of 320 acres of land within the S 1/2 Section 7, T.21N., R.53E., M.D.B. & M.

Application 35374 proposes to divert 5.4 c.f.s. from an existing well located in the SW 1/4 SW 1/4 of said Section 7 and Application 35375 proposes to divert 5.4 c.f.s. from an existing well in the SE 1/4 SE 1/4 of said Section 7.

FINDINGS

I

The land to be irrigated lies within that area designated and described as the Diamond Valley Ground Water Basin by Orders of the State Engineer Nos. 277 and 280 signed on August 5, 1964, and August 28, 1964, respectively. 1/

II

Applicants' predecessors in interest filed Application 19279 on October 17, 1960, to appropriate 6.0 c.f.s. of the waters of an underground source to be diverted within the SE 1/4 SE 1/4 Section 7, T.21N., R.53E., M.D.B. & M. to be used for the irrigation of 320 acres of land within the S 1/2 of said Section 7. On December 8, 1961, a permit was granted for 5.4 c.f.s. The provisions of the permit were complied with; and on December 6, 1968, Certificate of Appropriation No. 6870 was issued for 2.56 c.f.s. for the irrigation of 236.5 acres of land within the N 1/2 SW 1/4, SE 1/4 SW 1/4, SE 1/4 Section 7, T.21N., R.53E., east of Highway 20. 2/

In accordance with the provisions of NRS 533.090 that portion of the right to appropriate water under Permit 19279, Certificate 6870, appurtenant to the S 1/2 S 1/2 of said Section 7 lying east of Highway 20 and that portion of the N 1/2 S 1/2 of said Section 7 lying north and east of the well drilled under Permit 19279 were forfeited by the State Engineer's Ruling No. 2252 dated October 3, 1977. 3/

III

Applicants' predecessors in interest filed Application 24346 on January 29, 1968, to appropriate 2.7 c.f.s. of the waters of an underground source to be diverted within the SW 1/4 SW 1/4 Section 7, T.21N., R.53E., M.D.B. & M. and to be used for the irrigation of 51.5 acres of

land within the W 1/2 SW 1/4 of said Section 7 and domestic purposes west of Highway 20. A permit was granted on June 5, 1968, and subsequently canceled on February 6, 1970, for failure of the applicant to comply with the provisions of the permit. 4/

IV

Notice of Curtailment of Water Appropriation within the Diamond Valley Ground Water Basin was issued by Order of the State Engineer on December 22, 1975. (Order No. 541) This order provides:

- "1. All applications filed to appropriate water from the Diamond Valley Ground Water Basin north of the South Boundary Line of Township 22 North, M.D.B. & M. will be considered for approval on an individual basis and on their own merits.
2. 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 Township 22 North M.D.B. & M. that have not had a previous water right lost through forfeiture will be denied.
3. All applications filed to appropriate water for irrigation purposes on lands in Diamond Valley that had a previous water right lost through forfeiture will be considered for approval on an individual basis and on their own merit." 5/

V

Notice of Curtailment of Water Appropriation within the Diamond Valley Ground Water Basin was issued by Order of the State Engineer on July 10, 1978. (Order No. 717) This order provides:

- "1. All applications filed after the date of this order to appropriate ground water for irrigation of lands within the Diamond Valley Ground Water Basin that have not had a previous water right lost through forfeiture will be denied.
2. All applications filed on or before December 31, 1978, to appropriate ground water for irrigation purposes on lands in Diamond Valley that had a previous water right lost through forfeiture will be considered for approval on an individual basis and on their own merits.
3. All applications filed after December 31, 1978, to appropriate ground water for irrigation purposes on any land within the Diamond Valley Ground Water Basin will be denied." 6/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties of the subject matter of this action. 7/

II

Application 35374 is to divert water from the existing well drilled under canceled Permit 24346. Application 35375 is to divert water from the existing well drilled under Permit 19279. 8/

III

A portion of the water right granted under Permit 19279, Certificate 6870, has been lost by forfeiture. This portion lies east of Highway 20. 9/

The water right granted under Permit 24346 for lands lying west of Highway 20 was lost, not by forfeiture, but by failure of the applicant to comply with the provisions of the permit. 10/

IV

No water right now exists that would permit the diversion of water from the well under Application 35374. 11/

V

Applicant has an existing right to divert 2.56 c.f.s. from the well drilled under Permit 19279 and has made Application 35375 to divert an additional 5.4 c.f.s. from the same well. The Applicant has also requested 5.4 c.f.s. diversion from the well drilled under canceled Permit 24346 by virtue of Application 35374 to be used to irrigate the same lands as Permit 19279 and Application 35375. The granting of 12.96 c.f.s. for the irrigation of lands sought, would constitute an unreasonable rate of diversion. 12/

VI

The granting of rights to irrigate lands within the S1/2 Section 7; T.21N., R.53E., M.D.B. & M. lying west of Highway 20 would be contrary to that Order of the State Engineer dated December 22, 1975. 13/

RULING

Applications 35374 and 35375 will be granted for the irrigation of 236.5 acres within the S1/2 Section 7, T.21N., R.53E., M.D.B. & M. lying east of Highway 20.

The total diversion allowed from the well under Permit 19279 and Application 35375 shall be limited to 2.56 c.f.s.

The diversion allowed under Application 35374 shall be limited to 2.7 c.f.s.

Respectfully submitted,



William J. Newman
State Engineer

WJN/TJS/jm

Dated this 27th day

of APRIL, 1979.

FOOTNOTES

1. Public records in the State Engineer's Office.
2. Public records in the State Engineer's Office.
3. Public records in the State Engineer's Office.
4. Public records in the State Engineer's Office.
5. Public records in the State Engineer's Office.
6. Public records in the State Engineer's Office.
7. NRS 533.370.
8. Public records in the State Engineer's Office.
9. Public records in the State Engineer's Office.
10. Public records in the State Engineer's Office.
11. Public records in the State Engineer's Office.
12. Public records in the State Engineer's Office.
13. Public records in the State Engineer's Office.

10767E-8