

IN THE MATTER OF APPLICATIONS )  
35552, 35900, 35902, 36461, )  
36857, 38126 AND 38130 FILED IN )  
OASIS VALLEY, NYE COUNTY, NEVADA)

R U L I N G

INTRODUCTION

228

I

Applications 35552, 35900, 35902, 36461, 36857, 38126 and 38130 were filed to appropriate water in Oasis Valley, Nye County, Nevada.

FINDINGS OF FACT

I

Application 35552 was filed on June 19, 1978 by Ranchers Supply and Equipment Co., to appropriate 4.4 c.f.s. of water from a spring for irrigation purposes. The point of diversion is described as within the NE1/4 SE1/4 of Section 18, T.12S., R.47E., M.D.M. The place of use is 260 acres within the SE1/4, S1/2 NE1/4 Section 25, T.12S., R.46E., M.D.M. and the W1/2 SW1/4 NW1/4 Section 30, T.12S., R.47E., M.D.M. The period of use to be from January 1 to December 31 of each year. 1/

II

Application 35900 was filed on September 20, 1978 by Lee Ward Bolman to appropriate 0.5 c.f.s. of water from Middle Indian Springs for mining and domestic purposes. The point of diversion is described as within the NE1/4 SW1/4 of Section 26, T.11S., R.46E., M.D.M. The place of use is described as mining claims located within Section 25, 26, 35 and 36, T.11S., R.46E., M.D.M. The period of use is to be from January 1 to December 31 of each year. 2/

Application 35902 was filed on September 20, 1978 by Lee Ward Bolman to appropriate 1.0 c.f.s. of water from Lower Indian Springs for mining and domestic purposes. The point of diversion is described as within the SW1/4 SE1/4 of Section 26, T.11S., R.46E., M.D.M. The place of use is described as mining claims located within Sections 25, 26, 35 and 36, T.11S., R.46E., M.D.M. The period of use to be from January 1 to December 31 of each year. 3/

Application 36461 was filed on January 15, 1979 by Lee Ward Bolman to appropriate 1.0 c.f.s. of water from Upper Indian Springs for mining and domestic purposes. The point of diversion is described as within the NW1/4 SW1/4 of Section 26, T.11S., R.46E., M.D.M. The place of use is described as mining claims located in Sections 25, 26, 35 and 36, T.11S., R.46E., M.D.M. The period of use to be from January 1 to December 31 of each year. 4/

III

Application 36857 was filed on February 26, 1979 by Floyd A. or Helene E. Schneider to appropriate 1.0 c.f.s. of water from an underground source for irrigation and domestic purposes. The point of diversion is described as within the NE1/4 SE1/4 of Section 7, T.12S., R.47E., M.D.M. The place of use is described as 34.24 acres within portions of Sections 7 and 8, T.12S., R.47E., M.D.M. The period of use to be from January 1 to December 31 of each year. 5/

IV

Application 38126 was filed on May 9, 1979 by the Beatty Water and Sanitation District to appropriate 2.0 c.f.s. of water from an underground source for municipal purposes. The proposed point of diversion is within the SW1/4 NW1/4 of Section 26, T.11S., R.46E., M.D.M. The place of use is within Section 7, T.12S., R.47E., M.D.M. The period of use to be from January 1 to December 31 of each year. 6/

V

Application 38130 was filed on May 10, 1979 by James B. Torrance and Mary I. Torrance to appropriate 2.7 c.f.s. of water from an underground source for irrigation and domestic purposes. The point of diversion is described as within the NE1/4 SW1/4 of Section 4, T.11S., R.47E., M.D.M. The place of use is 160 acres within the W1/2 SE1/4 and the SE1/4 SW1/4 of Section 4 and the NW1/4 NE1/4 of Section 9, T.11S., R.47E., M.D.M. The period of use to be from January 1 to December 31 of each year. 7/

VI

No protests were filed to the granting of Applications 35552, 35900, 35902, 36461, 36857, 38126 and 38130.

VII

The State Engineer is required by statute to seek such information as is necessary in guarding the public interest and insuring the protection of prior existing water rights. 8/

VIII

A hearing was held before the State Engineer, after proper notice, in the matter of Applications 35552, 35900, 35902, 36461, 36857, 38126 and 38130 on February 7, 1980 in Beatty, Nevada. 9/

Testimony in behalf of the Beatty Water and Sanitation District reviewed the search for a new source of water by January, 1981, under an exemption of the fluoride standard by the State Board of Health. The witness stated a mineral exploration hole near Upper Indian Spring met the safe drinking water standard but that test pumping dried up the spring which is the source of water for persons living in Ryolite.

Testimony also included measurements of the flow of Indian Springs by a licensed water right surveyor on February 5, 1980 in the following amounts: Upper Indian Springs - 3.33 gallons per minute; Middle Indian Springs - 1.48 gallons per minute and Lower Indian Springs - 4.44 gallons per minute. The treatment plant spring was also measured on the same date at 50 gallons per minute.

Testimony in behalf of Ben Colvin indicated he is the successor in interest to water rights in the name of Martin and Childress from Indian Springs for stockwatering purposes. Also testimony confirmed that the Colvin Cattle Co., held a grazing permit in that area for 125 cattle.

Testimony by Helene E. Schneider withdrew Application 36857 on the grounds that the application to the Bureau of Land Management had been reduced to a 20 acre parcel and it was not feasible to farm only 20 acres.

Testimony by Mary I. Torrance related the existing use of the water that flows from a shallow cut. Witness stated the spring was flowing but needs cleaning out with a back-hoe to a depth of eight feet. The water is used by gravity flow to water a pasture for horses and an orchard. Distilled water is used for drinking.

Testimony in behalf of Mrs. H. H. Heisler was to the extent of the use of the water in Ryolite under rights held to waters of Indian Springs and the interference with those rights by pumping of a test well near Indian Springs.

Testimony in behalf of Lee Ward Bolman stated a need for 160 to 377 million gallons of water annually for mining and milling of uranium ores from mining claims located in the area. Water would be reclaimed and recirculated in the milling process. The witness stated that water of poorer quality than that found in Indian Springs could be used in the milling process.

## IX

Existing water rights of record to appropriate the waters of Indian Springs are summarized as follows: 10/

1. Permit 1305, Certificate 592 and Permit 1306, Certificate 593 were issued for 50,000 gallons per day and 150,000 gallons per day, respectively, for domestic service to the Town of Ryolite for mining, milling and domestic purposes. The owner of record is the Indian Springs Water Company.
2. Permit 5998, Certificate 1166 and Permit 6083, Certificate 1167 were issued for 0.004 c.f.s. of water each from Lower Indian Springs and Upper Indian Springs, respectively, for stockwatering of 125 head of cattle. The owner of record is Lotta M. Martin and Mildred A. Childress.

3. Permit 17327, Certificate 5653 and Permit 17328, Certificate 5654 were issued on Middle Indian Springs and Upper Indian Springs, respectively, for 0.055 c.f.s. each, but not to exceed 12.975 million gallons of water annually for quasi-municipal use in Ryolite. The owner of record is Mrs. H. H. Heisler.
4. Permit 25628, Certificate 8454 was issued for 0.0051 c.f.s., but not to exceed 1.2 million gallons of water annually for quasi-municipal use in Ryolite. The owner of record is Mrs. H. H. Heisler.

X

Application 38130 was filed to replace Permit 9672 which was cancelled for failure to pay the \$3.00 fee for issuing and recording a certificate of beneficial use. Application 9672 was filed on July 12, 1933 to appropriate water from cuts to develop underground water for irrigation and domestic use. Permit 9672 was granted on April 16, 1934 and the Proof of Beneficial Use deposition was filed on March 4, 1942.

#### CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 12/

II

The State Engineer is prohibited by statute from granting a permit where:

- A. There is no unappropriated water at the source, or
- B. The proposed change conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest. 13/

III

There are no existing water rights of record on the spring known as treatment plant spring. There may be some contribution by the leachant from the treatment plant ponds.

IV

There are existing water rights of record for a quantity of water in excess of the water available from Indian Springs. Beneficial use is currently being made of the waters from Indian Springs under existing rights for quasi-municipal and stockwatering purposes.

V

The State Engineer finds that the conditions warrant the designation of the Oasis Valley. Order No. 741 dated April 2, 1980 has been issued designating the Oasis Valley Ground Water Basin, Nye County, Nevada. 14/

RULING

I

A permit will be granted to Application 35552 as there is unappropriated water at the source. The permit will be issued subject to existing rights and the availability of water.

II

Applications 35900, 35902 and 36461 are herewith denied on the grounds that there is no unappropriated water on the source.

III

At the February 7, 1980 hearing, the applicant requested that Application 36857 be withdrawn.

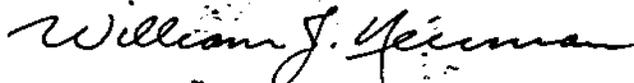
IV

A permit will be granted to Application 38126 subject to existing rights. The permit will be further subject to curtailment when existing rights on Indian Springs are threatened to be impaired. The permit will be issued when an agreement is completed that the permittee will provide a reasonably acceptable quantity of water to existing quasi-municipal and stockwatering rights.

V

A permit will be granted to Application 38130 on the grounds that there is unappropriated water at the source.

Respectfully Submitted,



William J. Newman  
State Engineer

WJN/bc

Dated this 11th day  
of APRIL, 1980.

### FOOTNOTES

1. Public record available in the office of the State Engineer.
2. Public record available in the office of the State Engineer.
3. Public record available in the office of the State Engineer.
4. Public record available in the office of the State Engineer.
5. Public record available in the office of the State Engineer.
6. Public record available in the office of the State Engineer.
7. Public record available in the office of the State Engineer.
8. NRS 533.375.
9. Transcript of February 7, 1980 hearing is a public record in the office of the State Engineer.
10. Public records available in the office of the State Engineer.
11. Public record available in the office of the State Engineer.
12. NRS 533.325.
13. NRS 533.370, Section 4.
14. Public record available in the office of the State Engineer.