

IN THE MATTER OF APPLICATIONS 39087 )  
AND 39883 FILED FOR THE WATERS OF AN )  
UNDERGROUND SOURCE IN DAYTON VALLEY, )  
LYON COUNTY, NEVADA )

R U L I N G

INTRODUCTION

Applications 39087 and 39883 were filed to appropriate underground water in Dayton Valley, Nevada.

In 1975, Water Resources-Reconnaissance Series Report 59, "Water Resources Appraisal of the Carson River Basin, Western Nevada", by Patrick A. Glancy and T. L. Katzer, 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 at the State Engineer's office.

FINDINGS OF FACT

I

Application 39087 was filed by Lyon County on September 20, 1979, to appropriate 1.0 c.f.s., of underground water for municipal purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 23, T.16N., R.21E., M.D.B.&M., and the place of use is within the E $\frac{1}{2}$ , SE $\frac{1}{4}$  SW $\frac{3}{4}$  Section 23, NW $\frac{1}{4}$ , N $\frac{1}{2}$  NE $\frac{1}{4}$  Section 24, T.16N., R.21E., N $\frac{1}{2}$  S $\frac{1}{2}$ , N $\frac{1}{2}$  Section 19, S $\frac{1}{2}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  Section 18, NW $\frac{1}{4}$  Section 17, T.16N., R.22E., M.D.B.&M.

Application 39883 was filed by Lyon County on December 5, 1979, to appropriate 3.0 c.f.s., of underground water for municipal purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 24, T.16N., R.21E., M.D.B.&M., and the place of use is within the SE $\frac{1}{4}$  Section 14, SE $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  Section 23, N $\frac{1}{2}$  Section 24, T.16N., R.21E., N $\frac{1}{2}$  S $\frac{1}{2}$ , N $\frac{1}{2}$  Section 19, S $\frac{1}{2}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 18, NW $\frac{1}{4}$  Section 17, T.16N., R.22E., M.D.B.&M. 1/

II

Application 39087 was protested by Quilici Ranch Corp., on February 26, 1980, on the following grounds:

"That the approval of this permit for an additional (1) one ft.<sup>3</sup> sec. will effectuate a taking of water at a point whereby Quilici Ranch Corp., will in effect lose its prior appropriation rights."

Application 39087 was protested by Cecil Holley on February 26, 1980, on the following grounds:

"That the approval of this permit for an additional (1) one ft.<sup>3</sup> sec. will in fact remove agricultural water from the adjacent Carson River and infringe on prior established water rights."

Application 39087 was protested by Minor Ranch on February 27, 1980, on the following grounds:

"That the approval of this permit for an additional 1.0 (one) sec. ft. of water will effect the deeded water rights of the Minor Ranch."

Application 39087 was protested by Sutro Ranch and Laboratory on February 28, 1980, on the following grounds:

"The approval of this permit for an additional one cubic foot of water per second will effectuate a taking of water at a point whereby Sutro Ranch & Laboratory will in effect lose its prior appropriation rights."

Application 39087 was protested by Break-A-Heart Ranch on February 28, 1980, on the following grounds:

"Removal of agricultural water from and adjacent to the Carson River infringes upon and jeopardizes existing deeded water rights."

Application 39883 was protested by Break-A-Heart Ranch on March 24, 1980, on the following grounds:

"Removal of agricultural water from and adjacent to the Carson River infringes upon and jeopardizes existing deeded water rights." 2/

### III

Records in the State Engineer's office indicate that the existing well under Permit 12436, Certificate 3318, for 0.25 c.f.s., of water for irrigation and domestic purposes to be used within the Town of Dayton on Lots 3, 4, 5, 6, 7 and 9 and a Lot known as Minerada and Permit 35728 for 0.10 c.f.s., but not to exceed 23.59 million gallons of water annually for municipal purposes is the identical point of diversion proposed under Application 39087.

### IV

In the currently pending litigation titled "U.S.A. vs. Alpine Land and Reservoir Company, a Corporation, et al, No. D-183" (page 86), and the Temporary Restraining Order under the same suit (page 86 of Plaintiffs Contentions of Rights) allow for a diversion of 0.59 c.f.s., of water from the Carson River into the Dayton Town Ditch for domestic and municipal supply to the Town of Dayton. There is no evidence that this right is being exercised at the present time.

### V

By an Order dated January 22, 1973, the State Engineer designated and described the Dayton Valley Ground Water Basin as a ground water basin coming under the provisions of NRS 534. 3/

VI

It is estimated that the potential recharge from precipitation to the Dayton Valley Ground Water Basin is 7,900 acre-feet annually. 4/

VII

Existing certificated and permitted ground water rights exceed 22,000 acre-feet annually. 5/ The potential exists for additional pumpage under existing ground water permits which have not yet been fully developed.

VIII

A pumpage inventory for 1979 estimates the total pumpage to be 15,930 acre-feet. 6/ This figure includes the withdrawal from the ground water reservoir by 419 individual domestic wells. The total pumpage for 1977 was estimated to be 14,300 acre-feet (including Stagecoach Valley).

IX

A hearing before the State Engineer was held on June 23, 1980. The applicant and protestants presented evidence and a transcript of the hearing may be viewed at the office of the State Engineer.

X

Applications to appropriate ground water for quasi-municipal purposes have been denied in the portion of Dayton Valley north of the Carson River. 7/

XI

The point of diversion under Application 39087 is about 370 feet north of the Carson River and the point of diversion under Application 39883 is about 3050 feet south of the Carson River.

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 8/

II

The State Engineer shall approve all applications made in proper form where:

- a) All fees have been paid which contemplate application of water to beneficial use and,
- b) The proposed use does not tend to impair the value of existing rights or,

- c) The proposed use is not otherwise detrimental to the public welfare. 9/

III

Significant additional withdrawal of water proposed under Application 39087 from the existing well located near the Carson River and in a concentrated well area, would tend to impair the value of existing rights and be otherwise detrimental to the public welfare. 10/

IV

The proposed diversion under Application 39883 is located nearly 3/4 of a mile from the Carson River in the discharge area of natural precipitation from the Pinenut Mountains. Testimony presented at the June 23, 1980 hearing indicated that the Carson River is a gaining stream in the Dayton Valley stretch.

V

The State Engineer may declare preferred uses of water in designated ground water basins. 11/ In the public interest, the State Engineer declares a municipal use of water by Lyon County to serve the growing community of Dayton to be a preferred use.

RULING

Application 39087 is denied on the grounds that the granting of this application for an additional withdrawal of ground water in close proximity to the Carson River and in the concentrated well area north of the Carson River would conflict with existing rights and be detrimental to the public interest.

The protest to Application 39883 is overruled and a permit will be issued on the grounds that the point of diversion under Application 39883 is south of the Carson River and far removed from the area of concentrated existing rights.

Respectfully submitted,



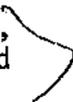
*William J. Newman*

William J. Newman  
State Engineer

WJN/JC/bc

Dated this 29th day of  
SEPTEMBER, 1980.

FOOTNOTES

1. Public records within the office of the State Engineer.
2. Public records within the office of the State Engineer.
3. Public records within the office of the State Engineer.
4. Water Resources-Reconnaissance Series Report 59, pg. 48.
5. Public records within the office of the State Engineer. Estimation does not include certificates or permits within the topographically separate Stagecoach Sub-Area of Dayton Valley.
6. Public records within the office of the State Engineer. Estimation does not include certificates or permits within the topographically separate Stagecoach Sub-Area of Dayton Valley.
7. See denied Applications 27441, 27557, 36130, 36131, 38448, 38449, 38450, 38451, 38452, 38453, 38454, 38455, 38456, 38457, 38458 and 38459. 
8. NRS 533.025 and NRS 533.030, subsection 1.
9. NRS 533.370, subsection 1.
10. Transcript of hearing of June 23, 1980, line 1, page 62. 
11. NRS 534.120, subsection 2.