

IN THE MATTER OF APPLICATION 41613)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
EDWARDS CREEK VALLEY, CHURCHILL)
COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 41613¹ was filed on June 30, 1980, by Alpine Ranching Co. to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 160 acres of land. The point of diversion is described as being within the NW1/4 SE1/4 Section 28, T.19N., R.37E., M.D.B.&M., and the place of use is within the SE1/4 Section 28, T.19N., R.37E., M.D.B.&M.

II.

Application 41613 was protested on January 5, 1981, by Robert D. and Lynne M. Miller on the following grounds:¹

"The Application #41613 is less than 2000' from our prior pending Application #32344. The applicant of #41613 already has rights to all the surface runoff waters in the area, while we will be dependent on an underground source alone. We want assurance that our water right will not be adversely affected by 41613, by lowering the water table."

III.

Ground-Water Resources - Reconnaissance Series Report 26 titled "Ground-Water Appraisal of Edwards Creek Valley, Churchill County, Nevada, was prepared cooperatively by the Geological Survey, U.S. Department of Interior and State of Nevada, Department of Conservation and Natural Resources.

FINDINGS

I.

Edwards Creek Valley is a hydrologically and topographically closed valley and the source of practically all the ground-water in the valley is runoff from precipitation within the drainage basin.²

¹ Public records in the office of the State Engineer.

² Ground-Water Resources - Reconnaissance Series Report 26.

II.

The perennial yield² of a ground-water reservoir is the maximum rate at which ground-water of suitable chemical quality is available and can be withdrawn economically for an indefinite period of time. If the perennial yield is exceeded, water will be withdrawn from storage and ground-water levels will decline.

Withdrawals of ground-water in excess of the perennial yield contribute to adverse conditions³ such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of ground-water gradients which could result in significant changes in the recharge-discharge relationship. These conditions have developed in several other ground-water basins³ within the State of Nevada where storage depletion and declining water tables have been recorded and documented.

III.

The estimated perennial yield² of Edwards Creek Valley is on the order of 8000 acre-feet. Permits and certificates of appropriation have been issued under existing rights for approximately 12,000 acre-feet of ground-water within Edwards Creek Valley.

IV.

Should additional water be allowed for appropriation under new applications and subsequent development of ground-water pursuant thereto detrimentally affect prior ground-water rights, the State Engineer is required by law⁴ to order withdrawals be restricted to conform to priority rights.

V.

NRS 533.357 establishes the order of priority the State Engineer must consider in acting on applications for irrigation use within the same basin as follows:

1. An owner of land for use on that land.
2. An owner of land for use on adjacent land for which he intends to file an application under the Carey Act or the Desert Land Entry Act, 43 U.S.C. §§ 321 et seq.
3. Any other person whose application is preparatory to proceeding under the Carey Act or the Desert Land Entry Act.

³ See attached Appendix of References.

⁴ NRS 534.110(6).

VI.

A request¹ for permit fees under Application 32344 was forwarded to applicant on March 5, 1984, and is to be issued in support of a Carey Act land application.

VII.

Information available¹ to the State Engineer indicates that Applications 32344 and 41613 are not within an area of concentration and Application 41613 was filed in support of patented land which is first priority under the provisions of NRS 533.357.

CONCLUSIONS

I.

Application 41613 has an earlier priority consideration than Application 32344 under the provisions of NRS 533.357.

II.

The State Engineer has jurisdiction under the provisions of NRS Chapters 533 and 534.

III.

The State Engineer is prohibited by law⁵ from granting a permit where:

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

IV.

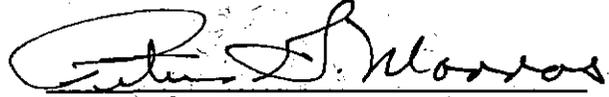
The protest to the granting of Application 41613 is invalid under the provisions of NRS 533.357.

⁵ NRS 533.370.

RULING

The protest to the granting of Application 41613 is herewith overruled on the grounds that it is invalid under the provisions of NRS 533.357 and further on the grounds that the granting of Application 41613 will not adversely affect existing rights or be detrimental to the public welfare. A permit will be issued under Application 41613 upon receipt of statutory permit fees subject to existing rights.

Respectfully submitted,



Peter G. Morros
Peter G. Morros
State Engineer

PGM/bl

Dated this 16th day of
MARCH, 1984.

APPENDIX OF REFERENCES

Land Subsidence in Las Vegas Valley, 1935-63, Information Series No. 5 U.S.G.S.

State of Nevada, Department of Highways, Report on Land Subsidence in Las Vegas Valley.

Evaluation of the Water Resources of Lemmon Valley with Emphasis on Effects of Ground-Water Development to 1971, J.R. Harrill, Water Resources Bulletin No. 42, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1972.

Hydrologic Response to Irrigation Pumping in Diamond Valley, Eureka and Elko Counties, Nevada, 1950-65, J.R. Harrill, Water Resources Bulletin No. 35, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1968.

Effects of Irrigation Development on the Water Supply Quinn River Valley area, Nevada and Oregon, 1950-1964, C.J. Huxel, Jr., Water Resource Bulletin No. 34, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1966.

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The Effects of Pumping on the Hydrology of Kings River Valley, Humboldt County, Nevada, 1957-1964, G.T. Malmberg and G.F. Worts, Jr., Water Resource Bulletin No. 31, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1966.

Effects of Ground-Water Development on the Water Regimen of Paradise Valley, Humboldt County, Nevada, 1948-1968, and Hydrologic Reconnaissance of the Tributary Areas, J.R. Harrill and D.O. Moore, Water Resource Bulletin No. 39, United States Geological Survey, 1970.

Ground-Water Storage Depletion in Pahrump Valley, Nevada-California, 1962-75, J.R. Harrill, Open File Report 81-635, United States Geological Survey, 1982, prepared in cooperation with Nevada Division of Water Resources.

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Basin Ground-Water Hydrology, Ralph C. Heath, U.S. Geological Survey Water Supply Paper 2220, 1983.

Subsidence in Las Vegas Valley, John w. Bell, Nevada Bureau of Mines and Geology Bulletin 95.

Subsidence in United States due to Ground-Water Overdraft - A Review, J.F. Poland, Proceedings of the Irrigation and Drainage Division Specialty Conference, April 1973, American Society of Civil Engineers.