

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 39642)
THROUGH 39644, INCLUSIVE; 39646; 39647;)
39649; 39650; 39652 THROUGH 39659,)
INCLUSIVE; 40403 THROUGH 40406,)
INCLUSIVE; 40994; 40995; 45097; 47443; 47444;)
AND 47512 THROUGH 47516, INCLUSIVE,)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE GOSHUTE VALLEY DESIGNATED)
GROUND WATER BASIN, ELKO COUNTY,)
NEVADA.)

RULING

GENERAL

Application 39642 was filed on November 15, 1979, by Mary Lou C. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the S1/2 Section 36, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 36, T.31N., R.66E., M.D.B.&M.¹

Application 39643 was filed on November 15, 1979, by Mai B. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 36, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 36, T.31N., R.66E., M.D.B.&M.¹

Application 39644 was filed on November 15, 1979, by Jeannette C. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the E1/2 Section 35, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 35, T.31N., R.66E., M.D.B.&M.¹

Application 39646 was filed on November 15, 1979, by Bruce McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the E1/2 Section 34, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 34, T.31N., R.66E., M.D.B.&M.¹

Application 39647 was filed on November 15 1979, by Allen L. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the W1/2 Section 34, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 34, T.31N., R.66E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

Application 39649 was filed on November 15, 1979, by Dale R. Hawkins to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 30, T.31N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 30, T.31N., R.67E., M.D.B.&M.¹

Application 39650 was filed on November 15, 1979, by JoAnn M. Hawkins to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the S1/2 Section 30, T.31N., R.67E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 30, T.31N., R.67E., M.D.B.&M.¹

Application 39652 was filed on November 15, 1979, by Dale Oswald Hawkins to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the S1/2 Section 19, T.31N., R.67E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 19, T.31N., R.67E., M.D.B.&M.¹

Application 39653 was filed on November 15, 1979, by Sharon Hawkins to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 19, T.31N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 19, T.31N., R.67E., M.D.B.&M.¹

Application 39654 was filed on November 15, 1979, by Melodee H. Westmoreland to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the S1/2 Section 18, T.31N., R.67E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 18, T.31N., R.67E., M.D.B.&M.¹

Application 39655 was filed on November 15, 1979, by James R. Westmoreland to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 18, T.31N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 18, T.31N., R.67E., M.D.B.&M.¹

Application 39656 was filed on November 15, 1979, by R. Bernell McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 25, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW/4 NE1/4 Section 25, T.31N., R.66E., M.D.B.&M.¹

Application 39657 was filed on November 15, 1979, by Luzene W. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the S1/2 Section 25, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 25, T.31N., R.66E., M.D.B.&M.¹

Application 39658 was filed on November 15, 1979, by Karl W. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 24, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 24, T.31N., R.66E., M.D.B.&M.¹

Application 39659 was filed on November 15, 1979, by Margaret L. McAllister to appropriate 7.5 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the S1/2 Section 24, T.31N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 24, T.31N., R.66E., M.D.B.&M.¹

Application 40403 was filed on January 25, 1980, by George S. Whiting to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the W1/2 Section 23, T.32N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 23, T.32N., R.66E., M.D.B.&M.¹

Application 40404 was filed on January 25, 1980, by Vicki L. Royer to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E1/2 Section 23, T.32N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 23, T.32N., R.66E., M.D.B.&M.¹

Application 40405 was filed on January 25, 1980, by Gregory B. Wall to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 2, T.33N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 2, T.33N., R.66E., M.D.B.&M.¹

Application 40406 was filed on January 25, 1980, by Brant H. Wall to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 3, T.33N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 3, T.33N., R.66E., M.D.B.&M.¹

Application 40994 was filed on April 1, 1980, by Edwin John Poehlman to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E1/2 Section 11, T.33N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 11, T.33N., R.66E., M.D.B.&M.¹

Application 40995 was filed on April 1, 1980, by Marie Poehlman to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E1/2 Section 14, T.33N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 14, T.33N., R.66E., M.D.B.&M.¹

Application 45097 was filed on December 2, 1981, by Kenneth Wayne Bent to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 24, T.36N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 24, T.36N., R.66E., M.D.B.&M.¹

Application 47443 was filed on November 21, 1983, by Goldie F. Yates to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E1/2 Section 8, T.35N., R.67E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 8, T.35N., R.67E., M.D.B.&M.¹

Application 47444 was filed on November 21, 1983, by Ralph E. Yates to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 16, T.35N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 16, T.35N., R.67E., M.D.B.&M.¹

Application 47512 was filed on December 15, 1983, by Nola T. Ewing to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the N1/2 Section 19, T.32N., R.67E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 19, T.32N., R.67E., M.D.B.&M.¹

Application 47513 was filed on December 15, 1983, by Morris M. Ewing to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 19, T.32N., R.67E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 19, T.32N., R.67E., M.D.B.&M.¹

Application 47514 was filed on December 15, 1983, by Ronald T. Taylor to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 17, T.32N., R.67E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 17, T.32N., R.67E., M.D.B.&M.¹

Application 47515 was filed on December 15, 1983, by Janice E. Davis to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the N1/2 Section 8, T.37N., R.67E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 8, T.37N., R.67E., M.D.B.&M.¹

Application 47516 was filed on December 15, 1983, by Richard B. Davis to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the S1/2 Section 8, T.37N., R.67E., M.D.B.&M. The point of diversion is described as being within Lot 8 (SE1/4 SW1/4) Section 8, T.37N., R.67E., M.D.B.&M.¹

II.

Applications 40994 and 40995 were timely protested on September 26, 1980 by Robert J. Beaumont on the following grounds:¹

"To grant this application which proposes to utilize large drafts from underground water sources would create an over appropriated ground water system and seriously endanger existing water rights. Under the Desert Land Entry Act the water will be used for crops (other than hay) and the evaporation rate will be high, with little return flow to the ground water system."

Therefore, protestant requests that these applications be denied.

Application 45097 was timely protested on May 7, 1982, by Flying "S" Land and Cattle Co. on the following grounds:¹

"To grant this application which proposes to utilize large drafts from underground sources would create an over appropriation of groundwater and seriously endanger our existing surface and underground water rights."

Therefore, protestant requests that this application be denied.

Applications 47443 and 47444 were timely protested on February 15, 1984, by the County of Elko on the following grounds:¹

"Application Number 47443 (47444) is in the proximity of Permits No. 29433 and 31192 that are commonly known as Silver Zone Wells No. 1 and 2. Said wells serve as a municipal water source for the towns of West Wendover, Nevada and Wendover, Utah. Also Protestant has Application No. 46685 in progress for an additional municipal water source for the communities. Protestant believes the above-noted application will have a deleterious affect on the wells under Permit Nos. 29433 and 31192 and Application No. 46685."

Therefore, protestant requests that these applications be denied.

Applications 47443 and 47444 were also timely protested on March 7, 1984, by Flying "S" Land and Cattle Co. on the following grounds:¹

"This application for irrigation water by a non-Nevada resident is on BLM administered land. We assume that it is for a desert land entry application. It is in the vicinity of the Johnson Springs where Big Springs Ranch obtains much of its irrigation water. It is also in the vicinity of the Wendover municipal wells. Another large draft of water in this area could well be detrimental to the water supply of the existing certificate and permit holders."

Therefore, protestant requests that these applications be denied.

Application 47515 and 47516 were timely protested on March 7, 1984, by Flying "S" Land and Cattle Co. on the following grounds:¹

"The Goshute Valley Hydrological Basin in which this application is located is already at this time over appropriated. This is based on the estimated perennial yield of 7,700 acre feet per year for the Basin. The total of certificated rights, present permits, and present applications greatly exceeds this amount. Protection of these existing rights must be considered.

These applications are on vacant land and appear to be for desert land entry filings. This land is 300 to over 400 feet in elevation above the static water table in the valley. Adding pumping draw down, friction loss, and sprinkler head pressure will make the cost of power to irrigate too high for a successful operation."

Therefore, protestant requests that these applications be denied.

III.

Water Resources Bulletin No. 12, titled "Contributions to the Hydrology of Eastern Nevada", was prepared cooperatively by the U.S. Geological Survey and the Division of Water Resources.

IV.

By Order No. 842, dated April 30, 1984, the State Engineer designated and described the Goshute Valley Ground Water Basin (187) and declared municipal, quasi-municipal and domestic use as preferred uses within the northern area of the basin.²

FINDINGS OF FACT

I.

The chief source of the ground water in Goshute-Antelope Valley is precipitation within the valley and on the adjacent flanks of the mountains. A small amount of water may enter the valley occasionally from Steptoe Valley. The ground water is recharged largely by surface flow from the mountain canyons that percolate into the valley fill in the alluvial fan areas at the edges of the mountains. There is no surface discharge from the Goshute-Antelope Valley.³

II.

The perennial yield of Goshute Valley is estimated to be 7,700 acre-feet per year.⁴

Permits and certificates have been issued under existing rights for more than 10,900 acre-feet annually of ground water within the Goshute Valley hydrologic basin.

III.

Information available to the State Engineer indicates that Applications 39642 through 39644, inclusive; 39646; 39647; 39649; 39650; 39652 through 39659, inclusive; 40403 through 40406, inclusive; 40994; 40995; 45097; 47443; 47444; and 47512 through 47516, inclusive, were filed in support of Desert Land Entry applications.¹

IV.

The approval of the above-referenced applications would result in the additional withdrawal of 37,120 acre-feet of ground water annually for irrigation purposes compared to a perennial yield of 7,700 acre-feet annually.¹

² Public record in the office of the State Engineer. See Order 842.

³ Water Resources Bulletin No. 12.

⁴ Water Resources Bulletin No. 12, adjusted to delete Northern Antelope Valley.

V.

If the perennial yield of a hydrologic system is continually exceeded, ground water levels will decline until the ground water reservoir is depleted of water of usable quality or until the pumping lifts become uneconomical to maintain. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural discharge that can be salvaged for beneficial use.⁵

VI.

Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions 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 basins within the State of Nevada where storage depletion and declining water tables have been recorded and documented.⁵

VII.

Should additional water be allowed for appropriation under new applications and subsequent development of ground water pursuant thereto detrimentally effect prior existing rights, the State Engineer is required by law to order withdrawals be restricted to conform to priority rights.⁶

VIII.

Applications 40405, 40406, 40994, 40995, 45097, 47443, 47444, 47515 and 47516 propose points of diversion and places of use within the area in which preferred uses of municipal, quasi-municipal and domestic were designated by the State Engineer by virtue of order No. 842.⁷

CONCLUSIONS

I.

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

⁵ See attached Appendix of References.

⁶ NRS 534.110(6).

⁷ NRS 534.120(2) authorizes and directs the State Engineer to designate preferred uses of water within basins in need of additional administration, pursuant to NRS 534.030.

⁸ NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁹

- 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 interest.

III.

The granting of permits under Applications 39642 through 39644, inclusive; 39646; 39647; 39649; 39650; 39652 through 39659, inclusive; 40403 through 40406, inclusive; 40994; 40995; 45097; 47443; 47444; and 47512 through 47516, inclusive, would result in the withdrawal of substantial amounts of ground water for irrigation purposes in excess of the perennial yield of the Goshute Valley Designated Ground Water Basin and would, therefore, adversely affect existing rights and be detrimental to the public interest and welfare.

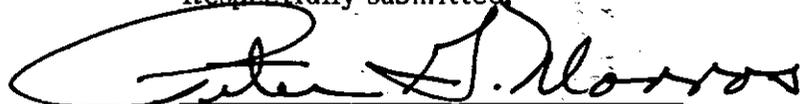
IV.

In addition, the granting of permits under Applications 40405, 40406, 40994, 40995, 45097, 47515 and 47516 for irrigation purposes in an area where the preferred uses of municipal, quasi-municipal and domestic were designated by the State Engineer for the express purpose of protecting the limited supply of ground water for said preferred uses, would adversely affect existing rights and be detrimental to the public interest and welfare.

RULING

The protests to the granting of Applications 40994, 40995, 45097, 47443, 47444, 47515 and 47516 are herewith upheld. Applications 39642 through 39644, inclusive; 39646; 39647; 39649; 39650; 39652 through 39659, inclusive; 40403 through 40406, inclusive; 40994; 40995; 45097; 47443; 47444; and 47512 through 47516, inclusive, are herewith denied on the grounds that the granting thereof would adversely affect existing rights and would be detrimental to the public interest and welfare.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/SHF/bl

Dated this 18th day of

March, 1986.

APPENDIX OF REFERENCES

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

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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.

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Appendix of References
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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF WATER RESOURCES

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March 18, 1986

39642 through 39644, inclusive; 39646;
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inclusive; 40994; 40995; 45097; 47443;
47444; and 47512 through 47516,
inclusive

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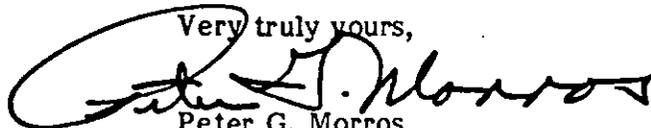
Ladies and Gentlemen:

Enclosed is our official Ruling in the matter of Applications 39642 through 39644, inclusive; 39646; 39647; 39649; 39650; 39652 through 39659, inclusive; 40403 through 40406, inclusive; 40994; 40995; 45097; 47443; 47444; and 47512 through 47516, inclusive.

These applications have been denied on the grounds as set forth in the Ruling.

Also enclosed is a copy of your application(s) which includes the endorsement of denial.

Very truly yours,



Peter G. Morros
State Engineer

PGM/bl

Enclosures

cc: Jack Facer
Alan S. Boyack