

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS)
49321 AND 49322 FILED BY)
WINNEMUCCA FARMS, INC., TO)
CHANGE THE POINT OF DIVERSION)
OF THE WATERS FROM AN UNDER-)
GROUND SOURCE HERETOFORE)
APPROPRIATED UNDER PERMITS)
34010, CERTIFICATE 9611, AND)
36319, CERTIFICATE 10359,)
RESPECTIVELY, IN THE PARADISE)
VALLEY GROUND WATER BASIN,)
HUMBOLDT COUNTY, NEVADA)

RULING

GENERAL

I.

Application 49321 was filed on August 30, 1985, by Winnemucca Farms, Inc., to change the point of diversion of 2.807 c.f.s. of water from an underground source heretofore appropriated under Permit 34010, Certificate 9611. The existing point of diversion is described as being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T.38N., R.38E., M.D.B.&M. The proposed point of diversion is described as being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T.38N., R.38E., M.D.B.&M. The existing and proposed place of use is 3109.70 acres located in portions of Sections 23, 24, 25, 26 and 35, T.38N., R.38E., and Section 19, T.38N., R.39E., M.D.B.&M. The existing and proposed manner of use is irrigation and domestic.¹

II.

Application 49321 was timely protested on November 4, 1985, by Humboldt Farms, Inc., on the following grounds:¹

"A cone of depression has been created in the area of wells being pumped for irrigation purposes, south of the centerline of Township 39 North M.D.B.&M. Records on file with the State Engineer indicate this cone is increasing and it's area of influence has been moving in an easterly and northeasterly direction. The proposed change in the point of diversion eastward would serve to: (1.) Accelerate and extend the cone of depression. (2) Adversely affect already declining recharge w/in the area of concentration. (3) Negatively impact the highest and best use, and future marketability of Humboldt farms which has substantial land holdings in the area, and lies adjacent to the proposed diversionary points."

¹ Public record in the office of the State Engineer under Applications 49321 and 49322.

III.

Application 49321 was timely protested on November 18, 1985, by Robert J. Garner and Helen M. Garner on the following grounds:¹

"The Point of Diversion proposed by Application #49321 would simply serve to extend eastward, a too large existing cone of depression to other properties. It would also increase the declining recharge rate. As projected on the Bliss Quandrangle for Humboldt County, the point of diversion would be very, very close to the boundary of the contiguous property on the east. Honest engineering would have to concede that with a cone of depression to the west, a well & pump at this point of diversion would (not possibly) but probably draw more water from under the adjoining eastward property, than from under Winnemucca Farms, Inc. property. Surely this would be neither just nor right and would set the stage for a suit against the Nevada State Engineer. Probably no point of diversion for agricultural water development should be permitted closer than 1000' to 1250' of an existing property line. The negative impact on adjoining property values would certainly have a domino (negative) effect on all properties in the area."

IV.

Application 49322 was filed on August 30, 1985, by Winnemucca Farms, Inc., to change the point of diversion of 4.501 c.f.s. of water from an underground source heretofore appropriated under Permit 36319, Certificate 10359. The existing point of diversion is described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23, T.38N., R.38E., M.D.B.&M. The proposed point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24, T.38N., R.38E., M.D.B.&M. The existing and proposed place of use is 3109.70 acres located in portions of Sections 23, 24, 25, 26 and 35, T.38N., R.38E., and Section 19, T.38N., R.39E., M.D.B.&M. The existing and proposed manner of use is irrigation and domestic.¹

V.

Application 49322 was timely protested on November 4, 1985, by Humboldt Farms, Inc., on the following grounds:¹

"A cone of depression has been created in the area of wells being pumped for irrigation purposes, south of the centerline of Township 39 North M.D.B.&M. Records on file with the State Engineer indicate this cone is increasing and it's area of influence

has been moving in an easterly and northeasterly direction. The proposed change in the point of diversion eastward would serve to: (1.) Accelerate and extend the cone of depression. (2) Adversely affect already declining recharge w/in the area of concentration. (3) Negatively impact the highest and best use, and future marketability of Humboldt farms which has substantial land holdings in the area, and lies adjacent to the proposed diversionary points."

VI.

Application 49322 was timely protested on November 18, 1985, by Robert J. Garner and Helen M. Garner on the following grounds:¹

"The Point of Diversion proposed by Application #49322 would simply serve to extend eastward, an already too large existing cone of depression to other properties. It would also increase the declining recharge rate. As projected on the Bliss Quadrangle for Humboldt County, the point of diversion would be very, very close to the boundary of the contiguous property on the east. Honest engineering would have to concede that with a cone of depression to the west, a well & pump at this point of diversion would (not possibly) but probably draw more water from under the adjoining eastward property, than from under Winnemucca Farms, Inc property. Surely this would be neither just nor right and would set the stage for a suit against the Nevada State Engineer. Probably no point of diversion for agricultural water development should be permitted closer than 1000' to 1250' of an existing property line. This would not work on $\frac{1}{4}$ section or smaller properties. They would have to be limited by size of wells & pumps, & lesser footage requirement setback.---The negative impact on adjoining property values would certainly have a domino (negative) effect on all properties in the area."

VII.

The Paradise Valley Ground Water Basin was designated² by the State Engineer on October 22, 1971. The State Engineer found that conditions warranted the designation of this basin under the provisions of Chapter 534 NRS (Conservation and Distribution of Underground Water).

² State Engineer's Order No. 408, public record in the office of the state Engineer. NRS 534.030.

VIII.

On December 1, 1983, the State Engineer issued an order³ on curtailment of water appropriation within the designated Paradise Valley Ground Water Basin.

IX.

Water Resources Bulletin No. 10 "Groundwater in Paradise Valley, Humboldt County, Nevada" by Omar J. Loeltz, David A. Phoenix and Thomas W. Robison was prepared cooperatively by the office of the State Engineer and the U.S. Department of the Interior, Geological Survey, 1949.⁴

X.

Water Resources Bulletin No. 39, "Effects of Ground-Water Development on the Regimen of Paradise Valley, Humboldt County, Nevada, 1948-1968, and Hydraulic Reconnaissance of the Tributary Areas" by J. R. Harrill and D. O. Moore, was prepared cooperatively by the Department of Conservation and Natural Resources and the U.S. Department of the Interior, Geological Survey, 1970.⁵

FINDINGS OF FACT

I.

Applications to change 49321 and 49322 do not seek an additional appropriation of the public waters but propose to change the point of diversion under existing rights under Permit 34010, Certificate 9611, and Permit 36319, Certificate 10359.⁶

II.

The proposed points of diversion under Applications 49321 and 49322 move in an easterly direction, approximately one and one-quarter miles from the existing points of diversion.

³ State Engineer's Order No. 832, public record in the office of the State Engineer. NRS 534.010 to 534.190.

⁴ Public record in the office of the State Engineer.

⁵ Public record in the office of the State Engineer.

⁶ Public record in the office of the State Engineer. See Applications 49321 and 49322 and Permits 25953, 25958, 30585, 34004, 34010 and 36319.

III.

The closest points of diversion of existing ground water rights in ownership, other than the applicants or the protestants, are more than two miles in an easterly and northeasterly direction.⁷

IV.

A computer model⁸ was utilized to determine the effect on ground water levels from pumping the wells at the existing points of diversion and pumping the wells at the proposed points of diversion. This analysis used a three dimensional finite difference ground water flow model developed by the United States Geological Survey.⁸ The impact on ground water levels due to pumping at the proposed points of diversion is predicted to be the greatest within a one-quarter mile radius of the proposed points of diversion under Applications 49321 and 49322. The extent of the cone of depression was limited to approximately two and one-half miles to the east and northeast.⁹ This effect on existing ground water rights does not constitute an unreasonable lowering of the water table.¹⁰

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this determination.¹¹

⁷ Public record in the office of the State Engineer.

⁸ This computer model is described in U.S.G.S. Open File Report 83-875.

⁹ All data and information developed is available in the office of the State Engineer as a matter of public record.

¹⁰ NRS 534.110, subsection 4.

¹¹ NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to change the public waters where:¹²

- A. The proposed change conflicts with existing rights, or
- B. The proposed change threatens to prove detrimental to the public interest.

III.

Scientific methods utilized by the State Engineer establishes a reliable method of determining pumping impact on the ground water levels near the proposed points of diversion. The projected difference in ground water levels does not constitute an unreasonable lowering of the water table within the vicinity of the proposed points of diversion of Applications 49321 and 49322.

IV.

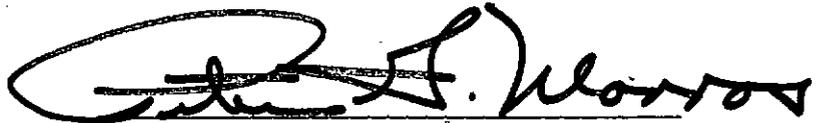
The approval of Applications to Change 49321 and 49322 will not be detrimental to the public interest, however, this conclusion should not be interpreted to preclude the State Engineer from regulating ground water withdrawals in an area or a future determination as to reasonable economic pumping lifts.¹⁰

¹² NRS 533.370, subsection 3.

RULING

The protests to Applications to Change 49321 and 49322 are herewith overruled and Applications to Change 49321 and 49322 will be permitted subject to existing rights and subject to the terms and conditions set forth on Permit 34010, Certificate 9611, and Permit 36319, Certificate 10359. This approval is conditioned on the understanding that the State Engineer may regulate ground water withdrawals and establish economic pumping lifts for the area set forth herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a horizontal line.

Peter G. Morros
State Engineer

PGM/HR/bc

Dated this 11th day of
APRIL, 1986.