

IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 48796 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF ROCKY CANYON CREEK LOCATED )  
WITHIN THE OREANA SUB-AREA GROUNDWATER )  
BASIN (073A), PERSHING COUNTY, NEVADA.)

RULING

# 4694

GENERAL

I.

Application 48796 was filed on January 29, 1985, by Douglas Vernon Brooks to appropriate 1.0 cubic foot per second (cfs) of water from Rocky Canyon Creek, a.k.a. Rock Canyon Creek. The proposed manner and place of use is for the irrigation of 157 acres of land located within the S $\frac{1}{2}$  NW $\frac{1}{4}$  and N $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 4, T.29N., R.33E., M.D.B. & M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 3, T.29N., R.33E., M.D.B. & M.<sup>1</sup>

II.

Application 48796 was timely protested on July 1, 1985, by R.J.B. Development Co. on the following grounds:<sup>1</sup> "[r]emoval of 1.0 second feet from Rock Canyon Creek will cause infringement of existing rights on the source, and pending applications of protestant."<sup>1</sup>

FINDINGS OF FACT

I.

On February 25, 1969, the State Engineer by Order No. 369, designated the entire Oreana Sub-Area Groundwater Basin (4-073A), as a basin in need of additional administration.<sup>2</sup> By State Engineer's Order No. 370 issued on the same day, the State Engineer described an area within the Oreana Sub-Area Groundwater Basin in which no additional permits to appropriate underground water for

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<sup>1</sup> File No. 48796, official records in the office of the State Engineer.

<sup>2</sup> State Engineer's Order No. 369, February 25, 1969, official records in the office of the State Engineer.

irrigation purposes would be granted. In addition, Order No. 370 declared municipal use as a preferred use of water within the designated area.<sup>3</sup> On May 17, 1993, State Engineer's Order No. 1079 expanded the preferred use area.<sup>4</sup> The State Engineer finds that the place of use and the point of diversion described under Application 48796 are both located within the expanded preferred use area defined by State Engineer's Order No. 1079.

## II.

The Oreana Sub-Area Groundwater Basin is the primary source of potable underground water for the city of Lovelock and the surrounding area. The United States Geological Survey has estimated that the perennial yield of this groundwater basin is approximately 2,000 acre-feet,<sup>5</sup> of which 1,500 acre-feet is currently being pumped by the Lovelock Meadows Water District (LMWD) for municipal purposes with the remaining 500 acre-feet dedicated as a reserve to service the future expansion of its customer base.<sup>6</sup>

The LMWD holds title in excess of 2,700 acre-feet of municipal water rights within the Oreana Sub-Area Groundwater Basin in the form of permits and certificates issued by the office of the State Engineer.<sup>6,7</sup> The State Engineer finds that the increased demand for

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<sup>3</sup> State Engineer's Order No. 370, February 25, 1969, official records in the office of the State Engineer.

<sup>4</sup> State Engineer's Order No. 1079, May 17, 1993, official records in the office of the State Engineer.

<sup>5</sup> Nowlin, Jon, Groundwater Quality in Nevada-A Proposed Monitoring Program, Open-File Report 78-768, U.S.G.S., p. 193.

<sup>6</sup> Transcript, pp. 8-9, 25, public administrative hearing before the State Engineer in the matter of Applications 58183 and 58975, July 7, 1995.

<sup>7</sup> Hydrographic Basin Summary, Oreana Sub-Area of the Lovelock Valley Basin, Basin 4-073A, official records in the office of the State Engineer.

municipal water within the Lovelock area will eventually cause the LMWD to utilize its remaining water rights to a level where the Oreana Sub-Area Groundwater Basin's entire perennial yield will be pumped for municipal use. The State Engineer finds the current committed resource exceeds the perennial yield of the groundwater basin and the use of water for irrigation within the designated groundwater basin is not authorized.

### III.

Rocky Canyon Creek is located on the western flank of the Humboldt Range within a watershed which drains westward into the Oreana Sub-Area.<sup>8</sup> The majority of the groundwater recharge to the Oreana Sub-Area is derived from winter precipitation which occurs within the adjacent Humboldt Range.<sup>9</sup> The spring snowmelt contributes water to the flows of Rocky Canyon Creek which eventually leaves the confines of its bed rock channel as it emerges from the mountains. As Rocky Canyon Creek encounters the basin valley fill, its waters are rapidly infiltrated into the alluvial fans, replenishing the Oreana Sub-Area basin fill aquifer, which is the source of the LMVD's municipal water supply. The State Engineer finds that a portion of the flow of Rocky Canyon Creek contributes to the groundwater recharge of the Oreana Sub-Area and its municipal water supply.

### IV.

Before an application to appropriate water can be approved by the State Engineer an evaluation must be made to determine if its approval would adversely effect existing water rights. Previous applications which requested new appropriations of Rocky Canyon

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<sup>8</sup> United States Geological Survey 7.5' Oreana Quadrangle Topographical Map, Provisional Edition, 1993.

<sup>9</sup> Everett, D.E., and Rush, E.F., Water Resources Appraisal of Lovelock Valley, Pershing County, Nevada, Water Resources Reconnaissance Series Report 32, State of Nevada Department of Conservation and Natural Resources in cooperation with the United States Geological Survey, 1965, p. 15.

Creek water have been evaluated and approved by the State Engineer, however, the State Engineer finds that they were approved for points of diversion and places of use which were exclusive from the original preferred use area established under State Engineer's Order No. 370.

V.

The Oreana Sub-Area Groundwater Basin represents a crucial source of municipal water for the LMWD and its customers. Since 1969, the State Engineer has sought to protect this water resource by issuing a series of orders which limited or denied new appropriations of water for non-municipal purposes. The safeguarding of the water resources of the Oreana Sub-Area Groundwater Basin is not restricted to the basin's underground water and includes those surface water sources which provide recharge through the infiltration of their flows into the groundwater basin. Application 48796 requests an additional appropriation of water from Rocky Canyon Creek which contributes a portion of its flows to the recharge of the groundwater basin. Prior to 1993, the majority of the area favorable for basin recharge from Rocky Canyon Creek was located outside of the preferred use area. The expansion of this area which occurred in 1993 with the issuance of Order No. 1079 redefined the preferred use area to include the region where the waters of Rocky Canyon Creek infiltrate into the groundwater basin's valley fill alluvium.<sup>4,8</sup> The State Engineer finds that the approval of Application 48796 would diminish the quantity of water available for recharge to the preferred use portion of the Oreana Sub-Area Groundwater Basin, adversely effecting existing rights within said groundwater basin.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>10</sup>

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>11</sup>

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

III.

Application 48796 requests an appropriation of water from a source whose surface and subsurface flows contribute to the groundwater recharge of the Oreana Sub-Area Groundwater Basin. The State Engineer has long recognized the importance of this limited groundwater resource to the city of Lovelock and the surrounding area. The limited nature of this resource when combined with an increased demand for its utilization has prompted the State Engineer to issue a series of orders intended to safeguard this source of water from the adverse effects of any additional appropriations. The State Engineer concludes that it would not be in the public interest to approve an application which would reduce the groundwater recharge into the Oreana Sub-Area Groundwater Basin, ultimately resulting in a degradation in the municipal water source. The State Engineer further concludes that the approval of Application 48796 would conflict with existing rights.

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<sup>10</sup> NRS Chapters 533 and 534.

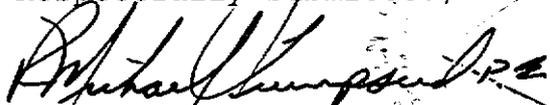
<sup>11</sup> NRS § 533.370(3).

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**RULING**

Application 48796 is hereby denied on the grounds that its approval would conflict with existing preferred use rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/cl

Dated this 2nd day of  
February, 1999.