

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

IN THE MATTER OF APPLICATIONS 74455,)
74456, 74457, 74458, 74459, 74460, 74461, 74462,)
74463, 74464, 74465, 74466, 74467, 74468, 74469,)
74470, 74471, 74472, 74473, 74474, 74475, 74476,)
AND 74477 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BUFFALO VALLEY)
HYDROGRAPHIC BASIN (131), PERSHING AND)
LANDER COUNTIES, NEVADA.)

RULING

#5800

GENERAL

I.

Application 74455 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 acre-feet annually (afa), of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 1, T.30N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 1, T.30N., R.41E., M.D.B.&M.¹

II.

Application 74456 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 2, T.30N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 2, T.30N., R.41E., M.D.B.&M.²

III.

Application 74457 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of

¹ File No. 74455, official records in the Office of the State Engineer.

² File No. 74456, official records in the Office of the State Engineer.

Section 2, T.30N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 2, T.30N., R.41E., M.D.B.&M.³

IV.

Application 74458 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 3, T.30N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 3, T.30N., R.41E., M.D.B.&M.⁴

V.

Application 74459 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 11, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 11, T.31N., R.41E., M.D.B.&M.⁵

VI.

Application 74460 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 11, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 11, T.31N., R.41E., M.D.B.&M.⁶

VII.

Application 74461 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 14, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 14, T.31N., R.41E., M.D.B.&M.⁷

³ File No. 74457, official records in the Office of the State Engineer.

⁴ File No. 74458, official records in the Office of the State Engineer.

⁵ File No. 74459, official records in the Office of the State Engineer.

⁶ File No. 74460, official records in the Office of the State Engineer.

⁷ File No. 74461, official records in the Office of the State Engineer.

VIII.

Application 74462 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 14, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 14, T.31N., R.41E., M.D.B.&M.⁸

IX.

Application 74463 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 15, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 15, T.31N., R.41E., M.D.B.&M.⁹

X.

Application 74464 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 15, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 15, T.31N., R.41E., M.D.B.&M.¹⁰

XI.

Application 74465 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 22, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 22, T.31N., R.41E., M.D.B.&M.¹¹

⁸ File No. 74462, official records in the Office of the State Engineer.

⁹ File No. 74463, official records in the Office of the State Engineer.

¹⁰ File No. 74464, official records in the Office of the State Engineer.

¹¹ File No. 74465, official records in the Office of the State Engineer.

XII.

Application 74466 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 22, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 22, T.31N., R.41E., M.D.B.&M.¹²

XIII.

Application 74467 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 23, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 23, T.31N., R.41E., M.D.B.&M.¹³

XIV.

Application 74468 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 23, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 23, T.31N., R.41E., M.D.B.&M.¹⁴

XV.

Application 74469 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 25, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 25, T.31N., R.41E., M.D.B.&M.¹⁵

XVI.

Application 74470 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for

¹² File No. 74466, official records in the Office of the State Engineer.

¹³ File No. 74467, official records in the Office of the State Engineer.

¹⁴ File No. 74468, official records in the Office of the State Engineer.

¹⁵ File No. 74469, official records in the Office of the State Engineer.

the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 25, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 25, T.31N., R.41E., M.D.B.&M.¹⁶

XVII.

Application 74471 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 26, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 26, T.31N., R.41E., M.D.B.&M.¹⁷

XVIII.

Application 74472 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 26, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 26, T.31N., R.41E., M.D.B.&M.¹⁸

XIX.

Application 74473 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 27, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 27, T.31N., R.41E., M.D.B.&M.¹⁹

XX.

Application 74474 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of

¹⁶ File No. 74470, official records in the Office of the State Engineer.

¹⁷ File No. 74471, official records in the Office of the State Engineer.

¹⁸ File No. 74472, official records in the Office of the State Engineer.

¹⁹ File No. 74473, official records in the Office of the State Engineer.

Section 27, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 27, T.31N., R.41E., M.D.B.&M.²⁰

XXI.

Application 74475 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the E½ of Section 34, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 34, T.31N., R.41E., M.D.B.&M.²¹

XXII.

Application 74476 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 34, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 34, T.31N., R.41E., M.D.B.&M.²²

XXIII.

Application 74477 was filed on July 5, 2006, by Buffalo Valley Farms, LLC, to appropriate 6.0 cfs, not to exceed 1,280 afa, of underground water in the Buffalo Valley Hydrographic Basin for the irrigation of 320 acres of land that are described as being located within portions of the W½ of Section 35, T.31N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 35, T.31N., R.41E., M.D.B.&M.²³

FINDINGS OF FACT

I.

Nevada Revised Statute 533.370(5) provides that if a previous application for a similar use within the same basin has been rejected on those grounds, the new application may be denied without publication. On October 14, 2004, the State Engineer issued Ruling No. 5430 that denied irrigation applications for the Buffalo Valley Hydrographic Basin because the basin was fully

²⁰ File No. 74474, official records in the Office of the State Engineer.

²¹ File No. 74475, official records in the Office of the State Engineer.

²² File No. 74476, official records in the Office of the State Engineer.

²³ File No. 74477, official records in the Office of the State Engineer.

appropriated. The State Engineer finds that previous applications have been denied for similar uses in the Buffalo Valley Hydrographic Basin; therefore, Applications 74455, 74456, 74457, 74458, 74459, 74460, 74461, 74462, 74463, 74464, 74465, 74466, 74467, 74468, 74469, 74470, 74471, 74472, 74473, 74474, 74475, 74476, and 74477 may be considered for denial.

II.

The filing of a water right application, which requests a new appropriation of water, requires the payment of a \$250.00 application fee. Should an application be denied prior to publication, the unused publication fee of \$50.00 is remitted to the party who paid the application-filing fee. The State Engineer finds that if Applications 74455, 74456, 74457, 74458, 74459, 74460, 74461, 74462, 74463, 74464, 74465, 74466, 74467, 74468, 74469, 74470, 74471, 74472, 74473, 74474, 74475, 74476, and 74477 are denied prior to publication, a portion of the original application filing fee, represented by the \$50.00 publication fee each, will be remitted.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.²⁴

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:²⁵

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

Applications 74455, 74456, 74457, 74458, 74459, 74460, 74461, 74462, 74463, 74464, 74465, 74466, 74467, 74468, 74469, 74470, 74471, 74472, 74473, 74474, 74475, 74476, and 74477 request the appropriation of underground water for irrigation purposes from the Buffalo Valley Hydrographic Basin where there is no water remaining to be appropriated. The State

²⁴ NRS chapters 533 and 534.

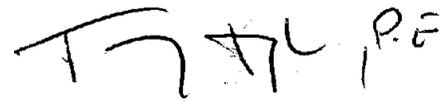
²⁵ NRS § 533.370(5).

Engineer concludes that the approval of these applications would conflict with existing water rights within the groundwater basin, and thereby threaten to prove detrimental to the public interest, therefore, they must be denied.

RULING

Applications 74455, 74456, 74457, 74458, 74459, 74460, 74461, 74462, 74463, 74464, 74465, 74466, 74467, 74468, 74469, 74470, 74471, 74472, 74473, 74474, 74475, 74476, and 74477 are hereby denied on the grounds that the approval would conflict with previous rulings and existing water rights, and threaten to prove detrimental to the public interest. This denial is made prior to the statutory publication period; therefore, the \$50.00 publication fee for each application will be remitted to the party who submitted the original application fee.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/WHR/jm

Dated this 27th day of

November, 2007.