

IN THE MATTER OF APPLICATIONS 22585,)
22586 and 22587 FILED ON MAY 14, 1965)
BY THE NEVADA POWER COMPANY TO APPRO-)
PRIATE WATER FROM AN UNDERGROUND)
SOURCE IN MEADOW VALLEY WASH, CLARK)
COUNTY, NEVADA.)

R U L I N G

General:

The Nevada Power Company filed three applications, 22585, 22586 and 22587 on May 14, 1965 to appropriate 10.5 c.f.s. from an underground source.

205
Application 22585 is to appropriate 3.5 c.f.s. (1,570 g. p.m.) to be diverted within the E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, T. 14 S., R. 66 E., M.D.B.& M. The place of use under this application is within a portion of Section 5, T. 15 S., R. 66 E., M. D.B.& M. The point of return of the water to the stream system is none.

Application 22586 is to appropriate 3.5 c.f.s. (1,570 g. p.m.) to be diverted within the N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, T. 14 S., R. 66 E., M.D.B.& M. The place of use under this application is within a portion of Section 5, T. 15 S., R. 66 E., M. D.B.& M. The point of return of the water to the stream system is none.

Application 22587 is to appropriate 3.5 c.f.s. (1,570 g. p.m.) to be diverted within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T. 14 S., R. 66 E., M.D.B.& M. The place of use under this application is within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, T. 14 S., R. 66 E., M.D.B.& M. The point of return of the water to the stream system is none.

The water applied for under applications 22585, 22586 and 22587 is for industrial (cooling).

Applications 22585 and 22586 were protested July 13, 1965 by L. J. and Vera McCormick. Application 22587 was protested by the same protestants July 27, 1965, all on the same grounds, to wit:

"That the granting of same applications will effect the flow and has already effected the flow and use of their existing lines and water rights. That the same will

effect and interfere with their Taylor Grazing Rights and the water developing from springs and windmills now in existence on which said grazing rights are based."

An investigation in the matter of applications 22585, 22586 and 22587 was made August 25, 1965. Present for the investigation were: Samuel Crowley, Nevada Power Company; George B. Maxey, University of Nevada; James H. Zornes, Nevada Power Company; L. J. McCormick, protestant, Glendale, Nevada; Franklin N. Smith, Attorney for the protestants; F. W. Thorne, Division of Water Resources, and G. W. Hennen, Division of Water Resources.

It was agreed upon by all interested parties that the map which was used as a base for bearings, and which map is a part of file 22585, was correct and could be used for the investigation, thus eliminating a field trip.

During the investigation several points of contention and protest were raised as follows:

1. The use of water for industrial (cooling) was not specifically mentioned in the Nevada Statutes.
2. That the Meadow Valley Wash and the Muddy Valley River were not in the same drainage area.
3. The water in one drainage area could not be used in another drainage area.
4. That the pumping and use of the wells of the applicant will affect the wells of the protestant and that they have already affected them.
5. That at the present no one knows what will be the effect on the ground water level of the valley when the wells of the applicants are pumped.
6. The applicant did not have a right to make an application for water before he was ready to put it to beneficial use and that he had applied for a greater amount of water than was needed.
7. That the wells and springs now being used for stock water purposes would be affected.

Opinion:

Objection 1. Industrial water by name is not mentioned in the Statutes of the Nevada Water Law. Under Statute NRS 533.030 (APPLICATION FOR BENEFICIAL USE) water can be appropriated for beneficial use. Water for industrial purposes is a beneficial use of water.

Objection 2 and 3. The Meadow Valley Wash and The Muddy River are in the same drainage area. However, the Meadow Valley Artesian Basin and the Muddy River Artesian Basin are separate underground basins. There is nothing in the Nevada Statutes to prohibit water from being developed in one underground basin and being used in another. Under applications 22585, 22586 and 22587 the water applied for will be a 100% consumptive use thus eliminating any effect that it would have to the return flow of either basin.

Objection 4, 5 and 7. At the investigation the information developed was that there would be very little affect as to the lowering of the static water level at the protestants point of diversion. At this point, the protestants felt that no one knew exactly what the affect of pumping of the applicants' well would be at his point of diversion. Under NRS 534.110 (RULES, REGULATIONS OF THE STATE ENGINEER) paragraphs 4, 5 and 6 provide for a reasonable lowering of the static water level in a particular area.

Paragraph 5, permits the granting of permits to the applicants later in time on the grounds that the diversion under such proposed later appropriation may cause the water level to be lowered at the point of diversion of a prior application so long as the rights of holders of existing appropriations can be satisfied under such expressed condition. Paragraph 6, gives the State Engineer the right to order that withdrawal be restricted to conform to prior rights.

Objection 6. Any applicant has the right to make application to appropriate water for beneficial use before the water can actually be put to beneficial use. In granting any application, NRS 533.380 (TIMES FOR BEGINNING, COMPLETION OF WORK, APPLICATION OF WATER FOR BENEFICIAL USE, SHALL BE SET BY THE STATE ENGINEER IN HIS ENDORSEMENT OR APPROVAL ON APPLICATIONS: LIMITATIONS AND EXTENSIONS) applies and is always followed.

It provides:

1. That in his endorsement or approval upon any application, the state engineer shall:

a. Set a time prior to which actual construction work shall begin which shall not be more than 1 year from the date of such approval.

b. Set a time prior to which the construction of the work must be completed, which shall be within 5 years of the time of such approval.

c. Set a time prior to which the complete application of water to a beneficial use must be made, which time shall not exceed 10 years from the date of approval.

2. The State Engineer may limit the applicant to a less amount of water than that applied for, to a less period of time for the completion of work and a less period of time for the perfecting of the application than named in the application.

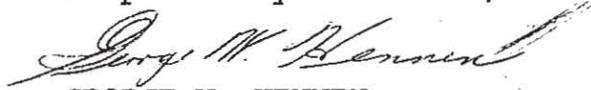
3. The State Engineer shall have the authority, for good cause shown, to extend the time within which construction work shall begin within which construction work shall be completed or water applied to a beneficial use. Under any permit, therefore issued by the State Engineer, an application for such extension must in all cases be made within 30 days following notice by registered mail, that proof of such work is due as provided for in NRS 533.390 and NRS 533.410.

RULING

The protest to the granting of applications 22585, 22586 and 22587 is herewith overruled on the grounds that the granting of the applications will not impair the value of existing rights or otherwise be detrimental to the public welfare. The permits shall be issued subject to all existing rights on the source upon the receipt of the statutory permit fee. Nothing in this

ruling shall be taken to grant any rights of egress and ingress to the applicant on public, private or government land.

Respectfully submitted,



GEORGE W. HENNEN
State Engineer

Dated this 9th day of
September, 1965.

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