

IN THE MATTER OF APPLICATION NO. 14346  
IN NAME OF G. S. WILLIAMS AND ALTHEA M.  
WILLIAMS TO APPROPRIATE OVERFLOW AND  
SURPLUS WATER FROM ANACONDA COPPER MINING  
COMPANY WELLS FOR IRRIGATION PURPOSES,  
LYON COUNTY, NEVADA.

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RULING

Application No. 14346 was filed June 20, 1952 by G. S. Williams and Althea M. Williams to appropriate 4.0 c.f.s. of overflow and surplus water from Anaconda Copper Mining Company wells for irrigation purposes. The proposed point of diversion is in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 16, T. 13 N., R. 25 E., M.D.B.&M. The lands to be irrigated, consisting of 266.97 acres, are located in portions of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 21; SE $\frac{1}{4}$  Section 16; W $\frac{1}{2}$  SW $\frac{1}{4}$ , NW $\frac{1}{4}$  Section 15 and the SW $\frac{1}{4}$  Section 10, T. 13 N., R. 25 E., M.D.B.&M.

Following publication of the notice of application in the Mason Valley News for the statutory period, and within the period as provided by law for the filing of protests, the following protests were filed:

October 16, 1952 by Walker River Irrigation District  
October 20, 1952 by Wm. J. Lagomarino

The protestants pray that said application be denied and their reasons, which were identical, are as follows:

1. That the amount of water applied for cannot be beneficially used for irrigation by reason of the (a) character of the lands and/or (b) by reason of the undetermined flow of the source from which it is proposed to divert the water applied for.
2. That the applicant seeks to appropriate a certain portion of the "return flow" of the waters developed and to be developed, by the Anaconda Copper Mining Company, under Permits 14109 to 14113, both inclusive, which "return flow" the said Anaconda Copper Mining Company, by virtue of the "ruling" made in the matter of said applications, is required to return to the Walker River.
3. That there are no unappropriated waters in the Walker River Stream System.
4. That the waters developed by the Anaconda Copper Mining Company under the authority of the permits above mentioned, have, and will have, the effect of depleting and diminishing the waters of the Walker River, save and to the extent of the "return flow" to the river, and to permit applicant to appropriate, use, or interfere with said "return flow" would be, in effect, a further depleting and diminishing of the waters of said river, all of which will be to the detriment of all of the other users of water, both decreed and storage, on the Walker River Stream System.

5. That the waters developed by the Anaconda Copper Mining Company under the authority of the permits above mentioned, tend to and do, lessen and diminish the underground water table and level of Mason Valley; will cause decreed waters now flowing in the Walker River to replenish the underground waters thus removed, and will require a greater and additional use of irrigation water on the part of every water user to compensate for the lowering of the water table and the benefits presently being received therefrom to the lands in Mason Valley by and through sub-irrigation.
6. That to grant the application applied for will cause irreparable injury to each and every user of decreed and/or storage water in Mason Valley; will result in a great multiplicity of legal actions to prevent said damage, to the cost and detriment of all water users and the Walker River Irrigation District."

General:

The water sought to be appropriated under Application No. 14346 is water diverted from an underground source by the Anaconda Copper Mining Company under permits to appropriate Nos. 14109 to 14113, inclusive, and which is in excess of the amount that can be placed to beneficial use by the said mining company.

The purposes of the diversions of ground water by the Anaconda Copper Mining Company were:

- (1) To furnish water for the townsite, mining and milling operations; and
- (2) To lower the water table in the pit area sufficient to allow for mining operations.

The total amount of water granted under the five permits (Nos. 14109 to 14113, inclusive) was 7.19 c.f.s. to be diverted from five wells. Under the provisions of the permit the Anaconda Copper Mining Company can divert this amount of water and place same to beneficial use, in which case there would be no conveyance to the Walker River and in which event there would be no water to satisfy any permit issued under Application No. 14346. Or, in the event the 7.19 c.f.s. is not needed for beneficial use by the mining company, but such diversion is necessary in order to lower the water table for pit operations, the permits provide that in the interest of conservation provisions must be made to return such excess water to the Walker River and not wasted. It is this water that applicant has applied for under Application No. 14346.

Findings of Fact:

In the ruling by the State Engineer on Applications Nos. 14109 to 14113, inclusive, dated July 9, 1952, it was found that the

pumping of ground water by the Anaconda Copper Mining Company, as contemplated by said applications, would have little affect, if any, on the waters of the Walker River. Under the provisions of said permits, the mining company can utilize the full permitted amount of 7.19 c.f.s. in which event there would be no unused water to be directed to the river. Therefore, it appears that if there is unused water, and Applicant Williams places such water to beneficial use as contemplated under Application No. 14346, the protestants would not be injured. Therefore, we see no reason why a permit could not be issued under Application No. 14346.

It must be definitely understood that any permit issued under Application No. 14346 would give the permittee the right to divert only such waters reaching his point of diversion up to the amount granted in such permit, and would not give said permittee the right to demand the continuation of such flow. Neither would such permit carry any right-of-way privileges.

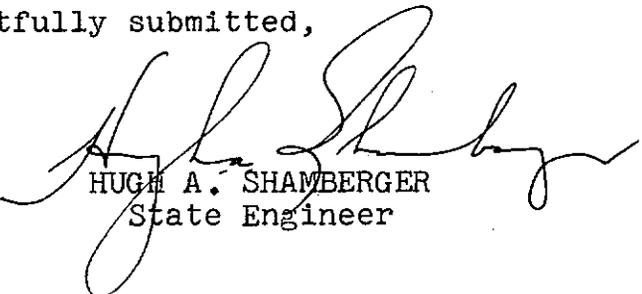
In the event any of the lands on which water is to be placed to beneficial use under Application No. 14346 already have a water right from another source, the permit, when issued, should provide that the duty of water from all sources should not exceed a seasonal duty of four acre-feet per acre of land irrigated.

#### RULING

In view of the findings set out above, the protests against the granting of Application No. 14346 are herewith overruled and a permit will be granted subject to the following provisions:

- (1) Subject to prior existing rights on the source;
- (2) No continuation of flow can be demanded by permittee;
- (3) Said permit will not convey any right-of-way privileges, and
- (4) The duty of water from all sources shall not exceed a seasonal duty of 4 acre-feet per acre of land irrigated.

Respectfully submitted,

  
HUGH A. SHAMBERGER  
State Engineer

Dated this 13th day  
of February, 1953