

IN THE MATTER OF APPLICATIONS)
30743 AND 30752 TO APPROPRIATE)
WATER FROM GROUND WATER SOURCES)
IN GRASS VALLEY, PERSHING)
COUNTY, NEVADA.)

R U L I N G

71

FINDINGS OF FACT

I

Application 30743 was filed on October 14, 1976, in the name of Great Western Agronomics to appropriate 6.32 c.f.s. of water from an underground source located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 14, T.33N.,R.38E., M.D.B.&M. The water is to be used for irrigation and domestic purposes on 581.58 acres within S $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 14, all of Sec. 15, Lots 1, 2, 7, 8, 9, 10 and 16 Sec. 16, N $\frac{1}{2}$ N $\frac{1}{2}$ Sec. 22, all in T.33N.,R.38E., M.D.B.&M.

II

Application 30752 was filed on October 14, 1976, in the name of Great Western Agronomics to appropriate 2.61 c.f.s. of water from an underground source located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 13, T.33N.,R.37E., M.D.B.&M. The water is to be used for irrigation purposes on 260.6 acres within S $\frac{1}{2}$ Sec. 13, T.33N.,R.37E., M.D.B.&M.

III

Applications 30743 and 30752 became ready for action by the State Engineer's Office on February 11, 1977. There were no protests filed within the statutory protest period as established under NRS 533.365, subsection 1.

IV

The proposed place of use under Application 30743 includes also water rights under Certificate 251 issued under Proof 01321 of the Clear Creek Decree, Certificate 2710 issued under Permit 6373 for the waters of Clear Creek, and Certificate 2711 issued under Permit 9472 for water from three underground sources.

Certificate 251 allows for the diversion of 5.72 c.f.s., not to exceed 2040 acre-feet of water per season, for the irrigation of 428.8 acres, located within the SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14, and S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 15, T.33N.,R.38E., M.D.B.&M. The period of use is March 1 to September 1 of each year.

Certificate 2710 allows for the diversion of 2.82 c.f.s., not to exceed 1,010 acre-feet of water per season, for the irrigation of 423.23 acres located within the same acreage as the place of use under Certificate 251. The period of use is September 1 to March 1 of the following year.

Certificate 2711 allows for the diversion of a total of 0.6 c.f.s., not to exceed 434 acre-feet of water per year, from three artesian wells located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 13, T.33N., R.38E., M.D.B.&M., for the irrigation of 424.17 acres located within the same acreage as the place of use under Certificate 251. The period of use is January 1 to December 31 of each year.

Documents have been submitted to the State Engineer's Office completing the assignment of the above described Certificates 251, 2710 and 2711 into the name of Great Western Agronomics.

The proposed place of use under Application 30743 also includes 163.18 acres located within Lots 1 and 8 and portions of Lots 2, 7, 9, 10 and 16 in Sec. 16, T.33N., R.38E., M.D.B.&M., which has no existing water rights and is not included under previously described Certificates 251, 2710 and 2711. However, this acreage is the subject of pending Applications 30751 and 30752, which propose to change the place of use of portions of Certificate 5861 issued under Permit 20722 and Certificate 7620 issued under Permit 24977 to include this 163.18 acres in Lots 1 and 8 and portions of Lots 2, 7, 9, 10 and 16. As of the date of this ruling, no action has been taken on Applications 30751 and 30752.

V

The proposed place of use under Application 30752 also includes portions of water rights under Certificates 252 and 254 issued under Proof 01523 of the Clear Creek Decree, Certificate 7063 issued under Permit 22577 for water from an underground source, Certificate 7051 issued under Permit 22579 and Certificate 7064 issued under Permit 22578, both from underground sources.

Certificates 252 and 254 cover a total of 215.5 acres within the S $\frac{1}{2}$ of Sec. 13, T.33N., R.37E., M.D.B.&M. Ground-water Certificates 7051, 7063 and 7064 cover a total of 132.22 acres within the S $\frac{1}{2}$ of Sec. 13, and include only acreage also covered by water from Clear Creek under Certificates 252 and 254.

Documents have been submitted to the State Engineer's Office completing the assignment of Certificates 7051, 7063 and 7064, described above, to Great Western Agronomics. Certificates 252 and 254 remain of record in the name of J. Sheehan and Charles Farrell, who were named as owners of these two certificates by the Clear Creek Decree.

VI

In 1964, Groundwater Resources Reconnaissance Series Report 29 by Philip Cohen was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources and the United States Department of Interior, Geological Survey, referred to hereafter as Report 29.

Report 29 estimates the perennial yield of 13,000 acre-feet (pg. 23-24). The report further states that Grass Valley ground-water outflow contributes approximately 6000 acre-feet per year to the Humboldt River system (pg. 20). In conclusion, Report 29 states that "if it is desired to limit development in Grass Valley so as not to cause a continual depletion of ground water in storage and if it is desired to maintain the amount of ground water outflow discharging into the Humboldt River Valley, net withdrawals from the ground-water reservoir should not exceed the amount of natural discharge by evapotranspiration -- an estimated maximum of 7000 acre-feet per year" (pg. 31).

VII

The Humboldt River and its tributaries is a decreed stream system (Ref.: The Bartlett Decree, In the Matter of the Determination of the Relative Rights of Claimants and Appropriators of the Waters of the Humboldt River Stream System and Tributaries, dated October 20, 1931).

VIII

Applications 30743 and 30742 are located within the Grass Valley ground water basin designated on July 24, 1972, by State Engineer's Order No. 464. Existing approved appropriations within Grass Valley equal 37,516.66 acre-feet per year, which far exceeds the perennial yield of 7000 acre-feet per year described by Report 29.

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action in accordance with NRS 533.025 and NRS 533.030, subsection 1.

2. In accordance with NRS 533.370, subsection 4, the State Engineer is prohibited from granting a permit where:
 - A. There is no unappropriated water at the proposed source, or
 - B. The proposed use conflicts with existing rights, or
 - C. The proposed use threatens to prove detrimental to the public welfare.

3. The proposed place of use under Application 30743 includes water rights from Clear Creek as provided under Certificate 251 of the Clear Creek Decree and under Certificate 2710 issued under Permit 6373, and from an underground source as provided under Certificate 2711 issued under Permit 9472. However, the total duty of water allowed under Certificate 2711 shall not exceed 434 acre-feet for the irrigation of 424.17 acres, which would provide 1.02 acre-feet per acre per year. Therefore, during dry years when Clear Creek did not provide sufficient flow, an additional withdrawal of up to 2.98 acre-feet per acre from the ground water basin would be required to provide the necessary 4.0 acre-feet per acre per year for irrigation of the acreage.

4. The proposed place of use under Application 30752 includes water rights from Clear Creek as provided under Certificates 252 and 254 of the Clear Creek Decree and from an underground source as provided under Certificate 7063 issued under Permit 22577. However, all 320 acres within the proposed place of use are not covered by water rights, either from Clear Creek or from underground, and the irrigation of this acreage would require an additional withdrawal of water from the ground water basin. In addition, 83.28 acres within the proposed place of use, covered by surface water rights under Certificates 252 and 254 are not covered by ground water rights under Certificate 7063, and during dry years when Clear Creek did not provide sufficient flow, an additional withdrawal of up to 4.0 acre-feet per acre from the ground water basin would also be required for the irrigation of this acreage.

5. Existing rights in the Grass Valley ground water basin currently far exceed the perennial yield of the basin. To grant irrigation rights that consume additional water would adversely affect existing rights, both in the ground water system and the Humboldt River system, and threaten to prove detrimental to the public welfare.

RULING

Applications 30743 and 30752 are herewith denied on the grounds that; there is no water available for appropriation for irrigation use from the ground water basin described under the applications; that the granting of the applications would tend to impair the value of existing rights; and that the granting of the applications would be detrimental to the public interest and welfare.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:BAR:jw

Dated this 11th day of
May, 1977.