

IN THE MATTER OF APPLICATIONS 40964 AND
40965 TO APPROPRIATE UNDERGROUND WATER
IN LEMMON VALLEY, WASHOE COUNTY, NEVADA

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RULING

92A
INTRODUCTION

In 1973, Water Resources Bulletin No. 42, Evaluation of the Water Resources of Lemmon Valley, Washoe County, Nevada, with Emphasis on Effects of Ground Water Development to 1971, by James R. Harrill was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources, the United States Department of the Interior, Geological Surveys, Washoe County, and the City of Reno. This report is available from the office of the State Engineer.

FINDINGS OF FACT

I

Application 40964 was filed by Everett S. Flagg on August 25, 1980 to appropriate 0.10 c.f.s., of underground water for commercial purposes. The point of diversion is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, T.20N., R.19E., M.D.B. & M. and the place of use is within a portion of the NE $\frac{1}{4}$ of Section 7, T.20N., R.19E., M.D.B. & M.

Application 40965 was filed August 25, 1980 by Everett S. Flagg to appropriate 0.10 c.f.s., of underground water for industrial purposes. The point of diversion is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, T.20N., R.19E., M.D.B. & M., and the place of use is within a portion of the NE $\frac{1}{4}$ of Section 7, T.20N., R.19E., M.D.B. & M. 1/

II

On July 14, 1971, the State Engineer, pursuant to authority granted to him by Chapter 534 of Nevada Revised Statutes, declared Lemmon Valley to be a designated basin.

Subsequent to July 14, 1971, the State Engineer has denied a multitude of applications to appropriate the public waters of the State of Nevada where such applications had their proposed points of diversion within the Lemmon Valley ground water basin.

NRS 533.370(4) reads as follows:

"Where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the permit asked for."

The multitude of prior rulings denying applications with priorities earlier than that of Applications 40964 and 40965 by the State Engineer have declared there to be no unappropriated water within the Lemmon Valley ground water basin. Consequently, based upon the precedent of prior rulings, the State Engineer is prohibited by law from granting Applications 40964 and 40965. The reason being quite simple, there exists no unappropriated water. 2/

III

It is estimated that the perennial yield of the Lemmon Valley ground water reservoir is 1,300 acre-feet per year. Allowing for additional recharge from imported water, an augmented yield estimate is 1,600 acre-feet per year. 3/

IV

Beneficial use has been shown for a total of 2,079 acre-feet per year of underground water within Lemmon Valley and 1,050 acre-feet per year are permitted water rights. Total water rights exceed 3,100 acre-feet per year. 4/

V

An estimated 2,665 acre-feet of ground water was pumped in Lemmon Valley in 1980 with 2,028 acre-feet pumped from the East Lemmon Subarea and 637 acre-feet pumped from the Silver Lake Subarea. 5/ In 1971 an estimated 920 acre-feet of ground water was pumped from Lemmon Valley. 6/

VI

Approximately 4,800 lots have been formed by subdivision and parceling in Lemmon Valley. Residences have been established on approximately 2,600 of these lots leaving over 2,000 lots. 7/

VII

Static water levels have been measured since 1971 in a monitor well net of over 30 wells in Lemmon Valley. Declining static water levels have occurred in Golden Valley, the eastern side of the playa in East Lemmon Valley, and west of Black Springs. Rising static water levels have been shown to the south and west of the playa in East Lemmon Valley in areas recharged by effluent from sewage treatment plants and septic systems. 8/

VIII

Recognizing the critical nature of the ground water resource development, the State Engineer has initiated and pursued a policy of strict regulation of water rights in the designated Lemmon Valley Basin.

Extensions of time for proving beneficial use have not been granted since 1971.

Since 1969, 51 applications to appropriate ground water have been denied. 9/

Meters have been required on wells with water rights.

A notice, Order 388, was issued on May 18, 1971, declaring a moratorium on the issuance of permits to appropriate underground water in Lemmon Valley.

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action. 10/
2. The State Engineer is prohibited by law 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. 11/
3. Existing water rights for ground water in Lemmon Valley exceed the estimated perennial yield and the estimated augmented perennial yield for the Lemmon Valley ground water reservoir. Beneficial use has been shown for water rights in excess of the estimated perennial yield in both the East Lemmon and Silver Lake subareas of Lemmon Valley.

1980
In 1978 pumpage from the ground water reservoir in the Lemmon Valley Basin exceeded the estimated augmented yield.

To grant additional water rights under the subject applications would adversely affect existing rights and threaten to prove detrimental to the public welfare.

4. The potential exists for additional development and pumpage from the Lemmon Valley ground water reservoir. Rapid urbanization of the area indicates pumpage will continue to increase.

To grant additional water rights from the Lemmon Valley ground water reservoir under the subject applications would overcommit this limited natural resource, conflict with existing rights, and threaten to prove detrimental to the public welfare.

5. Water levels in monitor wells have shown declines in parts of Lemmon Valley.

To appropriate more ground water for development would tend to accelerate water level declines and thereby conflict with existing rights and threaten to prove detrimental to the public welfare.

RULING

Applications 40964 and 40965 are denied on the grounds that the granting of water rights for additional development from the designated Lemmon Valley ground water basin would conflict with existing rights and be detrimental to the public interest and welfare in this area where appropriations and pumpage exceed the estimates of perennial yield.

Respectfully submitted,



William J. Newman, P.E.
State Engineer

WJN/GB/JS

Dated this 27th day of

April, 1981

FOOTNOTES

1. Public records located within the office of the State Engineer.
2. Public records located within the office of the State Engineer.
3. Water Resources Bulletin No. 42, pp. 2, 77, and 78.
4. Public records located within the office of the State Engineer.
5. Estimates made by the office of the State Engineer.
6. Estimates made by the office of the State Engineer.
7. Estimates made in the office of the State Engineer partly from data received from the Regional Planning Commission, Reno, Sparks, and Washoe County and the office of the Washoe County Engineer and including the Lemmon Valley Comprehensive Plan, Phase I - Inventory and Analysis by the Regional Planning Commission, Reno, Sparks, and Washoe County.
8. Hydrographs of the monitor well measurements are public records located within the office of the State Engineer.
9. Public records located within the office of the State Engineer. See denied Applications: 22201, 22202, 22203, 26173, 26190, 26194, 26211, 26405, 26406, 27422, 28589, 28590, 29502, 29503, 30088, 30089, 30090, 30091, 30092, 30093, 30094, 30356, 30357, 30535, 30536, 30608, 30777, 30778, 30807, 30808, 30809, 30810, 31006, 31007, 31340, 32312, 32825, 33620, 36387, 36398, 36399, 36904, 38305, 38472, 38473, 38474, 38475.
10. NRS 533.025 and 533.030, subsection 1.
11. NRS 533.370, subsection 4.