

IN THE MATTER OF APPLICATION 43198)
TO CHANGE THE POINT OF DIVERSION)
AND PLACE OF USE OF WATER)
HERETOFORE APPROPRIATED UNDER)
PERMIT 29100 FROM AN UNDERGROUND)
SOURCE WITHIN BUENA VISTA VALLEY,)
PERSHING COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 43198 was filed¹ on February 11, 1981 by Allen E. Ross to change the point of diversion and place of use of a portion of water heretofore appropriated under Permit 29100.

The application proposes to divert 2.4 c.f.s. of ground water for irrigation and domestic purposes on 160 acres of land located within the E1/2 E1/2 Section 20, T.31N., R.35E., M.D.B.&M. The period of use is described as being from January 1st to December 31st of each year.

II.

Application 43198 was timely protested by the Star Sheep Company, Inc. on June 30, 1981, on the following grounds:

"That the protestant has two irrigation wells and two domestic wells within one mile of the points of diversion named in the above-referenced applications; that the granting of the applications will adversely affect the source of water for the irrigation wells and domestic wells, and consequently, affect protestant's permitted water rights which have a higher priority and are required for both agriculture and stock water purposes. That this application is identical to previous applications number 29098 and 29099 which were denied by State Engineer April 9, 1976."

FINDINGS

I.

Permit 29100 was approved under a ruling² issued by the State Engineer on April 9, 1976. At that time the State Engineer concluded, as a result of a field investigation conducted on March 12, 1976,¹ that the granting of Application 29100 would not tend to impair the value of existing rights.

¹ Public record in the office of the State Engineer.

² Ruling 2129, public record in the office of the State Engineer.

In the same ruling the State Engineer determined that two (2) applications, namely 29098 and 29099, were to be denied on the grounds that the granting of those applications would tend to impair the value of existing rights.

Applications 29098 and 29099 were filed¹ on December 24, 1974, by Allen E. Ross to appropriate underground water for irrigation and domestic purposes in Buena Vista Valley. The points of diversion were described as being within the SW1/4 NW1/4 and NW1/4 NE1/4 of Section 20, T.31N., R.35E., M.D.B.&M. The denial of these applications were based upon the fact that their proposed points of diversion were located in close proximity to points of diversion under existing rights.

Application 43198 now proposes to move the point of diversion of Permit 29100 to an even closer proximity with existing rights than the two (2) previous applications denied.

II.

The State Engineer is prohibited by law³ from granting a permit where:

- A. There is no unappropriated water under the proposed source,
- B. The proposed use conflicts with existing rights, or
- C. The proposed use proposes to prove detrimental to the public welfare.

III.

The existing point of diversion under Permit 29100 is situated approximately 3 miles to the north and is on a different alluvial fan formed at the mouth of Santa Clara Canyon and, therefore, was determined not to adversely affect existing underground water rights at the time it was approved.

IV.

The field investigation of March 12, 1976,¹ determined that the protestant's well under Permit 23425, Certificate 7793, was pumped from 280 feet and any additional lowering of the water table in the area would cause the pumping lift at the protestant's well to be unreasonable and uneconomical. The development of an additional irrigation well at the location described under application to change 43198 would be between the protestant's well and the Star Peak source of ground water recharge and would tend to additionally lower already deep water tables.

³ NRS 533.370, subsection 3.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁴ of the parties and subject matter of this ruling.

II.

The State Engineer is prohibited by law⁵ from granting a permit where the proposed use would tend to adversely affect or conflict with existing rights or threaten to prove detrimental to the public interest and welfare.

III.

The proposed change of point of diversion described under Permit 29100 would conflict with existing rights.

RULING

The protest to the granting of application to change 43198 is herewith upheld and application to change 43198 is denied on the grounds that the change proposed under the application would place the point of diversion in close proximity to existing rights and therefore would adversely affect and impair existing rights.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/bl

Dated this 22nd day of
MARCH, 1984.

⁴ NRS Chapters 533 and 534.

⁵ See footnote 3.