

IN THE MATTER OF APPLICATIONS)
38383, 39892, 41592, 41593, 41788,)
41789, 43573, 43824, 43947, 44414,)
44422, 44513 AND 45610 FOR WATERS)
OF AN UNDERGROUND SOURCE WITHIN)
EAGLE VALLEY DESIGNATED GROUND)
WATER BASIN, CARSON CITY, NEVADA.)

RULING

GENERAL

I.

Application 38383 was filed¹ on June 20, 1979, by Harry Kuhn to appropriate 0.50 c.f.s. of water from an underground source for commercial and domestic purposes. The point of diversion is described as being within the NE1/4 SE1/4 Section 36, T.16N., R.20E., M.D.B.&M., and the place of use within portions of the N1/2 SE1/4 and the S1/2 NE1/4 Section 36, T.16N., R.20E., M.D.B.&M. The application proposes to serve "several commercial buildings and offices on an area of approximately 40 acres". Ownership of Application 38383 was transferred to John C. Serpa on July 13, 1982, on the records of the State Engineer.¹

Application 39892 was filed¹ on December 5, 1979, by Lou Thomas to appropriate 5.0 c.f.s. of water from an underground source for quasi-municipal and domestic purposes. The point of diversion is described as being within the NW1/4 SW1/4 Section 32, T.15N., R.20E., M.D.B.&M., and the place of use within the NW1/4 SW1/4 Section 32, T.15N., R.20E., M.D.B.&M. Application 39892 was timely protested¹ by Carson City on April 22, 1980, on the grounds:

"The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water which is now contributing to ground water recharge would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin. Also the described place of use under Application 39892 has existing city water lines."

¹ Public record in the office of the State Engineer.

Application 41592 was filed¹ on June 25, 1980, by Utility Financial Corporation to appropriate 1.5 c.f.s. of water from an underground source for quasi-municipal purposes. The point of diversion is described as being within the SW1/4 SE1/4 Section 12, T.15N., R.19E., M.D.B.&M., and the place of use within portions of the NW1/4 SE1/4, NE1/4 SE1/4, SW1/4 SE1/4 Section 12, T.15N., R.19E., M.D.B.&M. The application proposes to serve a "60 acre development will consist of approximately 250 single and multi family residential units. Water to be comingled with water from Well No. 1". Application 41592 was timely protested¹ on December 11, 1980, by Carson City on the grounds:

"The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin. The proposed point of diversion is also less than one mile from three municipal wells owned by Carson City (Permits 23672, 23673, 26582, 29906, and 30441)."

Application 41593 was filed¹ on June 25, 1980, by Utility Financial Corporation to appropriate 1.5 c.f.s. of water from an underground source for quasi-municipal purposes. The point of diversion is described as being within the NE1/4 SE1/4 Section 12, T.15N., R.19E., M.D.B.&M., and the place of use within portions of the NW1/4 SE1/4, NE1/4 SE1/4, SW1/4 SE1/4 Section 12, T.15N., R.19E., M.D.B.&M. The application proposes to serve a "60 acre development will consist of approximately 250 to 300 single and multi family residential units. Water to be comingled with water from Well No. 2". Application 41593 was timely protested¹ on December 11, 1980, by Carson City on the grounds:

"The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin. The proposed point of diversion is also less than one mile from three municipal wells owned by Carson City (Permits 23672, 23673, 26582, 29906, and 30441)."

Application 41788 was filed¹ on July 16, 1980, by Robert and Joyce Laxalt and Louis and Marie Bini to appropriate 0.2 c.f.s. of water from an underground source for quasi-municipal and domestic purposes. The point of diversion is described as being within the SW1/4 NE1/4 Section 1, T.15N., R.19E., M.D.B.&M., and the place of use within the W1/2 NE1/4 Section 1, T.15N., R.19E., M.D.B.&M. The application proposes to serve "4 to 8 single family units, with a domestic water supply". Application 41788 was timely protested¹ on December 22, 1980, by Carson City on the grounds:

"The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin."

Application 41789 was filed¹ on July 16, 1980, by Robert and Joyce Laxalt and Louis and Marie Bini to appropriate 0.2 c.f.s. of water from an underground source for quasi-municipal and domestic purposes. The point of diversion is described as being within the NW1/4 NE1/4 Section 11, T.15N., R.19E., M.D.B.&M., and the place of use within the NW1/4 NE1/4 Section 11, T.15N., R.19E., M.D.B.&M. The application proposes to serve "approximately 4 single family units with domestic water". Application 41789 was timely protested¹ on December 22, 1980, by Carson City on the grounds:

"The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin."

Application 43573 was filed¹ on April 20, 1981, by Ray G. and Darlene M. Shaw to appropriate 0.05 c.f.s. of water from an underground source for industrial and domestic purposes. The point of diversion is described as being within the SW1/4 SW1/4 Section 1, T.15N., R.20E., M.D.B.&M., and the place of use within portions of the NW1/4 SW1/4 and SW1/4 SW1/4 Section 1, T.15N., R.20E., M.D.B.&M. The application proposes to serve "an industrial building consisting of shops, office and two restrooms. A watchmans quarters consisting of a mobile home may also be served".

Application 43824 was filed¹ on June 3, 1981, by Ronald D. Smiley to appropriate 0.5 c.f.s. of water from an underground source for quasi-municipal and domestic purposes. The point of diversion is described as being within the SW1/4 NW1/4 Section 29, T.15N., R.20E., M.D.B.&M., and the place of use within portions of the SW1/4 NW1/4 Section 29, T.15N., R.20E., M.D.B.&M. The application proposes to serve "5 additional apts., and 33 additional trailers - for a total of 12 apts. and 40 trailers, this application is supplemental to permit 27215". Application 43824 was timely protested¹ on December 28, 1981, by Carson City on the grounds:

"The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin."

Application 43947 was filed¹ on June 25, 1981, by Arthur and Lucy Barbettini and Celine B. Sullivan to appropriate 0.005 c.f.s. of water from an underground source for commercial purposes. The point of diversion is described as being within the SE1/4 NE1/4 Section 31, T.15N., R.20E., M.D.B.&M., and the place of use within the SE1/4 SW1/4 SE1/4 NE1/4 Section 31, T.15N., R.20E., M.D.B.&M. The application proposes to serve "development includes water for office units two units at 1000 gpd 365 days per year $1000 \times 2 \times 365 = 73 \text{ mga}$ ". Application 43947 was timely protested¹ on February 4, 1982 by Carson City on the grounds:

1. "The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin.
2. City water mains may be within a reasonable distance for extension when the cost of storage requirements for commercial fire protection are taken into consideration."

On April 20, 1984, Carson City withdrew their protest.

Application 44414 was filed on September 11, 1981, by Nick and Shirley Nadel to appropriate 1.0 c.f.s. of water from an underground source for commercial purposes. The point of diversion is described as being within the SE1/4 NW1/4 section 11, T.15N., R.20E., M.D.B.&M., and the place of use within portions of the NE1/4 NW1/4 SE1/4 NW1/4 Section 11, T.15N., R.20E., M.D.B.&M. The application proposes to serve an "industrial site, shopping center or motel 20,000,000 gallons per year". Application 44414 was timely protested¹ on February 4, 1982, by Carson City on the grounds:

1. "The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin.
2. City water mains may be within a reasonable distance for extension when the cost of storage requirements for commercial fire protection are taken into consideration."

Application 44422 was filed¹ on September 15, 1981, by the Nevada State Museum to appropriate 1.0 c.f.s. of water from an underground source for recreational and railroad purposes. The point of diversion is described as being within the NW1/4 SW1/4 Section 20, T.15N., R.20E., M.D.B.&M., and the place of use within portions of the NW1/4 SW1/4 and SW1/4 NW1/4 Section 20, T.15N., R.20E., M.D.B.&M. The application proposes to serve "the water applied for will be used for recreation purposes on an 11 acre site in south Carson City; by creating a park like atmosphere around a collection of antique railroad stock. The locomotives will also be fired from time to time". Application 44422 was timely protested¹ on February 4, 1982, by Carson City on the grounds:

1. "The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin.
2. City water mains are directly in front of this parcel."

Application 44513 was filed¹ on September 25, 1981, by the Nevada Children's Foundation, Inc., dba Eagle Valley Children's Home, to appropriate 0.5 c.f.s. of water from an underground source for commercial and domestic purposes. The point of diversion is described as being within the NE1/4 SE1/4 Section 36, T.16N., R.19E., M.D.B.&M., and the place of use within a portion of the N1/2 SE1/4 Section 36, T.16N., R.19E., M.D.B.&M. The application proposes to serve "water to be used for a proposed commercial development which would be leased to provide financial support to Eagle Valley Children's Home. Possible uses would include a large restaurant and 10 to 12 retail shops (1.5 mgs estimated use)".

Application 45610 was filed¹ on April 29, 1982, by the Nevada Department of Transportation to appropriate 1.0 c.f.s. of water from an underground source for public highway construction purposes. The point of diversion is described as being within the NE1/4 SW1/4 Section 31, T.15N., R.20E., M.D.B.&M., and the place of use within the NE1/4 SW1/4 Section 31, T.15N., R.20E., M.D.B.&M. Application 45610 was timely protested¹ on November 2, 1982, by Carson City on the grounds:

1. "The subject point of diversion is located in the Eagle Valley Ground Water Basin which has been designated as being a critical ground water basin by the State Engineer. Any diversion of water would directly effect Carson as the majority holder of underground water rights in the Eagle Valley Ground Water Basin."

Carson City withdrew their protest on February 22, 1983.

II.

In 1966, Water Resources-Reconnaissance Series Report 39, Hydrologic Appraisal of Eagle Valley, Ormsby County, Nevada, by G.F. Worts, Jr., and G.T. Malmberg, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Geological Survey. This report is available in the office of the State Engineer.

In 1975, Water Resources-Reconnaissance Series Report 59, Water Resources Appraisal of the Carson River Basin, Western Nevada, by Patrick A. Clancy and T.L. Katzer, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Geological Survey. This report is available in the office of the State Engineer.

In 1978, Open-File Report 79-261, Development of a Relation for Steady-State Pumping Rate for Eagle Valley Ground Water Basin, Nevada, by Freddy E. Arteaga and Timothy J. Durbin, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Geological Survey. This report is available in the office of the State Engineer.

In 1982, Open-File Report 80-1224, Mathematical Model Analysis of the Eagle Valley Ground Water Basin, West Central Nevada, by Freddy E. Arteaga, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources and the U.S. Geological Survey. This report is available in the office of the State Engineer.

III.

By Order¹ No. 424, dated February 23, 1972, the State Engineer designated and described the Eagle Valley Ground Water Basin as a critical ground water basin under the provisions of NRS Chapter 534.

FINDINGS OF FACT

I.

The mean annual water yield² of Eagle Valley is approximately 9,000 acre-feet. Of this yield, 7,800 acre-feet occurs as surface water and 1,200 acre-feet occurs as direct ground water recharge. The total ground water recharge, as a result of the residual of inflow to the system minus sewage discharge and consumptive use, is estimated at approximately 6,000 acre-feet annually for the period 1967-77. In addition, it is estimated that approximately 700 acre-feet annually enters the ground water system through irrigation of the city golf course for a total of 6,700 acre-feet of recharge annually.

² USGS Open-File Report 79-261, USGS Open-File Report 80-1224.

II.

Existing certificated and permitted ground water rights¹ in the Eagle Valley Ground Water Basin for all uses presently total approximately 9,000 acre-feet annually including the limit of 6,500 acre-feet annually under protestant Carson City's existing rights.¹

III.

Considerable testimony and evidence have been provided at public hearings³ before the State Engineer on the effect of additional development of new wells within the Eagle Valley Basin on existing rights. In addition to testimony by expert witnesses, hydrologic and computer model reports were introduced into evidence concerning the projected effects of withdrawals of ground water under 1978 pumping levels. The record establishes that present conditions in Eagle Valley are such that significant declining water tables exist due to withdrawal of ground water under existing rights. The State Engineer has recognized this and has taken administrative action to curtail further withdrawals to more closely balance with the presently identified resource available on a replenishment basis. The record further establishes that annual ground water pumpage for municipal use within Eagle Valley has increased 16-fold from 300 acre-feet in 1964 to about 4,700 acre-feet in 1978 and in excess of 5,400 acre-feet in 1982. Significant cones of depression have developed as a result of this pumpage. Adverse effects of declining water tables contribute to water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of ground water gradients which could result in significant changes in the recharge-discharge relationship.

Under 1978 pumping withdrawals, the water levels within the basin will ultimately decline in the western part of the valley by 350 feet and by 150 feet at the year 2000. These declines will significantly effect the existing rights of the protestant, Carson City, as well as other existing rights. It is also significant to note that the 1978 pumping withdrawals are presently being exceeded under existing rights. The fact is clear and supported by a preponderance of hydrologic and technical data and evidence that the granting of Applications 38383, 39892, 41592, 41593, 41788, 41789, 43573, 43824, 43947, 44414, 44422, 44513 and 45610 would adversely affect existing rights.

³ Transcripts of the public hearings are available as public records in the office of the State Engineer.

IV.

The State Engineer may deny applications to appropriate water from underground sources for any purpose in designated areas which can be served by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.⁴

V.

In the interest of the public welfare, the State Engineer is authorized and directed to designate preferred uses of water within the respective areas so designated under the provisions of NRS Chapter 534 and from which the ground water is being depleted.⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law⁷ from granting a permit under an application to appropriate the public waters 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.

III.

The combined annual withdrawal of water under permitted and certificated ground water rights held by Carson City within the Eagle Valley Designated Ground Water Basin is limited to 6,500 acre-feet by order of the State Engineer.⁸

⁴ NRS 534.120.

⁵ NRS 534.120(2).

⁶ NRS Chapters 533 and 534.

⁷ NRS 533.370(3).

⁸ Public record in the office of the State Engineer.

IV.

Existing certificated and permitted ground water rights in the Eagle Valley Ground Water Basin for all uses presently total approximately 9,000 acre-feet annually, including the limit of 6,500 acre-feet annually under protestant Carson City's existing rights.⁸

V.

Existing certificated and permitted ground water rights within the Eagle Valley Designated Ground Water Basin exceed the estimates of ground water system yield available on a replenishable basis.⁸

VI.

The record⁸ clearly establishes that static ground water levels are declining significantly within the Eagle Valley Ground Water Basin due to present withdrawals and use.

VII.

The State Engineer may declare preferred use of water within a designated ground water basin⁹ and has declared that irrigation is not a preferred use of water within the Eagle Valley Designated Ground Water Basin.¹⁰

VIII.

Applications to appropriate ground water for irrigation and other uses have been denied in the Eagle Valley Ground Water Basin.¹⁰

IX.

The granting of permits under Applications 38383, 39892, 41592, 41593, 41788, 41789, 43573, 43824, 43947, 44414, 44422, 44513 and 45610 would adversely affect and impair existing rights held by the protestant as set forth in the Findings of Fact.

X.

The granting of permits under Applications 38383, 39892, 41592, 41593, 41788, 41789, 43573, 43824, 43947, 44414, 44422, 44513 and 45610 in a ground water basin where existing rights exceed the ground water system yield available on a replenishable basis would be detrimental to the public interest and welfare.

⁹ NRS 534.120.

¹⁰ Public record in the office of the State Engineer under previous rulings denying applications to appropriate.

RULING

The protests to granting of Applications 39892, 41592, 41593, 41788, 41789, 43824, 44414, and 44422 are herewith upheld. Applications 38383, 39892, 41592, 41593, 41788, 41789, 43573, 43824, 43947, 44414, 44422, 44513 and 45610 are herewith denied on the grounds that the granting thereof would interfere with and adversely affect existing rights and be detrimental to the public interest and welfare.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/bl

Dated this 16th day of
JULY, 1984.