

IN THE MATTER OF APPLICATION 42978 )  
TO APPROPRIATE WATER FROM AN )  
UNDERGROUND SOURCE FOR MINING, )  
MILLING AND DOMESTIC PURPOSES )  
WITHIN DIAMOND VALLEY, EUREKA )  
COUNTY, NEVADA. )

RULING

GENERAL

Application 42978 was filed on December 18, 1980, by Richard Gerish and Lee Britton to appropriate 0.50 c.f.s. of water from an underground source for mining, milling and domestic purposes within the Diamond Valley Designated Ground Water Basin.<sup>1</sup> The point of diversion is described as being within the SW1/4 SW1/4 Section 28, T.26N., R.53E., M.D.B.&M., and the place of use is within the SW1/4 SW1/4, SE1/4 SE1/4 Section 29, NE1/4 NE1/4 Section 32, and the NW1/4 NW1/4 Section 33, all in T.26N., R.53E., M.D.B.&M.

FINDINGS OF FACT

I.

The Diamond Valley Ground Water Basin was designated by Order of the State Engineer on August 5, 1964.<sup>2</sup>

II.

Notices of Curtailment of Water Appropriation within the Diamond Valley Ground Water Basin were issued by the State Engineer on December 22, 1975, and July 10, 1978.<sup>3</sup>

III.

In 1981, the estimated annual water consumption in Diamond Valley was 71,744 acre-feet with an estimated recharge of approximately 30,000 acre-feet from primary precipitation infiltration.<sup>4</sup>

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<sup>1</sup> Application 42978 is a public record on file in the office of the State Engineer.

<sup>2</sup> State Engineer's Orders 277 and 280, public record in the office of the State Engineer.

<sup>3</sup> State Engineer's Orders 541 and 717, public record in the office of the State Engineer.

<sup>4</sup> Abstract of water rights, underground sources Diamond Valley Basin, public record in the office of the State Engineer.

IV.

Extensive monitoring of wells in Diamond Valley has indicated a substantial decline in the static water levels in excess of 50 feet from 1967 to 1981.<sup>5</sup>

V.

The Seventh Judicial District Court found, in a decision of a recent water right case, (No. 3077), that: "The Diamond Valley Basin, a designated basin, is having too much underground water withdrawn. It is over appropriated".<sup>6</sup>

VI.

The State Engineer is authorized to designate preferred uses in designated ground water basins where the resource is being depleted.<sup>7</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and subject matter of this action.<sup>8</sup>

II.

In accordance with NRS 534.120, subsection 2, the State Engineer has determined that the use of underground water for mining and milling purposes is not considered to be a preferred use of the limited underground water resource in the Diamond Valley Ground Water Basin.

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<sup>5</sup> Summary of Pumpage Inventories 1975 through 1981 and Summary of Water Level Measurements on Selected Wells, 1964 through 1981 (spring and fall measurements (April 1982)). See record of public hearings before the State Engineer on curtailment of pumping in Diamond Valley, public record in the office of the State Engineer.

<sup>6</sup> Nevada Ringsby Farms, et al., v. Peter G. Morros, State Engineer, Case No. 3077, Seventh Judicial District, County of Eureka, State of Nevada.

<sup>7</sup> NRS 534.120, subsection 2.

<sup>8</sup> NRS 533.325.

III.

The State Engineer is prohibited by statute from granting a permit where:<sup>9</sup>

- A. There is no unappropriated water at the source, or
- B. The proposed change conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

IV.

The State Engineer concludes that, based upon the substantial evidence of record, the resource in the Diamond Valley Ground Water Basin is being depleted thereby contributing to adverse conditions.<sup>10</sup>

RULING

Application 42978 is hereby denied on the grounds that granting thereof would adversely affect and impair existing rights and would not be in the public interest and welfare.

Respectfully submitted



Peter G. Morros  
State Engineer

PGM/GC/bl

Dated this 13th day of  
AUGUST, 1984.

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<sup>9</sup> NRS 533.370, subsection 3.

<sup>10</sup> See Appendix of References.

APPENDIX OF REFERENCES

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