

IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 58183 )  
AND APPLICATION 58975 FILED WITHIN )  
THE OREANA SUBAREA GROUNDWATER BASIN )  
(73A), PERSHING COUNTY, NEVADA. )

RULING

# 4211

GENERAL

I.

Application 58183 was filed on October 7, 1992, by Hallie C. Pfeifer to appropriate 1.0 cfs of water from an underground source. The proposed manner and place of use is for mining purposes within portions of Section 36, T.29N., R.33E., M.D.B.&M., and Lot 3 and Lot 4 of Section 1, T.28N., R.33E., M.D.B.&M. The proposed point of diversion is within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 36, T.29N., R.33E., M.D.B.&M.<sup>1</sup>

II.

Application 58975 was filed on June 30, 1993 by Hallie C. Pfeifer to change the point of diversion and place of use of the underground water heretofore applied for under Application 58183. The proposed point of diversion is within Lot 4 of Section 1, T.28N., R.33E., M.D.B.&M. The proposed manner and place of use for mining purposes within portions of Section 36, T.29N., R.33E., M.D.B.&M., and Lots 2, 3 and 4 of Section 1, T.28N., R.33E., M.D.B.&M.<sup>2</sup>

III.

Application 58183 and Application 58975 were timely protested by the Lovelock Meadows Water District on February 10, 1993 and November 4, 1993, respectively for the following reasons and on the following grounds to wit:

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<sup>1</sup> Official records in the Office of the State Engineer under Application 58183.

<sup>2</sup> Official records in the Office of the State Engineer under Application 58975.

A. The proposed pumping under Applications 58183 and 58975 will, upon information and belief, unreasonably lower the static water level and adversely affect our existing rights.

B. Based on available hydrological data from the Nevada State Engineer, U.S. Geological Survey, U.S. Bureau of Mines and Humboldt River Basin Studies, estimated perennial yield of the Oreana sub-basin ground water is 2000 acre-feet per year. The State Engineers Office has issued a total of 4900 acre-feet of underground water rights in this basin. 3300 acre-feet of the total 4900 acre-feet are located within the designated curtailment area (Order #369 - February 25, 1969) which is the sole source of potable water for the Lovelock Meadows Water District which services the entire Lovelock Valley including the City of Lovelock with municipal water. Therefore, there is no unappropriated ground water available in the Oreana sub-basin.

C. The proposed use and underlying discharge of water for this application may very well degrade the basin's water source to such an extent of jeopardizing all existing water rights currently within the Oreana Basin (4-73A).<sup>1,2</sup>

#### IV.

On February 25, 1969, the State Engineer, by Order No. 369 designated the entire Oreana Groundwater Basin (4-073A), Pershing County, Nevada, as a basin in need of additional administration.<sup>3</sup>

On February 25, 1969, the State Engineer, by Order No. 370 described an area within the Oreana Groundwater Basin in which no additional permits to appropriate groundwater for irrigation purposes would be granted.<sup>4</sup> In addition, the State Engineer, by Order No. 370, declared that municipal use is a preferred use

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<sup>3</sup> State Engineer's Order No. 369, February 25, 1969, official records in the Office of the State Engineer.

<sup>4</sup> State Engineer's Order No. 370, February 25, 1969, official records in the Office of the State Engineer.

within the designated area. On May 17, 1993, the State Engineer expanded the preferred use area.<sup>5</sup>

V.

At the request of the applicant, an administrative hearing in the matter of protested Applications 58183 and 58975 was held on July 7, 1995, in Lovelock Nevada. A certified notice was sent to all parties with standing in the matter, advising them of the time and place of the hearing. The protestant entered testimony and evidence into the record, but no appearance was made by the applicant. No continuance was granted and the State Engineer proceeded to consider this matter on the basis of the evidence presented, in accordance with NAC 533.330.<sup>6</sup>

FINDINGS OF FACT

I.

The Oreana Subarea is the primary source of potable underground water for the City of Lovelock and the surrounding area. The perennial yield of the basin is estimated to be 2,000 acre feet per year, of which 1,500 acre feet is pumped by the District for municipal use. The remaining 500 acre feet is dedicated as a reserve to service future expansion of the District's customer base. The District currently holds title to over 2,700 acre feet of municipal rights within the sub-area in the form of permits and certificates issued by the State Engineer's Office.<sup>7</sup> The majority of these water rights are senior in their priority, compared to the remainder of the active permits and

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<sup>5</sup> State Engineer's Order No. 1079, May 17, 1993, official records in the Office of the State Engineer.

<sup>6</sup> Transcript of the July 7, 1995, Public Administrative Hearing before the State Engineer, in the matter of Protested Applications 58183 and 58975 hereinafter referred to as Transcript or Exhibit.

<sup>7</sup> Transcript pp. 18-10, 25, 26, Public Administrative Hearing before the State Engineer, July 7, 1995.

certificates held by private individuals or companies.<sup>8</sup> The State Engineer finds that the increased demand for municipal water within the Lovelock area will eventually cause the District to utilize its remaining water rights to a level where the entire perennial yield will be pumped from the Oreana Subarea. The State Engineer further finds that there is no unappropriated water available within the Oreana Subarea.

## II.

The proposed point of diversion under Application 58183 is located within the boundaries of the area where municipal use is considered a preferred use. Application 58975 is an attempt to move the original point of diversion requested by Application 58183 to a point outside of the preferred use area. Both of these locations are approximately 2.5 miles up gradient from the protestant's nearest municipal well. There is uncontroverted testimony and evidence on the record that indicates that the groundwater pumping proposed by the Applicant would result in a decreased flow of local recharge into the protestant's municipal well field.<sup>9</sup> The State Engineer finds that the approval of Application 58183 would result in reduced flows to the protestant's well field and conflict with the protestant's existing right to the water.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the subject matter of this action.<sup>10</sup>

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<sup>8</sup> Official records in the Office of the State Engineer, Hydrologic Summary of Active Groundwater Rights Basin 073A.

<sup>9</sup> Transcript pp. 8-10, Public Administrative Hearing before the State Engineer, July 7, 1995.

<sup>10</sup> NRS 533.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>11</sup>

- 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 interest.

III.

After considering the quantity of water committed under permits and certificates and the perennial yield, the State Engineer concludes that there is no unappropriated ground water within the Oreana Subarea.

IV.

Applications 58183 and 58975 seek to appropriate water from an area which is in close proximity to the Lovelock Meadows Water District's municipal well field. The State Engineer has long recognized the importance of this groundwater resource to the City of Lovelock and the surrounding area. The limited nature of this resource when combined with an increasing demand for its utilization for municipal use has prompted the State Engineer to issue a series of orders intended to safeguard this source of water from any adverse effect of new appropriations. The State Engineer concludes that it would not be in the public interest to grant a new appropriation of water within this area. The State further concludes that any new appropriation would conflict with the District's existing rights.

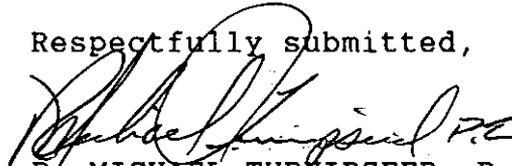
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<sup>11</sup> NRS 533.370(3).

RULING

The protests to Applications 58183 and 58975 are hereby upheld and Applications 58183 and 58975 are hereby denied on the grounds that the granting thereof would conflict with existing preferred rights and be detrimental to the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/pm

Dated this 28th day of  
August, 1995.