

IN THE MATTER OF APPLICATIONS 30966)
AND 30967 TO APPROPRIATE WATER FROM)
AN UNDERGROUND SOURCE IN BIG SMOKY)
VALLEY, NYE COUNTY, NEVADA)

R U L I N G

137B

FINDINGS OF FACT

I.

Application 30967 was filed on December 28, 1976, in the name of Wine Glass, Inc., to appropriate 0.5 c.f.s. of water from an underground source located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 19, T.11N., R.43E., M.D.B.& M. The water is to be used for irrigation purposes on 4.0 acres located within the same legal 40-acre subdivision as the point of diversion.

II.

Application 30966 was filed at the same time as Application 30967, also in the name of Wine Glass, Inc., to appropriate 0.5 c.f.s. of water from the same underground source as Application 30967 for commercial and domestic use in nine motel rooms, a service station and one residence within the same 40-acre legal subdivision as the point of diversion.

III.

A timely protest to the granting of Application 30967 was filed in the State Engineer's office on June 2, 1977, by Richard L. Carver which seeks denial of the application on the grounds that: "The granting of this permit, Number 30967, would tend to adversely affect existing rights and be detrimental to the public interest." No protests were filed to the granting of Application 30966.

IV.

Applications 30966 and 30967 became ready for action by the State Engineer's office on June 5, 1977.

V.

The proposed point of diversion under Applications 30966 and 30967 is located approximately 1400 feet from the nearest

ground water appropriation, that being under Application 29586 in the name of Richard L. and Margaret A. Carver. Application 29586 is ready for action by the State Engineer's office and is the subject of State Engineer's Ruling No. 2198, dated March 7, 1977, which overruled a protest to the granting of the application. The issuance of a permit under Application 29586 is presently being withheld pending clarification of ownership of other water rights appurtenant to the proposed place of use.

VI.

A series of springs and seeps in the vicinity of the proposed point of diversion under Applications 30966 and 30977 is believed to define a fault system running in a north-south direction. This is further described under State Engineer's Ruling No. 2198, which is made a part hereof by reference. The proposed well is located approximately 300 feet west of this fault system, and because a fault in this area would dip to the east, a well drilled on the west side of the fault line would not intercept the fault. There would, therefore, be no interference with existing rights, whether appropriated or vested, on the springs arising along the fault line.

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action in accordance with NRS 533.025 and NRS 533.030, subsection 1.
2. The total duty of water allowed by permit for irrigation in Big Smoky Valley is 4.0 acre-feet per acre per annum. Therefore, a total annual duty of 16.0 acre-feet would be allowed for the irrigation of 4.0 acres. In addition, a diversion rate of 0.25 c.f.s. is considered by the State Engineer to be adequate for producing the allowed 16.0 acre-feet per annum.
3. The total duty of water allowed by permit for nine motel rooms (based upon 100 gpd per unit), a service station (based upon 1500 gpd) and a single family residence (based upon 1800 gpd) would be 1.533 mga, which is equivalent to 4.70 acre-feet per annum. In addition, a diversion

rate of 0.2 c.f.s is considered by the State Engineer to be adequate for producing the allowed 1.533 mga.

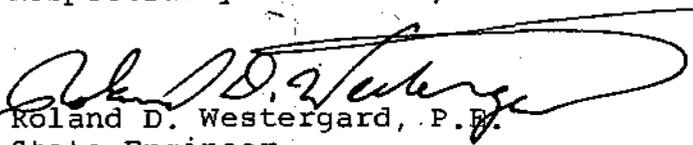
4. It is the opinion of the State Engineer that the total ground water withdrawal of 20.70 acre-feet and the total diversion rate of 0.45 c.f.s., considered adequate for Applications 30966 and 30967 as described above under Items 3 and 4, would not tend to interfere with other existing rights nor be detrimental to the public interest.

5. In accordance with NRS 533.370, subsection 1, the State Engineer shall approve all applications where the proposed use does not tend to impair the value of other existing rights or be otherwise detrimental to the public welfare.

RULING

The protest to the granting of Application 30967 is herewith overruled. Upon receipt of the statutory permit fees, a permit will be granted under Applications 30966 and 30967, subject to existing rights. Permit 30966 will be granted in the amount of 0.2 c.f.s., not to exceed 1.533 mga, and Permit 30967 will be granted in the amount of 0.25 c.f.s., not to exceed 4.0 acre-feet per acre per annum and not to exceed a total duty of 16.0 acre-feet per annum.

Respectfully submitted,


Roland D. Westergard, P.E.
State Engineer

RDW/BAR/dc

Dated this 5th day

of July 1977.