

IN THE MATTER OF APPLICATIONS 31274,)
31275 AND 31276 TO APPROPRIATE WATER)
FROM UNDERGROUND SOURCES IN MIDDLE)
REESE RIVER VALLEY, LANDER COUNTY,)
NEVADA.)

R U L I N G

FINDINGS OF FACT 58

Applications 31274, 31275 and 31276 were filed on April 5, 1977 in the name of Roger Hockersmith, each to appropriate 5.4 c.f.s. of water from separate underground sources located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, respectively, all in T.26N., R.43E., M.D.B. & M. The water under these three applications is to be used to supplement each other in the irrigation of 480 acres located within the W $\frac{1}{2}$ of Section 16 and NW $\frac{1}{4}$ Section 21, T.26N., R.43E., M.D.B. & M.

II

Timely protests to each of the three applications were filed on June 22, 1977 in the name of Bankhead Farms. These protests seek denial of the applications on the grounds that: "1. The State Engineer had already stated that the water table has dropped five feet. 2. We feel that the area has already been over-allotted. 3. I have measured my well, which has dropped 15 feet by February and another 5 foot in April. 4. Water permits have never been issued on this parcel."

III

Applications 31274, 31275 and 31276 became ready for action by the State Engineer's Office on July 1, 1977.

IV

A field investigation into the matter of protested Applications 31274, 31275 and 31276 was conducted on Monday, August 29, 1977 at 11:00 a.m. by representatives of the State Engineer's Office. Results of that field investigation are described under Field Investigation Report No. 642, dated October 25, 1977, on file in the State Engineer's Office. Field Investigation Report No. 642 is hereby made a part of this Ruling by reference.

V

The Reno office of the Bureau of Land Management confirms that the proposed place of use under Applications 31274, 31275 and 31276 is privately owned land which was purchased from the BLM through a public land sale, and that no homestead entry has ever been filed on this acreage. No application to appropriate water has ever been filed in the State Engineer's Office for use on this acreage.

VI

The proposed points of diversion under these applications are located within the Middle Reese River Basin (Nevada Hydrographic Ground Water Basin No. 4-58), which was designated by State Engineer's Order No. 276 dated August 5, 1964, in accordance with the provisions of NRS 534.030.

VII

Ground Water Resources Reconnaissance Series Report No. 19 estimates the perennial yield of the Middle Reese River Valley to be 14,000 acre-feet (Page 17).

VIII

Certificates of appropriation have been issued within the Reese River Valley Ground Water Basin in the amount of 51,463.92 acre-feet, and permits have been issued within this basin for irrigation which would allow for the diversion of an additional 5,131 acre-feet. There are, therefore, a total of 56,594.92 acre-feet of water currently appropriated from the ground water basin.

IX

Static water level measurements taken on a bi-annual basis by representatives of the State Engineer's Office indicate that the level in the three irrigation wells nearest to the proposed points of diversion under Applications 31274, 31275 and 31276 has declined an average of 16.2 feet.

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. In accordance with NRS 533.370, subsection 4, the State Engineer is prohibited by law from granting a permit 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.

3. The annual duty of water allowed by the State Engineer for irrigation purposes within the Middle Reese River Valley Basin is 4.0 acre-feet per acre per annum. Therefore, a total of 1920 acre-feet per annum would be required for the irrigation of the 480 acres to be irrigated by these pending applications. This amount would be in addition to the existing ground water appropriations, since this acreage does not have existing ground water rights.

4. Existing water rights from this ground water basin currently exceed the estimated perennial yield for that basin. To grant additional rights under the subject applications would conflict with existing rights and threaten to prove detrimental to the public welfare.

RULING

Applications 31274, 31275 and 31276 are herewith denied on the grounds that the granting of water rights for additional ground water development from the designated Middle Reese River Valley Basin would conflict with existing rights and threaten to prove detrimental to the public welfare in this area where appropriations exceed estimates of the perennial yield.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW/BAR/dc

Dated this 22nd day of December, 1977.