

IN THE MATTER OF APPLICATIONS 32312,)
32825, and 33620 TO APPROPRIATE WATER)
FROM AN UNDERGROUND SOURCE IN LEMMON)
VALLEY, WASHOE COUNTY, NEVADA)

R U L I N G

INTRODUCTION

In 1973, Water Resources Bulletin No. 42, "Evaluation of the Water Resources of Lemmon Valley, Washoe County, Nevada, with Emphasis on Effects of Ground Water Development to 1971" by James R. Harrill was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources, the United States Department of the Interior, Geological Survey, Washoe County and the City of Reno. This report is available from the office of the State Engineer.

FINDINGS OF FACT

I

Application 32312 was filed on June 27, 1977 by Nevada Homes, Inc., to appropriate 0.02 c.f.s., of underground water for commercial purposes. The point of diversion and place of use are within the SW1/4 SE1/4 Section 10, T.20N., R.19E., M.D.M. 92B

Application 32825 was filed on July 18, 1977 by John Lawton to appropriate 1 c.f.s., of underground water to irrigate a cemetery. The point of diversion is within the SW1/4 SE1/4 Section 9, T.20N., R.19E., M.D.M. The place of use is within the S1/2 SE1/4 of said Section 9. 92B

Application 33620 was filed on September 15, 1977 by Nevada Tank and Casing to appropriate 0.00465 c.f.s., of underground water for industrial use. The point of diversion is within the SE1/4 NE1/4 Section 7, T.20N., R.19E., M.D.M., and the place of use is within the SE1/4 NE1/4, NE1/4 SE1/4 of said Section 7. 1/ 92B

II

Application 33620 was protested on January 25, 1978 by William P. Lear, Learenó Development, Inc., and Silver Lake Water Distribution Co., Inc.2/ The protestants prayed that Application 33620 be denied on the following grounds:

"Protestant, WILLIAM P. LEAR, is the owner of record of certificated rights assigned Permit and Certificate Nos. as follows:

28571 - Certificate No. 8572
28572 - Certificate No. 8573
28573 - Certificate No. 8574

In addition, Protestant is the owner of record of certain permitt water rights and applications.

The above numbered certificated rights, as well as all of Protestants' permits and Applications have their points of

diversion and places of use within the Lemmon Valley drainage area, as is the proposed point of diversion pursuant to Application 33620.

On July 14, 1971, the State Engineer, pursuant to authority granted to him by Chapter 534 of Nevada Revised Statutes, declared Lemmon Valley to be a designated basin.

Subsequent to July 14, 1971, the State Engineer has denied a multitude of applications to appropriate the public waters of the State of Nevada where such applications had their proposed points of diversion within the Lemmon Valley ground water basin.

NRS 533.370(4) reads as follows:

"Where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the permit asked for."

The multitude of prior rulings denying applications with priorities earlier than that of Application 33620 by the State Engineer have declared there to be no unappropriated water within the Lemmon Valley ground water basin. Consequently, based upon the precedent of prior rulings, the State Engineer is prohibited by law from granting application 33620. The reason being quite simply is that there exists no unappropriated water.

Application 33620 will conflict with the prior rights, both certificated and permitted, of Protestant. The granting of Application 33620 will conflict with Protestant's rights, in that it will if granted develop water that Protestant is allowed to develop, pursuant to his prior rights.

Application 33620, if granted, would be detrimental to the public interest because it would cause a lowering of the ground water table from which Protestant's permitted rights develop water. Further, in the event that the State Engineer would in fact grant Permit 33620, then Nevada Tank & Casing would be exposed to the substantial risk that its pumping would be curtailed pursuant to NRS 534.110(6). The result would, of course be a loss of investment to Nevada Tank and Casing. Such loss is contrary to the public interest.

Further, should Application 33620 be granted and it unreasonably lower the water table in Lemmon Valley, then that would be detrimental to the public interest and that Protestant, as well as other owners of permitted wells or domestic wells, would suffer the financial hardships and consequences of the unreasonable lowering of their water table.

Clearly, the State Engineer is required to deny an application to appropriate the public waters where any one of the three criteria set forth in NRS 533.370(4) is present. Application 33620 not only would conflict with prior rights, but it would also seek water from an aquifer from which no unappropriated water exists as well as prove detrimental to the public interest. "

III

Applications 32312, 32825, and 33620 were filed to appropriate water from an underground source from within the East Lemmon Subarea of Lemmon Valley Basin, Washoe County, Nevada as designated and described by Order 391 of the State Engineer issued July 14, 1971.3/

IV

It is estimated that the perennial yield of the Lemmon Valley ground water reservoir is 1300 acre-feet per year with 400 acre-feet per year being available from the East Lemmon Valley Subarea and 900 acre-feet per year being available from the Silver Lake Subarea. Allowing for additional recharge from imported water, an augmented yield estimate is 1600 acre-feet per year with 600 acre-feet per year from the East Lemmon Valley Subarea and 1,000 acre-feet per year from the Silver Lake Subarea.4/

V

Beneficial use has been shown for a total of 2500 acre-feet per year of underground water rights in Lemmon Valley with 1430 acre-feet per year in East Lemmon Subarea and 1070 acre-feet per year in Silver Lake Subarea. 5/

VI

An estimated 1990 acre-feet of ground water was pumped in Lemmon Valley in 1977 with 1510 acre-feet pumped from the East Lemmon Subarea and 480 acre-feet pumped from the Silver Lake Subarea.6/ In 1971 an estimated 920 acre-feet of ground water was pumped from Lemmon Valley.7/

VII

Approximately 4800 lots have been formed by subdivision and parceling in Lemmon Valley. Residences have been established on approximately 2600 of these lots leaving over 2000 lots.9/

VIII

Static water levels have been measured since 1971 in a monitor well net of over 30 wells in Lemmon Valley. Declining static water levels have occurred in Golden Valley; on the eastern side of the playa in East Lemmon Valley; and west of Black Springs. Rising static water levels have been shown to the south and west of the playa in East Lemmon Valley in areas recharged by effluent from sewage treatment plants and septic systems and lawn watering.10/

IX

Recognizing the critical nature of the ground water resource development, the State Engineer has initiated and pursued a policy of strict regulation of water rights in the designated Lemmon Valley Basin.

Extensions of time for proving beneficial use have not been granted since 1971.

Since 1969, 35 applications to appropriate ground water have been denied.11/

Meters have been required on wells with water rights.

A notice, Order 388, was issued on May 18, 1971 delcaring a moratorium on the issuance of permits to appropriate underground water in Lemmon Valley.

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action.12/

2. 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.13/

3. Existing water rights for ground water in Lemmon Valley exceed the estimated perennial yield and the estimated augmented perennial yield for the Lemmon Valley ground water reservoir. Beneficial use has been shown for water rights in excess of the estimated perennial yield in both the East Lemmon and Silver Lake subareas of Lemmon Valley.

In 1977 pumpage from the ground water reservoir in the East Lemmon Subarea of Lemmon Valley Basin, exceed the estimated augmented yield.

To grant additional water rights under the subject applications would adversely affect existing rights and threaten to prove detrimental to the public welfare.

4. The potential exists for additional development and pumpage from the Lemmon Valley ground water reservoir. Rapid urbanization of the area indicates pumpage will continue to increase.

Approximately 40% of existing water rights were not used in 1977.

To grant additional water rights from the Lemmon Valley ground water reservoir under the subject applications, would overcommit this limited natural resource, conflict with existing rights, and threaten to prove detrimental to the public welfare.

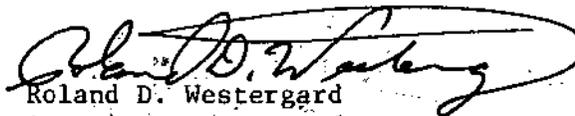
5. Water levels in monitor wells have shown declines in parts of Lemmon Valley.

To appropriate more ground water for development would tend to accelerate water level declines and thereby conflict with existing rights and threaten to prove detrimental to the public welfare.

RULING

Applications 32312, 32825, and 33620 are denied on the grounds that the granting of water rights for additional development from the designated Lemmon Valley ground water basin would conflict with existing rights and threaten to prove detrimental to the public welfare in this area where appropriations and pumpage exceed estimates of perennial yield.

Respectfully submitted,



Roland D. Westergard
State Engineer

RDW/JC/jv

Dated this 7th day

of AUGUST, 1978.

FOOTNOTES

1. Public records located within the Office of the State Engineer.
2. Public records located within the Office of the State Engineer.
3. NRS 534.030.
4. Water Resources Bulletin No. 42, p. 2, 77, 78.
5. Public records located within the Office of the State Engineer.
6. Estimates made by the Office of the State Engineer.
7. Water Resources Bulletin No. 42, p. 64.
8. Estimates made by the Office of the State Engineer.
9. Estimates made in the Office of the State Engineer partly from data received from the Regional Planning Commission, Reno, Sparks, and Washoe County and the Office of the Washoe County Engineer and including the Lemmon Valley Comprehensive Plan, Phase I - Inventory and Analysis by the Regional Planning Commission, Reno, Sparks, and Washoe County.
10. Hydrographs of the monitor well measurements are public records located within the Office of the State Engineer.
11. Public records located within the Office of the State Engineer. Denied applications are 22201, 2202, 22203, 26173, 26190, 26194, 26211, 26405, 26406, 27422, 28589, 28590, 29502, 29503, 30088, 30089, 30090, 30091, 30092, 30093, 30094, 30356, 30357, 30535, 30536, 30777, 30778, 30807, 30808, 30809, 30810, 30608, 31006, 31007, and 31340.
12. NRS 533.025 and 533.030, subsection 1.
13. NRS 533.370, subsection 4.