

IN THE MATTER OF APPLICATION 42681)
TO APPROPRIATE UNDERGROUND WATER)
IN LEMMON VALLEY, WASHOE COUNTY,)
NEVADA

R U L I N G

92B

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 Surveys, Washoe County, and the City of Reno. This report is available from the office of the State Engineer.

FINDINGS OF FACT

Application 42681 was filed by Mineral Mountains Mines, Inc., on October 17, 1980, to appropriate 0.11 c.f.s. of underground water for dust abatement and domestic purposes. The point of diversion is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, T.20N., R.19E., M.D.B. & M., and the place of use is within portions of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11, T.20N., R.19E., M.D.B. & M. 1/

A protest to the granting of this application was filed by Golden Valley Homeowners Association on April 17, 1981. The grounds of this protest are as follows:

Golden Valley is part of a designated water basin with critical ground water conditions. Leonard Crow indicates that the annual yield of approximately 400 ac-ft./yr. from a very limited recharge area is already exceeded by residential users with resulting declines in the ground water table of from 5 to 15 feet average. Application 42681 requests a high-yield (greater than 15,000 gal/day) well in the recharge area to produce 17 ac-ft./yr. (approximately 8 to 9 times the use of a single residence).

II

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 42681 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 42681. The reason being quite simple, there exists no unappropriated water. 2/

III

It is estimated that the perennial yield of the Lemmon Valley ground water reservoir is 1,300 acre-feet per year. Allowing for additional recharge from imported water, an augmented yield estimate is 1,600 acre-feet per year. 3/

IV

Beneficial use has been shown for a total of 2,079 acre-feet per year of underground water within Lemmon Valley and 1,050 acre-feet per year are permitted water rights. Total water rights exceed 3,100 acre-feet per year. 4/

V

An estimated 2,665 acre-feet of ground water was pumped in Lemmon Valley in 1980 with 2,028 acre-feet pumped from the East Lemmon Subarea and 637 acre-feet pumped from the Silver Lake Subarea. 5/ In 1971, an estimated 920 acre-feet of ground water was pumped from Lemmon Valley. 6/

VI

Approximately 4,800 lots have been formed by subdivision and parceling in Lemmon Valley. Residences have been established on approximately 2,600 of these lots leaving over 2,000 lots undeveloped. 7/

VII

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, 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. 8/

VIII

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, 53 applications to appropriate ground water have been denied. 9/

Meters have been required on wells with water rights.

A notice, Order 388, was issued on May 18, 1971, declaring 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. 10/
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. 11/
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 1980, pumpage from the ground water reservoir in the Lemmon Valley Basin exceeded the estimated augmented yield.

To grant additional water rights under the subject application 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.

To grant additional water rights from the Lemmon Valley ground water reservoir under the subject application would over commit 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. Golden Valley is one of the parts of Lemmon Valley where ground water levels have declined.

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

Application 42681 is 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 be detrimental to the public interest and welfare in this area where appropriations and pumpage exceed the estimates of perennial yield.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/GB/gk

Dated this 28th day
of JULY, 1981.

FOOTNOTES

1. Public records located within the office of the State Engineer.
2. Public records located within the office of the State Engineer.
3. Water Resources Bulletin No. 42, pp. 2, 77 and 78.
4. Public records located within the office of the State Engineer.
5. Estimates made by the office of the State Engineer.
6. Estimates made by the office of the State Engineer.
7. 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.
8. Hydrographs of the monitor well measurements are public records located within the office of the State Engineer.
9. Public records located within the office of the State Engineer. See denied Applications: 22201, 22202, 22203, 26173, 26190, 26194, 26211, 26405, 26406, 27422, 28589, 28590, 29502, 29503, 30088, 30089, 30090, 30091, 30092, 30093, 30094, 30356, 30357, 30535, 30536, 30608, 30777, 30778, 30807, 30808, 30809, 30810, 31006, 31007, 31340, 32312, 32825, 33620, 36387, 36398, 36399, 36904, 38305, 38472, 38473, 38474, 38475, 40964, 40965.
10. NRS 533.025 and 533.030, Subsection 1.
11. NRS 533.370, Subsection 4.