

IN THE MATTER OF APPLICATIONS 30076)
AMD 30077 FILED TO APPROPRIATE FOR)
THE WATERS OF OLD QUARRY AND DRAIN)
DITCH IN DAYTON VALLEY, LYON)
COUNTY, NEVADA.)

RULING

GENERAL

Application 30076¹ was filed on March 12, 1976, by Hughes Rock and Sand to appropriate 1.0 c.f.s. of the waters of "Old Quarry" to be diverted within the NE1/4 SE1/4 Section 23, T.16N., R.21E., M.D.B.&M., and to be used for industrial purposes within the NE1/4 SE1/4 Section 23 and the NW1/4 SW1/4 Section 24, T.16N., R.21E., M.D.B.&M.

Application 30077² was filed on March 12, 1976, by Hughes Rock and Sand to appropriate 1.0 c.f.s. of the waters of "Drain Ditch" to be diverted within the NE1/4 SE1/4 Section 23, T.16N., R.21E., M.D.B.&M., and to be used for industrial purposes within the NE1/4 SE1/4 Section 23 and the NW1/4 SW1/4 Section 24, T.16N., R.21E., M.D.B.&M.

No protests to the granting of Applications 30076 and 30077 were filed.

On September 1, 1976, a field investigation³ was held by John Lane of this office.

It was determined that the source of water, "Old Quarry", for Application 30076 is located approximately 600 feet due East of the Carson River. By means of a hand level, it was found that the water standing in the Quarry was within .2 foot of the level of the gravel bed on the Carson River. At the time of the investigation there was no flowing water in the river, however there were pools of standing water.

The "Drain ditch" listed as the source of water in Application 30077 is from the Randall Ditch, a diversion ditch used for irrigation from the Carson River.

In both applications, it is stated that the water would be used for washing gravel and there would be "no consumptive use" because the return water would go back to the point of diversion.

¹ Application 30076 is a public record on file in the office of the State Engineer.

² Application 30077 is a public record on file in the office of the State Engineer.

³ A report of the field investigation is filed with Application 30077 in the office of the State Engineer.

FINDINGS OF FACT

I.

The U.S. quadrangle map⁴ shows the Randall Ditch to be a diversion of the Carson River.

II.

There is evidence to indicate that the water in "Old Quarry" is from the Carson River bank storage and is subject to the fluctuating levels of the river.

III.

The proposed use of the water for Applications 30076 and 30077 to wash gravel constitutes consumptive use since the water is diverted from the source and is subject to evaporation and percolation during the process described in the applications.

IV.

The waters of the Carson River have been declared fully appropriated under the Federal decree - U.S. vs. Alpine Land and Reservoir Company, et al.⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in the source, or
- B. its proposed use or change conflicts with existing rights, or

⁴ a 15 Minute U.S. Quadrangle Map entitle "Dayton Nev.", 1956 (No. 572)

⁵ U.S. vs. Alpine Land and Reservoir Company, et al., Final Decree, U.S. District Court for the State of Nevada, Civil No. D-183 BRT, Findings of Facts, pg. 1.

⁶ NRS 533.325.

- C. the proposed use threatens to prove detrimental to the public interest.⁷

III.

The evidence and information available indicates that Applications 30076 and 30077 are proposals to use water that emanates from the Carson River which has been declared fully appropriated.

RULING

Applications 30076 and 30077 are hereby denied on the grounds that there is no unappropriated water in the source and to approve the applications would interfere with existing rights.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 2nd day of

APRIL, 1984.

⁷ NRS 533.370, subsection 3.