

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 32090,) 32421, 32423, 32578, 32595, 32596, 32930 AND) 34639 FILED TO APPROPRIATE THE PUBLIC) WATERS OF AN UNDERGROUND SOURCE IN) WALKER LAKE VALLEY (WHISKEY FLAT -) HAWTHORNE SUBAREA), MINERAL COUNTY,) NEVADA.)

RULING

GENERAL

Application 32090 was filed on June 15, 1977, by Linda Lee Fairbanks to appropriate 3.0 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the E1/2 NW1/4, W1/2 NE1/4 Section 22, T.9N., R.30E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 22, T.9N., R.30E., M.D.B.&M.¹

Application 32421 was filed on June 29, 1977, by Virginia C. Barton to appropriate 3.0 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the SE1/4 Section 1, T.5N., R.30E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 1, T.5N., R.30E., M.D.B.&M.¹

Application 32423 was filed on June 29, 1977, by Gary S. Barton to appropriate 3.0 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the SW1/4 Section 6, T.5N., R.31E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 6, T.5N., R.31E., M.D.B.&M.¹

Application 32578 was filed on June 30, 1977, by William A. Davis and Harolyn Ann Davis to appropriate 5.4 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N1/2 Section 20, T.7N., R.30E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 20, T.7N., R.30E., M.D.B.&M.¹

Application 32595 was filed on June 30, 1977, by Arden C. Leatham to appropriate 3.0 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the NE1/4 Section 13, T.5N., R.30E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 13, T.5N., R.30E., M.D.B.&M.¹

Application 32596 was filed on June 30, 1977, by Mrs. Alice Leatham to appropriate 3.0 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the SE1/4 Section 13, T.5N., R.30E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 13, T.5N., R.30E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

Application 32930 was filed on July 27, 1977, by James W. Decker to appropriate 2.7 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the NW1/4 Section 8, T.5N., R.31E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 8, T.5N., R.31E., M.D.B.&M.¹

Application 34639 was filed on November 21, 1977, by Duffer Fairbanks to appropriate 3.0 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the E1/2 SE1/4 Section 16, W1/2 SW1/4 Section 15, T.9N., R.30E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 15, T.9N., R.30E., M.D.B.&M.¹

Timely protests were filed to the granting of Applications 32421 and 32423 on February 9, 1978; Applications 32595 and 32596 on March 16, 1978; and Application 32930 on February 23, 1978, by Sweetwater Ranch Co. on the following grounds:

- "a) There is no unappropriated water available in the underlying water basin.
- b) The granting of additional permits and appropriation of water pursuant thereto will result in an unreasonable lowering of the water table in view of the economics of pumping water for the general type of crops growing in the area. The State Engineer should restrict the drilling of additional wells in the basin pursuant to NRS 534.110(7) on the ground that they will cause undue interference with existing wells of protestant."

Water Resources Reconnaissance Series Report No. 40 entitled "A Brief Appraisal of the Water Resources of the Walker Lake Area, Mineral, Lyon and Churchill Counties, Nevada", by D. E. Everett, Chemist, and F. Eugene Rush, Geologist, was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources, and the U. S. Department of the Interior, Geological Survey.¹

Walker Lake Valley is one of eight valleys in western Nevada which are part of the Walker River Basin.

FINDINGS OF FACT

I.

Applications 32090, 32421, 32423, 32578, 32595, 32596, 32930 and 34639 are on lands associated with the Carey Act and, as such, fall within the priority as specified in NRS 533.357.²

² Pursuant to NRS 533.357, these applications for irrigation water rights are preparatory to proceeding under the Carey Act which places them third in priority behind applications by an owner of land for use on adjacent land for which he intends to file an application under the Carey Act and an owner of land for use on that land.

II.

On August 15, 1983, a certified letter was sent to the applicants notifying them of a hearing before the State Engineer to collect information concerning the designation of Whiskey Flat - Hawthorne subarea. The hearing was held on August 30, 1983, at the Mineral County Courthouse. No additional information to support the applicants positions was received at the hearing.³

III.

Walker Lake Valley (Whiskey Flat - Hawthorne Subarea) Ground Water Basin was designated and described by the State Engineer on September 9, 1983, by Order No. 823 as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.

IV.

Walker Lake Valley is subdivided into the Schurz, the Lakes, and Whiskey Flat - Hawthorne subareas. Since 1908, an estimated 3,000 acre-feet of ground water has been lost annually from ground water in storage in the Whiskey Flat - Hawthorne subarea. The estimated average annual recharge and discharge are 5,400 and 4,600 acre-feet, respectively. Estimated perennial yield is 5,000 acre-feet.⁴

V.

Existing certificated and permitted ground water rights in the Whiskey Flat - Hawthorne subarea total over 21,200 acre-feet per year.¹

VI.

The perennial yield of a hydrologic system is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. If the perennial yield is continually exceeded, ground water levels will decline until the ground water reservoir is depleted of water of usable quality or until the pumping lifts become uneconomical to maintain. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural discharge that can be salvaged for beneficial use.⁵

Withdrawals of ground water in excess of the perennial yield contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of ground water gradients which could result in significant changes in the recharge-discharge relationship. These conditions have developed in several other ground water basins within the State of Nevada where storage depletion and declining water tables have been recorded and documented.⁵

³ See record of hearing before the State Engineer on August 30, 1983, public record in the office of the State Engineer.

⁴ Water Resources-Reconnaissance Series Report No. 40, p. 27, public record in the office of the State Engineer.

⁵ See attached Appendix of References.

VII.

Ground water levels measured in three monitoring wells within the basin have experienced declines of approximately 25 feet during the period 1966 to 1986.⁶

VIII.

Previous applications to appropriate water for irrigation purposes from an underground source in Walker Lake Valley, Whiskey Flat - Hawthorne subarea, have been denied.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁸

- 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 interest.

III.

If Applications 32090, 32421, 32423, 32578, 32595, 32596, 32930 and 34639 are granted, additional land would be irrigated. This would result in additional consumptive use by farm land irrigation. The additional withdrawals and consumption would remove water from the ground water reservoir which would not be replaced, resulting in depletion of the ground water reservoir, or would be replaced by infiltrating surface water that would otherwise serve existing rights.

Additional withdrawal and consumption of the ground water resource would contribute detrimentally to an existing condition of declining ground water levels within the basin. This additional withdrawal and consumption of underground water for irrigation would, therefore, conflict with existing rights and threaten to prove detrimental to the public welfare.

⁶ See copy of wells monitored by the U.S.G.S. in Whiskey Flat-Hawthorn Subarea, Basin (9-110(c)), abstract or Permit 32090, public record in the office of the State Engineer.

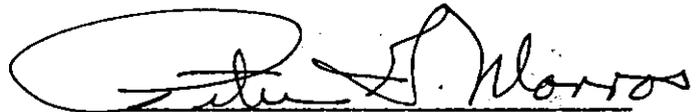
⁷ NRS 533.025 and 533.030, subsection 1.

⁸ NRS 533.370, subsection 3.

RULING

Applications 32090, 32421, 32423, 32578, 32595, 32596, 32930 and 34639 are herewith denied on the grounds that this appropriation of underground water for the irrigation of additional lands would tend to impair the value of existing rights and would be detrimental to the public interest and welfare within the Walker Lake Valley, Whiskey Flat - Hawthorne subarea. The irrigation of additional lands within the Walker Lake Valley, Whiskey Flat - Hawthorne subarea under these conditions is not considered to be a preferred use of the limited resource as provided under NRS Chapter 534.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/JO/bl

Dated this 10th day of
July, 1986.

Appendix of References
Page 2

Subsidence in Las Vegas Valley, John W. Bell, Nevada Bureau of Mines and Geology Bulletin 95.

Subsidence in United States due to Ground-Water Overdraft - A Review, J.F. Poland, Proceedings of the Irrigation and Drainage Division Specialty Conference, April 1973, American Society of Civil Engineers.

Ground-Water Hydraulics, S.W. Lohman, U.S. Geological Survey Professional Paper 708, 1979.

APPENDIX OF REFERENCES

Land Subsidence in Las Vegas Valley, 1935-63, Information Series No. 5 U.S.G.S.

State of Nevada, Department of Highways, Report on Land Subsidence in Las Vegas Valley.

Evaluation of the Water Resources of Lemmon Valley with Emphasis on Effects of Ground-Water Development to 1971, J.R. Harrill, Water Resources Bulletin No. 42, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1972.

Hydrologic Response to Irrigation Pumping in Diamond Valley, Eureka and Elko Counties, Nevada, 1950-65, J.R. Harrill, Water Resources Bulletin No. 35, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1968.

Effects of Irrigation Development on the Water Supply Quinn River Valley area, Nevada and Oregon, 1950-1964, C.J. Huxel, Jr., Water Resource Bulletin No. 34, United States Geological Survey and State of Nevada, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources, 1966.

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Effects of Ground-Water Development on the Water Regimen of Paradise Valley, Humboldt County, Nevada, 1948-1968, and Hydrologic Reconnaissance of the Tributary Areas, J.R. Harrill and D.O. Moore, Water Resource Bulletin No. 39, United States Geological Survey, 1970.

Ground-Water Storage Depletion in Pahrump Valley, Nevada-California, 1962-75, J.R. Harrill, Open File Report 81-635, United States Geological Survey, 1982, prepared in cooperation with Nevada Division of Water Resources.

Development of a Relation for Steady State Pumping Rate for Eagle Valley Ground-Water Basin, Nevada, F.E. Arteaga, T.J. Durbin, United States Geological Survey, 1978, prepared in cooperation with Nevada Division of Water Resources.

Basic Ground-Water Hydrology, Ralph C. Heath, U.S. Geological Survey Water Supply Paper 2220, 1983.

Methods of Determining Permeability, Transmissibility and Drawdown, U.S. Geological Survey Water Supply Paper 1536-1, R.H. Brown, J.G. Ferris, C.E. Jacob, D.B. Knowles, R.R. Meyer, H.E. Skibitzke and C.F. Theis, 1963.

V.

By letter dated February 13, 1940, the State Engineer's office again notified the applicant that the \$10.00 permit fee must be remitted within 30 days of the date of the letter or Application 9280 would be subject to cancellation. No permit fees were received for Application 9280.¹

VI.

By letter dated May 23, 1986, the Bureau of Land Management requested that Application 9280 be cancelled because John Fasano no longer ran cattle in the allotment (Spruce) in which the spring is located. The letter stated that Loyd Sorensen was the current range user in the allotment.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 and NRS 533.435.

II.

The applicant has been properly notified of the requirements for the submission of the permit fees and has failed to comply with that requirement.

III.

To grant an application to appropriate the public waters for stockwatering on lands the applicant does not own or control or where the applicant is not authorized to range livestock and cannot demonstrate the ability to place the water to beneficial use would not be in the public interest and welfare.

RULING

Application 9280 is herewith denied on the grounds that the applicant is not authorized to range livestock on the lands set forth under the place of use and, therefore, cannot demonstrate the ability to place the water to beneficial use, and the granting thereof would not be in the public interest.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/SW/bl

Dated this 10th day of
July, 1986.