

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 50565)  
FILED TO APPROPRIATE WATER FROM DRY)  
VALLEY CREEK, DRY VALLEY, WASHOE)  
COUNTY, NEVADA. )

RULING

GENERAL

Application 50565 was filed on February 2, 1987, by High Pacific Seed Co., Inc. to appropriate 20.0 c.f.s. of water from Dry Valley Creek to be used for irrigation and domestic purposes on lands in both the State of Nevada and California; the place of use in Nevada is described as within the W1/2 SW1/4 Section 4, SE1/4, E1/2 SW1/4, SW1/4 SW1/4 Section 5, NW1/4, N1/2 NE1/4, SE1/4 NE1/4, N1/2 SW1/4, SE1/4 SW1/4 Section 8, W1/2 NW1/4 Section 9, Lot 10, Section 7, all within T.24N., R.18E. M.D.B.&M. The point of diversion is located within the SE1/4 SW1/4 Section 8, T.24N., R.18E., M.D.B.&M.

Application 50565 was timely protested by Washoe County Utility Division on the following grounds:<sup>1</sup>

"Washoe County has a pending Application 50200 with a point of diversion in Dry Valley.

County feels Applications 50584, 50565 and 50566 will interfere with County's Application 50200. Said applicant has already allowed his former permits 32579, 32580 and 34698 to lapse which causes County to question applicant's intentions. Applicant would cause Nevada waters to be used in the State of California. Applicant's diversion would interfere with natural groundwater recharge which would effect County's proposed point of diversion and may interfere with County's future certificates 5021, 7649 and 7654 being purchased from the Winnemucca Ranch."

Application 50565 was timely protested by County of Lassen, California on the following grounds:<sup>1</sup>

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<sup>1</sup> Public record in the office of the State Engineer 36643-8, 46213-4, 50565.

Application 50565 requests to appropriate 20.0 c.f.s. of water for the irrigation of 1600 acres of land in Section 9, Township 24 N., Range 18E., MDB&M.

The U.S. Geological Survey has commenced a three-year study to analyze the groundwater resource within the Honey Lake Basin and the Nevada State Engineer has agreed not to take action on applications which seek to appropriate additional groundwater or change any place or manner of use of groundwater of the Honey Lake Basin. The USGS study and the State Division of Water Resources' delineation of the Honey Lake Basin do not include all areas within the Honey Lake Water Basin (ie. groundwater recharge area). As Dry Valley is one of only two basins within the Honey Lake Water Basin which is not designated in accordance with NRS 534.030, it is the intent of the County of Lassen to request of the State Engineer that it be so designated to ensure a greater level of scrutiny for water-related projects.

Specific concerns about this application noted by the County of Lassen are as follows:

- a) The application seeks to appropriate water to irrigate 1600 acres in a Section which appears to be a standard 640 acre Section.
- b) The proposal will decrease recharge from the Nevada portion of the Honey Lake Water Basin which could contribute to any existing or future overdraft situation.
- c) Flows will be reduced in California, thereby also reducing the groundwater level, which would have the effect of impairing existing, and currently underutilized, surface and groundwater rights located within California.
- d) There is no conclusive evidence that the granting of the subject permit would not be detrimental to groundwater aquifers.

An informal field investigation<sup>2</sup> was conducted on February 19, 1988, to verify conditions as proposed under the formentioned application.

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<sup>2</sup> Report of Field Investigation is a public record on file under Application 36643-8, 46213-4 and 50565 in the office of the State Engineer.

The proposed point of diversion for 50565 was a dry creek channel at the time of investigation although the bed showed evidence of receiving flood waters within the past year or so.

The investigation revealed the live creek flow sinks about a mile or two upstream and the flow remains subsurface and gradually spreads out through the soil along the dry channel creating a damp alkaline strip interspersed with salt grass.

An existing artificial irrigation right No. 28096 was found to be diverting water from a sump in the dry channel below 50565 to irrigate approximately three acres on the south side of the drainage. This acreage is surrounded by the proposed place of use of 50565.

### FINDINGS OF FACT

#### I.

Dry Valley Creek located in Dry Valley is a perennial stream fed by snow accumulation and springs from nearby mountains.

#### II.

Existing certificated water rights, permitted rights and claims of vested rights of record for Dry Valley Creek and its tributaries are as follows:<sup>3</sup>

- 1) Permit 11827, Certificate 4966 was issued for 515.20 acre-feet annual storage of water from Dry Valley Creek to irrigate 128.8 acres of land. The owner of record is W. Dalton LaRue and Juanita S. LaRue.
- 2) Permit 28096, Certificate 10520 was issued for 0.15 c.f.s. of water from Dry Valley Creek to irrigate 2.94 acres of land. The owner of record is John G. and Paula G. Lenz.

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<sup>3</sup> Public record in the office of the State Engineer, Permits 11827, Certificate 4966, Permit 28096, Certificate 10520; Claim of vested rights 03072, 03073, 03112, 03117, 03118, 03119, 03120, 03121, 03129, 03131, 03127, 03128, 03132, 03138, 03140, 03143, 03144.

- 3) Permit 36643 was issued for 2.0 c.f.s. of water from unnamed springs (in the upper Milk Ranch) to irrigate 40.85 acres of land. The owner of record is W. Dalton LaRue, Sr. and Juanita S. LaRue, dba Winnemucca Ranch.
- 4) Permit 36644 was issued for 2.0 c.f.s. of water from unnamed springs to irrigate 40.85 acres of land. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.
- 5) Permit 36645 was issued for 2.0 c.f.s. of water from unnamed springs (in the upper Milk Ranch) to irrigate 40.85 acres of land. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.
- 6) Permit 36646 was issued for 2.0 c.f.s. of water from unnamed springs (in the upper Milk Ranch) to irrigate 40.85 acres of land. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.
- 7) Permit 36647 was issued for 2.0 c.f.s. of water from Black Canyon Creek (aka West Cottonwood Creek) to irrigate 128.8 acres of land. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.
- 8) Permit 36648 was issued for .016 c.f.s. of water from an unnamed spring (aka Winnemucca Spring #42) for stockwatering purposes. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.
- 9) Permit 46213 was issued for 1.8 c.f.s. of water from Dry Valley Creek (aka Matley Creek, South Fork Dry Valley Creek, Red Rock Creek) for irrigation of 450 acres of land. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.
- 10) Permit 46214 was issued for .013 c.f.s. of water from Dry Valley Creek (aka Matley Creek, South Fork Dry Valley Creek, Red Rock Creek) for stockwatering purposes. The owner of record is W. Dalton LaRue, Sr., and Juanita S. LaRue, dba Winnemucca Ranch.

- 11) Claim 03072 was filed on October 2, 1978, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Dry Valley Creek for watering of 500 cattle, 20 horses and 1,000 sheep.
- 12) Claim 03073 was filed on October 2, 1978, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Black Canyon Creek for watering of 500 cattle, 20 horses and 1,000 sheep.
- 13) Claim 03112 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Lower Wildcat Spring for watering of 500 cattle and 15 horses.
- 14) Claim 03117 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Gooseberry No. 1 Spring for watering of 100 cattle.
- 15) Claim 03118 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Gooseberry No. 2 Spring for watering of 100 cattle.
- 16) Claim 03119 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Five Tanks Spring for watering of 100 cattle.
- 17) Claim 03120 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Hubbard No. 1 Spring for watering of 100 cattle.
- 18) Claim 03121 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Hubbard No. 2 Spring for watering of 100 cattle.
- 19) Claim 03129 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Dry Spring for watering of 500 cattle and 15 horses.

- 20) Claim 03131 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Red Springs for watering of 500 cattle and 15 horses.
- 21) Claim 03127 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Dalton No. 1 Spring for watering of 500 cattle and 15 horses.
- 22) Claim 03128 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Dalton No. 2 Spring for watering of 500 cattle and 15 horses.
- 23) Claim 03132 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Blue Springs for watering of 500 cattle and 15 horses.
- 24) Claim 03138 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Miller Spring #1 for watering of 500 cattle and 15 horses.
- 25) Claim 03140 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Upper Wildeat Spring to water 500 cattle and 15 horses.
- 26) Claim 03143 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Miller Spring #2 to water 500 cattle and 15 horses.
- 27) Claim 03144 was filed on February 7, 1979, by W. Dalton and Juanita S. LaRue for .2 c.f.s. of water from Miller Spring #3 to water 500 cattle and 15 horses.

### III.

The point of diversion of Application 50565 was a dry creek channel at the time of investigation. Approximately two miles above this point, the creek measured 71 gallons per minute.<sup>4</sup>

IV.

Permit 28096 is a certified water right for 0.18 c.f.s. from Dry Valley Creek below the proposed point of diversion of the subject application.<sup>5</sup>

V.

The State Engineer finds that in view of the existing appropriations of water and claims of vested rights of record, that there is no unappropriated water available at the source and that the effect of granting Application 50565 would interfere with and impair existing rights and would not be in the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>7</sup>

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>8</sup>

- 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.

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<sup>5</sup> See footnote No. 3.

<sup>7</sup> NRS 533.325.

<sup>8</sup> NRS 533.370 Subsection 3.