

IN THE MATTER OF APPLICATION)
36433 FILED TO APPROPRIATE THE)
WATERS OF AN UNDERGROUND SOURCE)
IN DIAMOND VALLEY, EUREKA COUNTY,))
NEVADA.)

R U L I N G

GENERAL

153

Application 36433 was filed on January 15, 1979, by E & R, Inc. to appropriate 2.7 c.f.s. of the waters of an underground source to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 29, T.20N., R.53E., M.D.B.&M., to be used for the irrigation of 168.46 acres of land in Lots 2, 5, 6, and 8 of said Section 29.

FINDINGS OF FACT

I

The land to be irrigated lies within that area designated and described as the Diamond Valley Ground Water Basin by Orders of the State Engineer Nos. 277 and 280 signed on August 5, 1964, and August 28, 1964, respectively. 1/

II

The 168.46 acres of the land proposed to be irrigated under Application 36433 have an existing water right evidenced by Permit 19315, Certificate 7504 and Permits 35419 and 35876. 2/

III

The proposed point of diversion of Application 36433 is the existing well drilled under Permit 23984. 3/

IV

Notice of Curtailment of Water Appropriation within the Diamond Valley Ground Water Basin was issued by Order of the State Engineer on December 22, 1975. (Order No. 541) This order provides:

- "1. All applications filed to appropriate water from the Diamond Valley Ground Water Basin north of the South Boundary Line of Township 22 North, M.D.B.&M. will be considered for approval on an individual basis and on their own merits.

2. All applications filed to appropriate water for irrigation of additional lands within that portion of the designated area of Diamond Valley south of the South Boundary Line of Township 22 North M.D.B.&M. that have not had a previous water right lost through forfeiture will be denied.
3. All applications filed to appropriate water for irrigation purposes on lands in Diamond Valley that had a previous water right lost through forfeiture will be considered for approval on an individual basis and on their own merit." 4/

V

Notice of Curtailment of Water Appropriation within the Diamond Valley Ground Water Basin was issued by Order of the State Engineer on July 10, 1978. (Order No. 717) This order provides:

- "1. All applications filed after the date of this order to appropriate ground water for irrigation of lands within the Diamond Valley Ground Water Basin that have not had a previous water right lost through forfeiture will be denied.
2. All applications filed on or before December 31, 1978, to appropriate ground water for irrigation purposes on lands in Diamond Valley that had a previous water right lost through forfeiture will be considered for approval on an individual basis and on their own merits.
3. All applications filed after December 31, 1978, to appropriate ground water for irrigation purposes on any land within the Diamond Valley Ground Water Basin will be denied." 5/

CONCLUSIONS

I

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

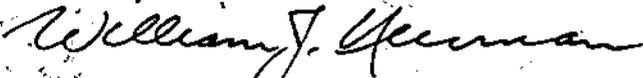
II

The land proposed to be irrigated has an existing right that has not been lost through forfeiture. 7/

RULING

Application 36433 is hereby denied on the grounds that the land proposed to be irrigated is presently covered with water rights for the irrigation of said land under existing Permit 19315, Certificate 7504, and Permits 35419 and 35876 and the granting of Application 36433 would constitute an additional diversion of water from this concentrated area which would adversely affect existing rights and be detrimental to the public welfare.

Respectfully submitted,



William J. Newman
State Engineer

WJN:FJS:jw

Dated this 10th day

of April, 1980