

IN THE MATTER OF APPLICATION 36693)
FILED TO CHANGE A CARSON RIVER DECREE)
RIGHT FROM CARSON VALLEY TO EAGLE)
VALLEY, CARSON CITY, NEVADA)

R U L I N G

INTRODUCTION

103

I

Application 36693 was filed to change a water right held under the Carson River Decree from a point in Carson Valley, Douglas County, to a point in Eagle Valley, Carson City, Nevada.

FINDINGS OF FACT

I

Application 36693 was filed on February 9, 1979 by Newman Construction, Ltd., Charles and Madeline Maddox, Leonard Maddox and Georgette Maddox, Ivan Farnworth and Charlotte Farnworth to change the point of diversion, manner and place of use of 2.12 c.f.s. not to exceed 765 acre-feet per year of water heretofore appropriated under the Carson River Decree (United States of America vs. Alpine Land and Reservoir Company, et al in action No. D-183 in the United States District Court for the District of Nevada). The priority of the rights to be changed are 1862 for 1.05 c.f.s., 1881 for 0.53 c.f.s., and 1887 for the remaining portion of 0.54 c.f.s.

The existing point of diversion is within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T.13N., R.20E., M.D.M. The proposed point of diversion is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14, T.15N., R.20E., M.D.M. The existing place of use is within 156 acres of the NW $\frac{1}{4}$ of Section 29, T.13N., R.20E., M.D.M. The proposed place of use is within the boundaries of the Carson City Municipal District.

The existing manner of use described under the Carson River Decree is for irrigation purposes. The proposed manner of use is for municipal purposes. 1/

II

A hearing in the matter of Application 36693 was held before the State Engineer, after proper notice, on February 19, 1980 in Minden, Nevada. 2/ It should be noted that the administrative hearing in this matter was conducted prior to the issuance of the Opinion and Final Decree on the Carson River and Tributaries.

Testimony presented in behalf of the applicants reviewed the proposal to move an irrigation right under the proposed Carson River Decree some 25 river miles downstream and divert the water through induced infiltration wells for municipal use in Carson City. Infiltration wells are drilled or are to be drilled near the Carson River at the described new point of diversion under Application 36693. 3/

The expert witness for the applicants testified that one distinct advantage of the induced infiltration well concept is that natural filtration and treatment of the ground water flow would preclude an expensive treatment process as compared to diverting directly from the river. The expert witness described the administration of the Carson River by segments and was of the opinion that water could be developed under Application 36693 without adversely affecting any of the water users on the Carson River provided the water was used in priority and in conformance with historical practices of irrigation on the Carson River. 4/

Testimony by the Federal Water Master addressed the responsibility and concerns of administration in the distribution of water if a permit were granted under Application 36693. Water is distributed in compliance with the acreages and priorities of the Temporary Restraining Order for each reach or segment of the Carson River. The water master also addressed the diversion of water during the non-irrigation season and indicated that water in the river during the non-irrigation season is used to satisfy downstream storage rights. The water master noted that the final decree was now being considered by the U. S. District Court. 5/

III

The United States District Court for the District of Nevada has issued an Opinion and Final Decree dated October 28, 1980 to adjudicate the rights to the use of the water of Carson River in the litigation titled The United States of America v. Alpine Land and Reservoir Company, a Corporation, et al, Civil No. D-183.

IV

The proposed point of diversion under Application 36693 is within Segment 7 of the Carson River, as identified in the decree. 6/

V

The Opinion and the Final Carson River Decree considers each segment of the Carson River as autonomous once the river is on regulation, and the Court states that the water master shall not enforce a senior priority in one segment of the river against a junior priority in another segment of the river. 7/

VI

The administrative provisions of the Final Carson River Decree provides a procedure for the change of a right under the decree. 8/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 9/

II

The Opinion and Final Carson River Decree considers each segment of the Carson River as autonomous and states that water will be delivered in priority only within each segment when the river is on regulation. Application 36693 proposes to transfer the point of diversion some 25 river miles downstream into what is identified as Segment 7 in the Carson River Decree.

III

The Opinion and Final Carson River Decree limits the duty of water on any change made from irrigation use to any other use. By this Opinion and Decree, the duty for any other use is limited to 2.5 acre-feet per acre which is the net consumptive use of surface water for irrigation of lands above the Lahontan Reservoir. River loss at different stages of flow is difficult to determine and identify. This could further reduce the amount of water available at the proposed point of diversion substantially.

IV

The change proposed under Application 36693 would effect existing rights within Segment 7 of the Carson River as identified under the Opinion and Decree. The Federal Water Master, in his testimony at the administrative hearing of February 19, 1980, expressed his serious concerns on the availability of water at the proposed point of diversion when the river is on regulation. The Opinion and Decree provide for the autonomous distribution of water within each segment of the river when regulation is in effect. This regulation includes the provision that the water master shall not enforce a senior priority in one segment of the river against a junior priority in another segment. This would preclude diversion of water at the proposed point of diversion when the river is on regulation.

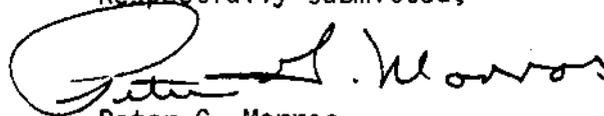
RULING

The proposed change of point of diversion, place and manner of use of waters of the Carson River, as described under Application 36693, is herewith approved subject to the following conditions:

1. The approval is subject to all existing rights and subject to the terms, conditions and administrative provisions of the Carson River Final Decree titled The United States of America vs. Alpine Land and Reservoir Company, a Corporation, et al, Civil No. D-183.

2. The total annual duty of water is limited to 390,0 acre-feet,
3. The availability and reliability of water for diversion at the point described under Application 36693 shall be determined and documented before any additional reliance or demand is approved through new development within the place of use described under Application 36693.
4. Measuring devices with totalizing capability shall be installed at the point of diversion and records shall be submitted to the State Engineer on a monthly basis which accurately describe the amount of water available and diverted on a daily basis.
5. Water may be diverted when available to augment and supplement existing rights and demands within the place of use under Application 36693 for municipal purposes.
6. No diversion or beneficial use of water under Permit 36693 may be made when regulation is in effect on the Carson River as provided under the Opinion and Final Carson River Decree.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/bc

Dated this 23rd day of
JULY, 1981.

FOOTNOTES

1. Application 36693 is a public record available in the office of the State Engineer.
2. Transcript of February 19, 1980 hearing is a public record available in the office of the State Engineer.
3. Pages 6 to 18, inclusive, transcript of February 19, 1980 hearing is a public record available in the office of the State Engineer.
4. Pages 19 to 35, inclusive, transcript of February 19, 1980 hearing is a public record available in the office of the State Engineer.
5. Pages 36 to 56, inclusive, transcript of February 19, 1980 hearing is a public record available in the office of the State Engineer.
6. Claim 704, page 124, Final Decree - The United States of America v. Alpine Land and Reservoir Company, a Corporation, et al., Civil No. D-183 BRT.
7. Opinion, Final Decree - The United States of America v. Alpine Land and Reservoir Company, a Corporation, et al., Civil No. D-183 BRT.
8. Opinion, Final Decree - The United States of America v. Alpine Land and Reservoir Company, a Corporation, et al., Civil No. D-183 BRT.
9. NRS 533.030, subsection 1 and the Final Decree - The United States of America v. Alpine Land and Reservoir Company, a Corporation, et al., Civil No. D-183 BRT.