

IN THE MATTER OF APPLICATIONS 37553,)
37554, 37555, 37556, 39075 AND 43231)
FILED TO APPROPRIATE UNDERGROUND )
WATER IN LOWER REESE RIVER VALLEY, )
LANDER COUNTY, NEVADA )

R U L I N G

INTRODUCTION

Water Resources Bulletin No. 32 Hydrologic Reconnaissance of the Humboldt River Basin, Nevada, by Thomas E. Eakin and Robert D. Lamke, was prepared cooperatively by the Department of Conservation and Natural Resources and the U.S. Department of the Interior, Geological Survey. 1/

FINDINGS OF FACT

I

Application 37553 was filed by Virginia Katherine Potter on April 2, 1979 to appropriate 6 c.f.s. of underground water for irrigation purposes. The point of diversion is within Lot 4, Section 1, T.31N., R.44E., M.D.B.&M., and the place of use is 320 acres within the E 1/2 said Section 1.

Application 37554 was filed by Lillian R. Potter on April 2, 1979 to appropriate 6 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW 1/4 SW 1/4 Section 1, T.31N., R.44E., M.D.B.&M., and the place of use is 320 acres within the W 1/2 said Section 1.

Application 37555 was filed by Virginia Katherine Potter on April 2, 1979 to appropriate 6 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE 1/4 SE 1/4 Section 1, T.31N., R.44E., M.D.B.&M., and the place of use is 320 acres within the E 1/2 said Section 1.

Application 37556 was filed by Lillian R. Potter on April 2, 1979 to appropriate 6 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW 1/4 NW 1/4 Section 1, T.31N., R.44E., M.D.B.&M., and the place of use is 320 acres within the W 1/2 said Section 1.

Application 39075 was filed by Ernest and Joyce Hattabaugh on September 17, 1979 to appropriate 1.0 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the SE 1/4 NW 1/4 Section 27, T.32N., R.45E., M.D.B.&M., and the place of use is 40 acres within the SE 1/4 NW 1/4 said Section 27.

Application 43231 was filed by John R. and Elizabeth C. Fitschen on February 19, 1981 to appropriate 3 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the NE 1/4 SW 1/4 Section 31, T.31N., R.47E., M.D.B.&M., and the place of use is 146 acres within the SW 1/4 said Section 31.

II

Protests to the granting of Applications 37553, 37554, 37555 and 37556 were filed on February 11, 1980 by the Lander County Commissioners. The basis of the protests is that the proposed wells will interfere with

existing wells serving the Town of Battle Mountain resulting in increased pumping costs and reduction in pumping capacity as a result of the water table being lowered.

### III

The State Engineer designated Lower Reese River Valley, pursuant to NRS 534, on March 27, 1980.

### IV

A hearing was held before the State Engineer in the matter of pending Applications 36063 through 36069 and 36388, and protested Applications 37184, 37185, 37186, 37187, 37265 and 37285 through 37304 on January 29, 1980 in Battle Mountain, Lander County, Nevada. 2/ These applications were to appropriate underground water in the Lower Reese River Valley.

Testimony presented in behalf of the Division of Water Resources reviewed the general hydrology of the Lower Reese River Valley. Water Resources Bulletin No. 32 was referenced for the estimate of perennial yield 20,000 acre-feet for both the Lower Reese River Valley and Whirlwind Valley with the major portion of 80 to 85 percent or 16,000 to 17,000 acre-feet perennial yield in Lower Reese River Valley. In addition, a statistical report dated April 25, 1977 was introduced in evidence reporting existing water rights totaling 26,000 acre-feet.

Testimony in behalf of Lander County established that at that time municipal water service for the Town of Battle Mountain totaled approximately 400 acre-feet from two wells. In addition, there were approximately 160 dwellings near the Town where individual wells are the source of water supply. Lander County expressed concern for the interference on the Town source of water supply of any wells drilled in a radius of five miles from the outer edges of the existing developed town. Testimony was also given that artesian wells in Battle Mountain and vicinity were no longer flowing.

Testimony presented in behalf of the Tom Marvel Ranches described the reduced pressure in some irrigation wells requiring booster pumps in mid-season. Additional testimony confirmed the reduction in hydraulic pressure to stop the flow from artesian wells and a report of the decline of the water table.

### CONCLUSIONS

#### I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 3/

#### II

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

- A. There is no unappropriated water at the source, or
- B. The proposed change conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest. 4/

RULING  
Page Three

III

The existing water rights of record now exceed the perennial yield in the Lower Reese River Valley. The present use of ground water in this basin has caused artesian wells to stop flowing and declines in the static water level.

IV

The use of underground water of the Lower Reese River Valley to irrigate additional lands is not a preferred use of this limited resource.  
5/

RULING

Applications 37553, 37554, 37555, 37556, 39075 and 43231 are denied on the grounds that their granting would tend to impair the value of existing rights and be otherwise detrimental to the public interest and welfare. The protests to 37553, 37554, 37555 and 37556 are upheld.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/JC/bc

Dated this 30th day of

APRIL, 1982.

FOOTNOTES

1. Water Resources Bulletin No. 32 is a public record available in the office of the State Engineer.
2. Transcript of January 29, 1980 hearing is a public record available in the office of the State Engineer.
3. NRS 534.020.
4. NRS 533.370, Section 4.
5. NRS 534.120.