

IN THE MATTER OF APPLICATIONS 43136,
43137, 43138, 43835, 44460, 44461, 44462,
44463, 44464, 44465, 44466, 44467,
44468, and 44469; FILED TO CHANGE THE
WATERS OF AN UNDERGROUND SOURCE IN
DIAMOND VALLEY, EUREKA COUNTY, NEVADA)

R U L I N G.

GENERAL

Application 43136 was filed on January 26, 1981, by Orrian C. and Lucille Tallcott to change the place of use of 0.60 c.f.s., a portion of water from an underground source appropriated under Permit 18802, Certificate 6024. Water would be diverted at a point located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8, T. 22 N., R. 54 E., M.D.B.&M. The proposed place of use of Application 43136 was 80 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 8, T. 22 N., R. 54 E., M.D.B.&M.

Application 43137 was filed on January 26, 1981, by Orrian C. and Lucille E. Tallcott to change the place of use of 0.18 c.f.s., a portion of water from an underground source appropriated under Permit 28751. Water would be diverted at a point located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8, T. 22 N., R. 54 E., M.D.B.&M. The proposed place of use was 80 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 8, T. 22 N., R. 54 E., M.D.B.&M.

Application 43138 was filed on January 26, 1981, by Orrian C. and Lucille E. Tallcott to change the place of use of 0.67 c.f.s., a portion of water from an underground source appropriated under Permit 16468, Certificate 5785. Water would be diverted at a point located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8, T. 22 N., R. 54 E., M.D.B.&M. The proposed place of use was 2.44 acres in the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8, and 80 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 8, all in T. 22 N., R. 54 E., M.D.B.&M.

Application 43835 was filed on June 4, 1981, by Fred J. Stenton, et al., to change the place of use of 0.75 c.f.s., a portion of water from an underground source appropriated under Permit 32890. Water would be diverted at a point located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, T. 22 N., R. 54 E., M.D.B.&M. The proposed place of use was 43.51 acres in Lots 3 and 4 of Section 7, and Lots 14, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, T. 22 N., R. 54 E., M.D.B.&M.

Application 44460 was filed on September 22, 1981, by Nevada Ringsby Farms, Inc. to change the point of diversion and place of use of 0.54 c.f.s., a portion of water from an underground source appropriated under Permit 20487, Certificate 7352. Water would be diverted at a point located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 32.5 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44461 was filed on September 22, 1981, by Dongary Investments, Ltd. to change the point of diversion and place of use of 1.79 c.f.s., a portion of water from an underground source under Permit 22566, Certificate 6561. Water would be diverted at a point located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 71.2 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44462 was filed on September 22, 1981, by Dongary Investments, Ltd., to change the point of diversion and place of use of 1.22 c.f.s., a portion of water from an underground source under Permit 22567, Certificate 6562. Water would be diverted at a point located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 43 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44463 was filed on September 22, 1981, by Dongary Investments, Ltd., to change the point of diversion and place of use of 0.66 c.f.s., a portion of water from an underground source under Permit 24262, Certificate 6959. Water would be diverted at a point located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 154 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44464 was filed on September 22, 1981, by Dongary Investments, Ltd., to change the point of diversion and place of use of 0.66 c.f.s., a portion of water from an underground source under Permit 24263, Certificate 6960. Water would be diverted at a point located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 154 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44465 was filed on September 22, 1981, by Dongary Investments, Ltd., to change the point of diversion and place of use of 1.02 c.f.s., a portion of water from an underground source under Permit 24264, Certificate 6961. Water would be diverted at a point located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 154 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44466 was filed on September 22, 1981, by Dongary Investments, Ltd., to change the point of diversion and place of use of 0.87 c.f.s., a portion of water from an underground source under Permit 24265, Certificate 6962. Water would be diverted at a point located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 82 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44467 was filed on September 22, 1981, by Nevada Ringsby Land Co. to change the point of diversion and place of use of 0.54 c.f.s., a portion of water from an underground source under Permit 33817. Water would be diverted at a point located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 32.1 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44468 was filed on September 22, 1981, by Nevada Ringsby Land Co. to change the point of diversion and place of use of 0.88 c.f.s., a portion of water from an underground source under Permit 33818. Water would be diverted at a point located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 40.4 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

Application 44469 was filed on September 22, 1981, by Nevada Ringsby Farms, Inc., to change the point of diversion and place of use of 0.54 c.f.s., a portion of water from an underground source appropriated under Permit 35012. Water would be diverted at a point located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T. 21 N., R. 53 E., M.D.B.&M. The proposed place of use was 32.1 acres in Section 5, T. 21 N., R. 53 E., M.D.B.&M.

FINDINGS OF FACT

I

The Diamond Valley groundwater basin was designated by Order of the State Engineer on August 5, 1964. 1/

II

A notice of curtailment of water appropriation within the Diamond Valley groundwater basin was issued by the State Engineer on December 22, 1975. 2/

III

A notice of further curtailment of water appropriation within the Diamond Valley groundwater basin was issued by the State Engineer on July 10, 1978, because of continued depletion of the ground water supply. 3/

IV

The proposed place of use of Applications 43136 and 43137 is on lands under the control of the Bureau of Land Management. 4/

V

The proposed place of use of Application 43138 is on 80 acres of land under the control of the Bureau of Land Management, which parcel is the same proposed place of use as Applications 43136 and 43137, and 2.44 acres of land in private ownership. 5/

VI

The proposed place of use of Application 43835 is on lands under the control of the Bureau of Land Management. 6/

VII

The acreage of private land irrigated by wells within the Diamond Valley groundwater basin has increased yearly since 1975. In 1975, approximately 17,796 acres of land were irrigated compared to 25,279 acres in 1981. 7/

VIII

In public hearings held in Eureka, Nevada, on May 24, 1982 and August 9, 1982, the State Engineer received evidence and testimony on possible curtailment of pumping from underground sources in the Diamond Valley Designated Groundwater Basin. Static groundwater levels are declining on a yearly basis due to over-appropriation. The State Engineer has found that the groundwater is being depleted in portions of the basin, particularly in the agricultural areas. 8/

IX

The perennial yield of the basin is estimated to be 30,000 acre-feet and the estimated water consumption in 1981 was approximately 71,744 acre-feet. The perennial yield is the maximum amount of water of useable chemical quality that can be withdrawn and consumed economically each year for an indefinite period of time. 9/

If over-appropriation continues in the concentrated areas, the static water levels eventually will reach a depth below ground surface where it will become uneconomical to pump waters for irrigation. This condition will be contrary to the economic welfare of the area. 10/

X

The State Engineer has ordered the installation of totalizing meters in order to more accurately determine the amount of water placed to beneficial use. 11/

XI

The State Engineer is authorized to designate preferred uses in designated groundwater basins. 12/

XII

In acting upon applications to appropriate underground water for irrigation purposes in a given basin, the State Engineer is directed to give the first priority to an "owner of/and for use on that land." 13/

CONCLUSIONS

The State Engineer has jurisdiction of the parties and subject matter of this action. 14/

The State Engineer has the authority to conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the ground water supply may not be adequate for the needs of all permittees and all vested right claimants, and if his findings so indicate the State Engineer may order that withdrawals be restricted to conform to priority rights. 15/

The present status quo of the amount of water withdrawn for irrigation of existing private lands has the potential of being detrimental to the economic welfare of the area. If Applications 43136, 43137, 43138, 43835, 44460, 44461, 44462, 44463, 44464, 44465, 44466, 44467, 44468, and 44469 were approved, the withdrawal of water for use on Desert Land Entry ground would place additional lands in private ownership and have the effect of placing additional lands under cultivation. This would change the present status quo of water use on private lands by existing methods of cultivation and thus create additional demands on the underground water source not presently utilized on private lands covered by existing water rights.

RULING
PAGE FIVE

The State Engineer has determined that it would not be in the public welfare and interest to approve applications to irrigate lands other than those that are in private ownership at this time.

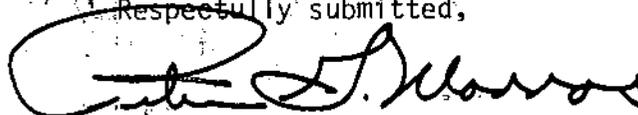
RULING

Applications 43136, 43137, 43835, 44460, 44461, 44462, 44463, 44464, 44465, 44466, 44467, 44468, and 44469, are herewith denied on the grounds that approval would adversely affect existing rights, that the proposed use is not a preferred use within the Diamond Valley Designated Ground Water Basin, and would tend to impair the value of existing rights.

Application 43138 is approved in part for 0.046 c.f.s. for the irrigation of 2.44 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8, T. 22 N., R. 54 E., M.D.B.&M. The remainder of Application 43138 is denied on the grounds that approval would adversely affect existing rights, that the proposed use is not a preferred use within the Diamond Valley Designated Ground Water Basin, and would tend to impair the value of existing rights.

These applications are also denied on the grounds that the economic welfare of the Diamond Valley area would be adversely affected if approval is given.

Respectfully submitted,



PETER G. MORRÓS
State Engineer

PGM/GB/KN/br

Dated this 31st day of
January, 1983

FOOTNOTES

1. State Engineer's Order No. 277 and 280.
2. State Engineer's Order No. 541.
3. State Engineer's Order No. 717.
4. Correspondence from Bureau of Land Management and BLM's 30 minute planning quad sheet, "Newark, Nevada".
5. Correspondence from Bureau of Land Management and BLM's 30 minute planning quad sheet, "Newark, Nevada".
6. Correspondence from Bureau of Land Management and BLM's 30 minute planning quad sheet, "Newark, Nevada".
7. Public Records in the Office of the State Engineer.
8. Public Records in the Office of the State Engineer.
9. Water Resources Bulletin No. 35, page 56.
10. NRS 534.110 Subsection 4.
11. State Engineer's Order No. 809.
12. NRS 534.120 Subsection 2.
13. NRS 533.357.
14. NRS 533.025 and 534.020.
15. NRS 534.110, Section 6.