

IN THE MATTER OF APPLICATIONS 30738, )  
30739, 30915, 36434, 36435, 36575, 36809,) )  
36810, 40420 FILED TO APPROPRIATE THE )  
WATERS OF AN UNDERGROUND SOURCE, )  
APPLICATION 45457 FILED TO CHANGE THE )  
WATERS OF AN UNDERGROUND SOURCE, AND )  
APPLICATIONS 46851, 46852, 46853, )  
46854, 46855, 46856, 46857, 46858, )  
46859, 46860, 46861, 46862, 46863, )  
46864, 46865, 46866, 46867, 46868, )  
46869, AND 46870 FILED TO APPROPRIATE )  
THE WATERS OF AN UNDERGROUND SOURCE )  
IN PARADISE VALLEY, HUMBOLDT, COUNTY, )  
NEVADA. )

R U L I N G

INTRODUCTION

Water Resources Bulletin No. 39, "Effects of Ground-Water Development on the Regimen of Paradise Valley, Humboldt County, Nevada, 1948-1968, and Hydraulic Reconnaissance of the Tributary Areas," by J. R. Harrill and D. O. Moore, was prepared cooperatively by the Department of Conservation and Natural Resources and the U. S. Department of the Interior, Geological Survey.

Water Resources Bulletin No. 10 "Groundwater in Paradise Valley, Humboldt County, Nevada" by Omar J. Loeltz, David A. Phoenix and Thomas W. Robison was prepared cooperatively by the Office of the State Engineer and the U.S. Department of the Interior, Geological Survey.

FINDINGS OF FACT

I

Application 30738 was filed on October 8, 1976 by Nevada First Corporation to appropriate 5.4 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 18, T.37 N., R.40 E., M.D.B.&M., and the place of use is 640 acres within Section 18, T.37 N., R.40 E., M.D.B.&M.

RULING

Page 2

Application 30739 was filed on October 8, 1976 by Nevada First Corporation to appropriate 5.4 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 18, T.37 N., R.40 E., M.D.B.&M., and the place of use is 640 acres within Section 18, T.37 N., R.40 E., M.D.B.&M.

Application 30915 was filed on December 13, 1976 by Mark Delaney to appropriate 10 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 10, T.37 N., R.38 E., M.D.B.&M., and the place of use is 320 acres within Section 10, T.37 N., R.38 E., M.D.B.&M.

Application 36434 was filed on January 15, 1979 by Bernard S. Cannon to appropriate 4.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 34, T.40 N., R.38 E., M.D.B.&M., and the place of use is 293.5 acres within the S $\frac{1}{2}$  Section 34, T.40 N., R.38 E., M.D.B.&M.

Application 36435 was filed on January 15, 1979 by Betty J. Cannon to appropriate 4.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within Lot 2, Section 6, T.39 N., R.39 E., M.D.B.&M., and the place of use is 319.54 acres within the E $\frac{1}{2}$  Section 6, T.39N., R.39 E., M.D.B.&M.

RULING

Page 3

Application 36575 was filed on January 29, 1979 by Denny L. Frook to appropriate 2.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within Lot 5, Section 6, T.39 N., R.39 E., M.D.B.&M., and the place of use is 160 acres within the NW $\frac{1}{4}$  Section 6, T.39 N., R.39 E., M.D.B.&M.

Application 36809 was filed on February 16, 1979 by Luanne Kesler to appropriate 2.7 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 6, T.39 N., R.39 E., M.D.B.&M., and the place of use is 160 acres within the NW $\frac{1}{4}$  Section 6, T.39 N., R.39 E., M.D.B.&M.

Application 36810 was filed on February 16, 1979 by Cortland Nielsen to appropriate 5.4 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 6, T.39 N., R.39 E., M.D.B.&M., and the place of use is 320 acres within the E $\frac{1}{2}$  Section 6, T.39 N., R.39 E., M.D.B.&M.

Application 40420 was filed on January 28, 1980 by Daniel R. and Anita L. Cassinelli to appropriate 1.11 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within Lot 3, Section 31, T.40 N., R.39 E., M.D.B.&M., and the place of use is 50 acres within the SE $\frac{1}{4}$  Section 36, T.40 N., R.38 E., M.D.B.&M.

RULING

Page 4

Application 45457 was filed on March 19, 1982 by Daniel R. and Anita L. Cassinelli to change the point of diversion of Application 40420. The new point of diversion is from an underground source located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 36, T.40 N., R.38 E., M.D.B.&M.

Application 46851 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 35, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres within Sections 1; 2; 11 - 15; E $\frac{1}{2}$  Section 19; E $\frac{1}{2}$ , E $\frac{1}{2}$  W $\frac{1}{2}$ , W $\frac{1}{2}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 20; SE $\frac{1}{4}$  Section 21; E $\frac{1}{2}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 22, Sections 23 - 27; W $\frac{1}{2}$  Section 29, Sections 30 - 35 all in T.38 N., R.39 E., M.D.B.&M.; Section 35 T.39 N., R.39 E., M.D.B.&M.; W $\frac{1}{2}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$  Section 31 T.39N., R.40 E., M.D.B.&M.

Application 46852 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46853 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 27, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46854 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 26, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

RULING

Page 5

Application 46855 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 26, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46856 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 25, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described in Application 46851.

Application 46857 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46858 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 23, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46859 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 23, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

RULING

Page 6

Application 46860 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 14, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46861 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 14, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46862 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 13, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46863 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46864 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 11, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

RULING

Page 7

Application 46865 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 11, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46866 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 2, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46867 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 2, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46868 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 1, T.38 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46869 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 35, T.39 N., R. 39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

Application 46870 was filed by Humboldt Farms, Inc. on May 4, 1983 to appropriate 6.0 c.f.s. of underground water for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, T.39 N., R.39 E., M.D.B.&M., and the place of use is 7500 acres described under Application 46851.

II

Application 36434 was timely protested on May 21, 1979, by Winnemucca Farms, Inc. on the following grounds:

"Water Resources Bulletin No. 39 estimates the ground-water recharge to be 40,000 acre-feet annually. Protestant (1) has recently had applications denied in T.39 N., R.39 E., M.D.B.&M. on the grounds that their granting would adversely affect prior existing rights within this area of concentration. (2) has substantial investment in agricultural utilization of certificated water rights in the same basin where applicant threatens to affect the water table already in question as referenced by prior Division of Water Resources denial and mention of Bulletin No. 39."

Application 36435 was timely protested on May 21, 1979, by Winnemucca Farms, Inc. on the following grounds:

"Water Resources Bulletin No. 39 estimates the ground water recharge to be 40,000 acre-feet annually. Protestant (1) has recently had applications denied in T.39 N., R.39 E., M.D.B.&M. on the grounds that their granting would adversely affect prior existing rights within this area of concentration.

(2) has substantial investment in agricultural utilization of certificated water rights in the same basin where applicant threatens to affect the water table already in question as referenced by prior Division of Water Resources denial and mention of Bulletin No. 39."

Application 36435 was timely protested on May 21, 1979 by Cortland Nielsen on the following grounds: "Cortland E. Nielsen has Desert Land Entry upon said land Receipt #884775."

Application 36575 was timely protested on May 21, 1979, by Winnemucca Farms, Inc. on the following grounds:

"Water Resources Bulletin No. 39 estimates the ground-water recharge to be 40,000 acre-feet annually. Protestant (1) has recently had applications denied in T.39 N., R.39 E., M.D.B.&M. on the grounds that their granting would adversely affect prior existing rights within this area of concentration. (2) has substantial investment in agricultural utilization of certificated water rights in the same basin where applicant threatens to affect the water table already in question as referenced by prior Division of Water Resources denial and mention of Bulletin No. 39."

Application 36575 was timely protested on May 21, 1979, by Luanne Kesler on the following grounds: "Luanne Kesler has Desert Land Entry, Receipt #884777."

Application 36809 was timely protested on May 21, 1979, by Winnemucca Farms, Inc. on the following grounds:

"Water Resources Bulletin No. 39 estimates the ground-water recharge to be 40,000 acre-feet annually. Protestant

(1) has recently had applications denied in T.39 N., R.39 E., M.D.B.&M. on the grounds that their granting would adversely affect prior existing rights within this area of concentration. (2) has substantial investment in agricultural utilization of certificated water rights in the same basin where applicant threatens to affect the water table already in question as referenced by prior Division of Water Resources denial and mention of Bulletin No. 39."

Application 36810 was timely protested on May 21, 1979, by Winnemucca Farms, Inc. on the following grounds:

"Water Resources Bulletin No. 39 estimates the ground-water recharge to be 40,000 acre-feet annually. Protestant (1) has recently had applications denied in T.39 N., R.39 E., M.D.B.&M. on the grounds that their granting would adversely affect prior existing rights within this area of concentration. (2) has substantial investment in agricultural utilization of certificated water rights in the same basin where applicant threatens to affect the water table already in question as referenced by prior Division of Water Resources denial and mention of Bulletin No. 39."

### III

The State Engineer designated and described the Paradise Valley Ground Water Basin on October 22, 1971, as a basin in need of additional administration under the provisions of N.R.S. Chapter 534. 1/

### IV

The estimate of the average annual groundwater recharge in Paradise Valley is about 40,000 acre-feet per year. 2/

V

Permitted and certificated rights for irrigation purposes with priorities earlier than October 8, 1976 have been issued which could result in the withdrawal of more than 69,000 acre-feet of ground water on an annual basis.

Crop inventories have been maintained periodically since 1974 in the Paradise Valley groundwater basin.3/

The 1978 Crop Inventory estimated that more than 80,000 acre-feet of water was pumped from the groundwater reservoir. This total includes groundwater used to supplement surface rights. 3/

The 1981 Crop Inventory estimated that more than 85,000 acre-feet of water was pumped from the ground water reservoir. This total includes ground-water used to supplement surface rights. 3/

The 1982 Fall Crop Inventory estimated that pumpage was approximately 75,000 acre-feet from the groundwater reservoir. This total includes ground-water used to supplement surface rights. 3/

Prior Applications to appropriate water in the concentrated area of Paradise Valley have been denied. 4/

Applications 30738, 30739, 30915, 46851, 46852, 46853, 46854, 46855, 46856, 46857, 46858, 46859, 46860, 46861, 46862, 46863, 46864, 46865, 46866, 46867, 46868, 46869, and 46870 have their proposed points of diversion in the concentrated area of groundwater development south of the centerline of Township 39 North, M.D.B.&M.

A cone of depression has developed in the area of wells being pumped for irrigation purposes under existing rights South of the centerline of Township 39 North M.D.B.&M. Records show that this cone of depression is increasing and its area of influence has been moving in a northeasterly and easterly direction from its approximate center which was located in Township 38 North Range 38 East M.D.B.&M., in March, 1983. 5/

Groundwater level contour 4310 has moved 3 miles North since the Spring of 1968 because of the heavy pumping in the South end of Paradise Valley.

The proposed points of diversion of Applications 36434, 36435, 36575, 36809, 36810, 40420, and 45457 are located in the South portion of the Valley and the water table in this area has declined since 1968.

Further, these wells are located in an area where the potential recharge from runoff is limited as is indicated by Table 10 in "Water Resources Bulletin 39". 6/

### CONCLUSIONS

#### I

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

There is evidence of declining water tables in the areas of concentrated development. 5/

II

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

- A. There is no unappropriated water in 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 and welfare. 8/

III

If Applications 30738, 30739, 30915, 36434, 36435, 36575, 36809, 36810, 40420, 46851, 46852, 46853, 46854, 46855, 46856, 46857, 46858, 46859, 46860, 46861, 46862, 46863, 46864, 46865, 46866, 46867, 46868, 46869, and 46870 were granted, additional withdrawal and consumption would remove water from the ground water reservoir which would not be replaced, resulting in depletion of the ground water reservoir.

The additional withdrawal and consumption of underground water in excess of the natural recharge would, therefore, conflict with prior existing rights and threaten to prove detrimental to the public interest and welfare.

The granting of Applications 36434, 36435, 36575, 36809, 36810, 40420 and Application 45457 to change would serve to extend the cone of depression and would act to adversely affect prior existing rights.

RULING

The protests of Winnemucca Farms, Inc. to the granting of Applications 36434, 36435, 36575, 36809 and 36810 are hereby upheld on the grounds of adverse effects on prior and existing rights.

No ruling is made on either the protest of Cortland Nielsen to the granting of Application 36435 or the protest of Luanne Kesler to the granting of Application 36575.

Applications 30738, 30739, 30915, 46851, 46852, 46853, 46854, 46855, 46856, 46857, 46858, 46859, 46860, 46861, 46862, 46863, 46864, 46865, 46866, 46867, 46868, 46869, and 46870 are hereby denied on the grounds that their proposed points of diversion are within the area of concentration and that their granting would interfere with prior existing rights and, therefore, would be detrimental to the public interest and welfare.

Applications 36434, 36435, 36575, 36809, 36810, and 40420 are hereby denied on the grounds that their granting would increase the rate at which the cone of depression is expanding resulting in adverse affects on prior existing rights and, therefore, would be detrimental to the public interest and welfare.

RULING

Page 15

Application 45457 is denied on the grounds that with the denial of Application 40420 there is no existing right to change.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros". The signature is fluid and cursive, with a large initial "P" and "M".

PETER G. MORROS  
STATE ENGINEER

PGM/KN/vw

Dated this 2nd day of  
November, 1983.

### FOOTNOTES

1. State Engineer's Order No. 408.
2. Water Resources Bulletin No. 39, p. 64.
3. Records in the Office of the State Engineer -  
Crop Inventory, Paradise Valley.
4. See Applications 26874 through 26881, 27341  
through 27368, and 28362.
5. Records in the Office of the State Engineer -  
Water Level Measurements in Paradise Valley.
6. Water Resources Bulletin No. 39, p. 56, 57.
7. NRS 533.025 and NRS 533.030, subsection 1.
8. NRS 533.370, subsection 3.