

IN THE OFFICE OF THE STATE ENGINEER  
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 30969 FILED)  
TO APPROPRIATE THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE, APPLICATION 54313 )  
FILED TO CHANGE THE POINT OF DIVERSION )  
OF APPLICATION 30969, AND APPLICATION )  
56282-T FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF A PORTION )  
OF PERMIT 18986, CERTIFICATE 5277; ALL )  
IN MASON VALLEY, LYON COUNTY, NEVADA. )

RULING  
# 3828

FINDINGS OF FACT

I.

Application 30969 was filed on December 28, 1976, by James S. McAdoo to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 300 acres of land within the E1/2 NW1/4, W1/2 NE1/4, SE1/4 NE1/4, and NE1/4 SE1/4 Section 36, T.13N., R.25E., M.D.B.&M., and the SW1/4 NW1/4 and NW1/4 SW1/4 Section 31, T.13N., R.26E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 36, T.13N., R.25E., M.D.B.&M.<sup>1</sup>

On March 18, 1977, application 30969 was timely protested by R.H. Holbrook for the following reasons:

"That this protest be to limit the amount of water to be pumped from both wells located on the Meadow ranch, to 5.5 Sec. ft. That is until the State has completed a study that shows by pumping would not adversely affect the existing wells in the area. Also restrict wells from development of new land until this type of study is complete.<sup>1</sup>"

On March 18, 1977, Application 30969 was timely protested by Giorgi Brothers, Inc. for the following reasons:

"A conditional protest for the following reasons:

1. The point of diversion of the proposed well is less than 1100 ft. of our certificated domestic well. Certificate No. 4238 Book 13 Page 4238. Priority June 30, 1952.

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<sup>1</sup> Public record in the office of the State Engineer, Application 30969.

2. The applicants' present well produces approximately 3.5 c.f.s. an additional 5.4 second feet, as applied for, is an unreasonable amount for the lands to be irrigated. The comingling of the two wells could possibly affect adjacent wells with prior rights.
3. Applicants' present irrigating of lands outside of the place of use as specified under his present permit is an illegal use and comes under the provisions of Chapt. 534 of N.R.S. pertaining to the appropriation of ground water."<sup>1</sup>

As result of assignments, Desert Pearl Farms, a partnership, is the present owner of Application 30969.<sup>1</sup>

## II.

Application 54313 was filed on January 11, 1990, by Desert Pearl Farms to change the point of diversion of Application 30969 to the SE1/4 NW1/4 Section 36, T.13N., R.25E., M.D.B.&M. The proposed diversion rate and proposed place of use would be the same as Application 30969.<sup>2</sup>

On April 13, 1990, Application 54313 was timely protested by Cremetti Ranch; Williams Farms, Inc.; Walt Tibbals; Joe E. Tibbals; Giorgi Brothers, Inc.; Richard H. Holbrook, Sr.; and Richard H. Holbrook, Jr.; because Application 54313 would change the point of diversion of Application 30969 which had not been approved for a permit, because the rate and duty would adversely affect the underground storage reservoir and to grant Permit 54313 would adversely affect existing ground water rights and be detrimental to the public welfare.<sup>2</sup>

## III.

Application 56282-T was filed on May 9, 1991, by Desert Pearl Farms to change the point of diversion and place of use of 1.9 c.f.s., 500 acre-feet, a portion of Permit 18986, Certificate

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<sup>2</sup> Public record in the office of the State Engineer, Application 54313.

5277. The existing point of diversion is described as being in the NW1/4 SW1/4 Section 34, T.14N., R.25E., M.D.B.&M. The proposed point of diversion is described as being in the SE1/4 NE1/4 Section 26, T.13N., R.25E., M.D.B.&M; and the proposed place of use is described as 125 acres in the SW1/4 NW1/4 and NW1/4 SW1/4 Section 26, and SE1/4 NE1/4 and NE1/4 SE1/4 Section 27, all in T.13N., R.25E., M.D.B.&M. <sup>3</sup>

IV.

In 1969, Water Resources Bulletin No. 38, "Water Resources and Development in Mason Valley, Lyon and Mineral Counties, Nevada, 1948-65", was prepared cooperatively by the Nevada Department of Conservation and Natural Resources, Division of Water Resources, and the U.S. Department of interior, Geological Survey.

V.

The State Engineer is empowered to make rules, regulations, and orders in the interest of the public welfare for ground water basins that are being depleted.<sup>4</sup>

VI.

The State Engineer designated and described the Mason Valley Ground Water Basin on January 20, 1977<sup>5</sup> and amended the described area on September 7, 1977.<sup>6</sup>

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<sup>3</sup> Public record in the office of the State Engineer, Application 56282-T.

<sup>4</sup> NRS 534.110 and NRS 534.120.

<sup>5</sup> Public record in the office of the State Engineer, Order No. 627.

<sup>6</sup> Public record in the office of the State Engineer, Order No. 691.

VII.

The State Engineer finds that surface water appropriations and rights under Decree C-125 far exceed the average annual flow entering Mason Valley from the East and West Walker Rivers.<sup>7</sup>

VIII.

The State Engineer finds that pumpage of ground water for irrigation has increased over the years and is substantially more during years when surface water is curtailed by drought conditions.<sup>8</sup>

IX.

The State Engineer finds that beneficial use has been proven and certificates of appropriation have been issued for approximately 125,000 acre-feet of ground water per year. Present permitted rights total an additional 21,000 acre-feet per year.<sup>9</sup>

X.

The State Engineer has ruled that the consumptive use of ground water to irrigate additional land is not considered to be a preferred use of water in the Mason Valley Ground Water Basin.<sup>10</sup>

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<sup>7</sup> Public record in the office of the State Engineer and United States v. Walker River Irrigation District, et al., United States District Court for the District of Nevada, Equity No. C-125, as amended by the Order of the Honorable A. F. St. Sure, dated April 24, 1940, hereafter called Decree C-125.

<sup>8</sup> Water Resources Bulletin No. 38, p. 35, Table 15.

<sup>9</sup> Public record in the office of the State Engineer, Mason Valley, Basin 9-108 Abstract.

<sup>10</sup> Public record in the office of the State Engineer, Ruling No. 2231.

XI.

The State Engineer finds that certificates of appropriation and permits issued in the immediate area<sup>11</sup> of Applications 30969, 54313 and 56282-T total 17,800 acre-feet of ground water per year.<sup>9</sup>

XII.

The State Engineer finds from annual water level measurements made in Mason Valley that water levels in the immediate area<sup>11</sup> of Applications 30969, 54313 and 56282-T have dropped between 9 and 40 feet in the time period from 1986 to 1991. Average water level drop for six wells in the immediate area was 24 feet.<sup>12</sup>

The State Engineer finds that the water level in the well under Permit 18986, the base right for Application 56282-T, has dropped 5 feet in the time period from 1986 to 1991.<sup>12</sup>

XIII.

The State Engineer finds that the well proposed to be the point of diversion for Application 56282-T is the same as for Permit 54860, and Application 55676 and Permit 55757-T, and that if permits were granted for all the applications, the diversion rate and total duty at this well would be 4.79 c.f.s. and 1264 acre-feet per year.<sup>13</sup>

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<sup>11</sup> T.12N., R.25E., M.D.B.&M. Sections 1, 2, 11 and 12.  
T.12N., R.26E., M.D.B.&M. Section 6.  
T.13N., R.25E., M.D.B.&M. Sections 25, 26, 35 and 36.  
T.13N., R.26E., M.D.B.&M. Section 31.

<sup>12</sup> Public record in the office of the State Engineer, Mason Valley water level measurements.

<sup>13</sup> Application 56282-T 1.9 c.f.s. 500 AFA  
Permit 54860 2.4 c.f.s. 624 AFA  
Application 55676, Same as Permit 55759-T  
Permit 55759-T; 0.49 c.f.s., 140 AFA

XIV.

The State Engineer has denied previous applications to appropriate water for irrigation purposes from an underground source in the Mason Valley Ground Water Basin.<sup>14</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>15</sup>

II.

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

- A. there is no unappropriated water at the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public welfare.<sup>16</sup>

III.

The State Engineer concludes that existing rights in the Mason Valley Ground Water Basin exceed the recharge from precipitation to the Mason Valley Ground Water Basin. To grant the appropriation requested by Application 30969 for additional consumption of ground water would adversely affect existing rights and threaten to prove detrimental to the public welfare.

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<sup>14</sup> Permit record in the office of the State Engineer, Rulings No. 2231, 2277, 2278, and 2880.

<sup>15</sup> NRS 533.025 and NRS 533.030, Subsection 1.

<sup>16</sup> NRS 533.370, Subsection 3.

IV.

The State Engineer further concludes that if a permit for Application 30969 was granted, additional land would be irrigated, resulting in additional consumptive use of ground water. Additional consumption would remove water from the ground water reservoir which:

- A. Would not be replaced resulting in depletion of the ground water reservoir, or
- B. Would be replaced by infiltration surface water that otherwise would return to the stream system, thus impacting the stream system and affecting downstream rights as set forth in Decree C-125.

Additional consumption of underground water for irrigation would therefore conflict with existing rights and threaten to prove detrimental to the public welfare.

V.

The State Engineer concludes from the 1986 to 1991 water level data<sup>12</sup> collected in the immediate area<sup>11</sup> of Applications 30969, 54313 and 56282-T, that the ground water reservoir in this area is impacted by pumpage for irrigation and that allowing a permit for appropriation under Application 30969, and allowing a permit for Application 54313 to change Application 30969, would further increase pumpage from this impacted area and would therefore conflict with existing rights and threaten to prove detrimental to the public welfare.

VI.

The State Engineer concludes that to grant a permit for Application 56282-T to change the point of diversion and place of use of a portion of Permit 18986, Certificate 5277, from an area with a shallow water table to an area with a rapidly declining water table would cause additional pumpage of underground water from an impacted area and would conflict with existing rights and threaten to prove detrimental to the public welfare.

RULING

The protests filed against Applications 30969 and 54313 are herewith upheld and Applications 30969 and 54313 are hereby denied on the grounds that the appropriation of additional ground water for irrigation purposes from the area described in the applications would tend to impair the value of existing rights and be otherwise detrimental to the public interest and welfare.

Application 56282-T is hereby denied on the grounds that changing the point of diversion of water rights into an area of a declining water table would tend to impair the value of existing rights and be otherwise detrimental to the public interest and welfare.

Respectfully submitted,



E. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CAB/pm

Dated this 5th day of  
September, 1991.