

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

IN THE MATTER OF APPLICATIONS )  
48838 AND 48839 FILED TO )  
APPROPRIATE THE WATERS OF )  
HAROLD AND FARETTO SPRINGS )  
WITHIN THE LEMMON VALLEY )  
WESTERN PART HYDROGRAPHIC )  
BASIN (92A), WASHOE COUNTY, )  
NEVADA. )

**RULING**

**#5292**

**GENERAL**

**I.**

Application 48838 was filed on February 13, 1985, by Peter and Kay Echeverria and assigned to "The Peter Echeverria Family Limited Partnership" to appropriate 1 cubic foot per second (cfs) of water from Harold Spring for quasi-municipal and domestic purposes, i.e., treating and bottling water and other water related services, within the N $\frac{1}{2}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , and the S $\frac{1}{2}$  of Section 12, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 12.<sup>1</sup>

**II.**

Application 48839 was filed on February 13, 1985, by Peter and Kay Echeverria and assigned to "The Peter Echeverria Family Limited Partnership" to appropriate 1 cfs of water from Faretto Spring for quasi-municipal and domestic purposes, i.e., treating and bottling water and other water related services, within the N $\frac{1}{2}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , and the S $\frac{1}{2}$  of Section 12, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 12.<sup>1</sup>

**III.**

Proof of Appropriation V-03020 was filed on April 17, 1978, by Charles E. and Rosemarie Hixson claiming a vested right for 0.03 cfs or sufficient water for 2,000 head of sheep from unnamed springs for stockwatering and domestic purposes (two dwellings) within the NE $\frac{1}{4}$

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<sup>1</sup> File Nos. V-03020, 7771, 7845, 17090, 17091, 19161, 22656, 29589, 29590, 29591, 30320, 30607, 44093, 47046, 48838 and 48839 official records in the Office of the State Engineer.

SE $\frac{1}{4}$  of Section 2, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 11, T.20N., R.18E., M.D.B.&M.<sup>1</sup>

#### IV.

Permit 7771 was filed on June 2, 1926, by Henry Anderson and later assigned to John E. Trail and Alice N. Trail to appropriate the waters of Anderson Spring No. 1. Certificate 2121 was issued on September 13, 1935, for 0.0125 cfs or sufficient water for 2,000 head of sheep within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 1, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M.<sup>1</sup>

#### V.

Permit 7845 was filed on August 7, 1926, by Henry Anderson and later assigned to John E. Trail and Alice N. Trail to appropriate the waters of Thirty Springs. Certificate 2126 was issued on September 13, 1935, for 0.016 cfs or sufficient water for 2,500 head of sheep within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M.<sup>1</sup>

#### VI.

Permit 17090 was filed on November 8, 1956, by John C. Faretto, Nora Faretto and Harold J. Faretto and later assigned to Peter Echeverria and Kay Echeverria to appropriate the waters of Faretto Spring No. 5. Certificate 5382 was issued on August 30, 1962, for 0.00125 cfs or sufficient water for 40 head of cattle within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 12.<sup>1</sup>

#### VII.

Permit 17091 was filed on November 8, 1956, by John C. Faretto, Nora Faretto and Harold J. Faretto and later assigned to Peter Echeverria and Kay Echeverria to appropriate the waters of Faretto Springs. Certificate 5383 was issued on August 30, 1962, for 0.25 cfs and not to exceed 3.0 afa of water for irrigation and domestic purposes on 0.75 acres of land located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The points of diversion are described as four springs located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 12.<sup>1</sup>

#### VIII.

Permit 19161 was filed on August 30, 1960, by the Western Pacific Railroad Company to appropriate the waters of an unnamed spring. Certificate 5270 was issued on February 15, 1962,

for 0.011 cfs of water for domestic purposes for one house, two bunkhouses, lawn and garden located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 11, T.20N., R.18E., M.D.B.&M.<sup>1</sup>

#### IX.

Permit 22656 was filed on June 21, 1965, by Gerald Markva and later assigned to Norman F. Robinson and Catherine E. Robinson to appropriate the waters of Markva Spring. Certificate 7220 was issued on November 20, 1969, for 0.013 cfs and not to exceed 9.41 afa of water for irrigation and domestic purposes on 3.02 acres of land located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 11.<sup>1</sup>

#### X.

Permit 29589 to change the place of use of Permit 16984 was filed on August 19, 1975, by John E. and Alice N. Trail to appropriate the waters of Three "T's" Developed Springs. Certificate 8996 was issued on March 17, 1977, for 0.08 cfs and not to exceed 15.695 million gallons annually (mga) of water for quasi-municipal purposes for 43 residences on land located within portions of the SW $\frac{1}{4}$  of Section 1, T.20N., R.18E., M.D.B.&M. The points of diversion are described as six developed springs being located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The total combined duty of water under this certificate and certificates issued under Permits 29590 and 29591 shall not exceed 15.695 mga.<sup>1</sup>

#### XI.

Permit 29590 to change the place of use of Permit 17254 was filed on August 19, 1975, by John E. and Alice N. Trail to appropriate the waters of Thirty Springs. Certificate 8997 was issued on March 17, 1977, for 0.05 cfs and not to exceed 11.794 mga of water for quasi-municipal purposes for 43 residences on land located within portions of the SW $\frac{1}{4}$  Section 1, T.20N., R.18E., M.D.B.&M. The points of diversion are described as four developed springs being located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The total combined duty of water under this certificate and certificates issued under Permits 29589 and 29591 shall not exceed 15.695 mga.<sup>1</sup>

## XII.

Permit 29591 to change the place of use of Permit 16983 was filed on August 19, 1975, by John E. and Alice N. Trail for the waters of Thirty Springs. Certificate 8998 was issued on March 17, 1977, for 0.016 cfs and not to exceed 3.77 mga of water for quasi-municipal purposes for 43 residences on land located within portions of the SW $\frac{1}{4}$  Section 1, T.20N., R.18E., M.D.B.&M. The points of diversion are described as four developed springs being located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12, T.20N., R.18E., M.D.B.&M. The total combined duty of water under this certificate and certificates issued under Permits 29589 and 29590 shall not exceed 15.695 mga.<sup>1</sup>

## XIII.

Permit 30320 was filed on June 9, 1976, by Paul C. and Mary H. Hofmann to appropriate the waters of an unnamed spring. Certificate 13566 was issued on February 3, 1993, for 0.1 cfs and not to exceed 12.80 afa of water for irrigation and domestic purposes on 3.2 acres of land located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 11.<sup>1</sup>

## XIV.

Permit 30607 was filed on August 31, 1976, by Ervin E. Barnes to appropriate the waters of an unnamed spring. Certificate 10139 was issued on July 19, 1982, for 0.0015 cfs and not to exceed 1.095 afa of water for irrigation and domestic purposes on 1.0 acre of land located within a portion of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  and a portion of the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 11.<sup>1</sup>

## XV.

Permit 44093 was filed on June 29, 1981, by Rosemarie Hixson to appropriate the waters of unnamed springs. Certificate 12591 was issued on December 10, 1990, for 0.1337 cfs and not to exceed 0.73 mga of water for quasi-municipal purposes for two residences and associated landscaping on land located within portions of the E $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 2, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 11, T.20N., R.18E., M.D.B.&M.<sup>1</sup>

## XVI.

Permit 47046 was filed on July 1, 1983, by Alice N. Trail and issued on March 28, 1984, to appropriate 0.08 cfs and not to exceed 15.695 mga of water from Three T's and Thirty Springs for quasi-municipal purposes to serve 42 residences located within the S½ NW¼ of Section 12, T.20N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SW¼ NW¼ of said Section 12.<sup>1</sup>

### FINDINGS OF FACT

#### I.

The State Engineer finds the total combined diversion rate and duty of water of Proof of Appropriation V-03020; Permit 7771, Certificate 2121; Permit 7845, Certificate 2126; Permit 17090, Certificate 5382; Permit 17091, Certificate 5383; Permit 19161, Certificate 5270; Permit 22656, Certificate 7220; Permit 29589, Certificate 8996; Permit 29590, Certificate 8997; Permit 29591, Certificate 8998; Permit 30320, Certificate 13566; Permit 30607, Certificate 10139; Permit 44093, Certificate 12591; and Permit 47046 from springs associated with the same fault zone is 0.7525 cfs and 150.51 afa, respectively.<sup>2</sup> All of the preceding water sources are common to a fault zone that runs parallel to the Union Pacific (formerly Western Pacific) Railroad grade located within the NE¼ of Section 11 and the S½ N½ of Section 12, T.20N., R.18E., M.D.B.&M. The fault locations were derived from the "VERDI QUADRANGLE GEOLOGICAL MAP".<sup>3</sup>

#### II.

The State Engineer finds that the granting of permits under Applications 48838 and 48839 would result in the withdrawal of 2.0 cfs and 1,447.94 acre-feet of water from the existing fault/spring area.<sup>4</sup>

#### III.

On March 3, 2003, representatives of the Office of the State Engineer conducted an informal field investigation to determine the flow rates of Faretto Spring (Application 48838) and Harold Spring (Application 48839). Faretto Spring was producing nine (9) gallons per

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<sup>2</sup> File Nos. V-03020, 7771, 7845, 17090, 17091, 19161, 22656, 29589, 29590, 29591, 30320, 30607, 44093 and 47046, official records in the Office of the State Engineer.

<sup>3</sup> VERDI QUADRANGLE GEOLOGICAL MAP, Map 46G, NEVADA BUREAU OF MINES AND GEOLOGY, 1987, John W. Bell, Larry J. Garside.

<sup>4</sup> File Nos. 48838 and 48839, official records in the Office of the State Engineer.

minute or 0.02 cfs, measured by pipe, bucket and stop watch. Harold Spring was producing two (2) gallons per minute or 0.004 cfs, measured by visual estimate.<sup>5</sup> The State Engineer finds that Faretto Spring and Harold Spring do not produce a sufficient quantity of water to justify additional appropriations of water under Applications 48838 and 48839.

**IV.**

The State Engineer finds that the approval of any additional permits to appropriate water from the spring area would be detrimental to current water right holders on the source.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>6</sup>

**II.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>7</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

**III.**

The State Engineer concludes that the approval of an additional appropriation of water from Faretto and Harold Springs would conflict with existing rights and threaten to prove detrimental to the public interest.

**IV.**

The State Engineer concludes that a sufficient diversion rate and volume of water from the spring source area is not available to satisfy existing uses plus the additional water requested by Applications 48838 and 48839.

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<sup>5</sup> File Nos. 48838 and 48839, field investigation, dated March 3, 2003, official records in the Office of the State Engineer.

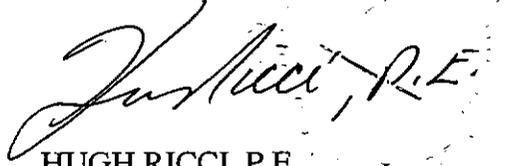
<sup>6</sup> NRS chapter 533.

<sup>7</sup> NRS § 533.370(3).

**RULING**

Applications 48838 and 48839 are hereby denied on the grounds that the granting thereof would adversely effect existing rights and be detrimental to the public interest.

Respectfully Submitted,



HUGH RICCI, P.E.  
State Engineer

HR/SW/jm

Dated this 7th day of

October, 2003.