

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

IN THE MATTER OF APPLICATION)
73347 FILED TO APPROPRIATE THE)
UNDERGROUND WATERS OF THE)
LOVELOCK VALLEY – OREANA)
SUBAREA HYDROGRAPHIC BASIN)
(73A), PERSHING COUNTY, NEVADA.)

RULING

5908

GENERAL

I.

Application 73347 was filed on October 17, 2005, by Humboldt River Ranch, LLC, to appropriate 6.0 cubic feet per second of the underground water from the Lovelock Valley – Oreana Subarea Hydrographic Basin for irrigation purposes within all of Section 32, T.30N., R.33E., M.D.B.&M. lying west of the Union Pacific Railroad. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 32, T.30N., R.33E., M.D.B.&M.¹

II.

Application 73347 was timely protested by the Pershing County Water Conservation District on the grounds that granting the application will affect the water table and drainage and adversely affect the decreed waters of the Humboldt River and the basin is over-appropriated.

FINDINGS OF FACT

I.

Nevada Revised Statute (NRS) § 534.120 provides that within an area that has been designated by the State Engineer where, in his judgment, the ground-water basin is being depleted, the State Engineer in his administrative capacity is empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved. The application of this provision of the NRS to the Lovelock Valley – Oreana Subarea is evidenced by a series of orders issued by the State Engineer beginning with State Engineer's Order No. 369 which designated the area.² This initial order described and designated an area of the hydrographic basin as a ground-water basin in need of additional administration.

By designating the ground-water basin, the State Engineer set the stage for further

¹ File No. 73347, official records of the Office of the State Engineer.

² State Engineer's Order No. 369, dated February 25, 1969, official records in the Office of the State Engineer.

restrictions relating to the appropriation of ground water from the basin. State Engineer's Order No. 1079 gave notice that no further appropriations of ground water would be approved for irrigation purposes within portions of the Lovelock Valley-Oreana Subarea as described therein.³

Application 73347 has a proposed point of diversion within the designated area for the purpose of irrigation which is prohibited under State Engineer's Order No. 1079. The State Engineer finds the request for appropriation conflicts with the provision of Order No. 1079 and the application can be considered for denial.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:⁵

- 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 water right applications that request new appropriations of ground water for irrigation purposes from the designated portion of the hydrographic basin are to be denied pursuant to State Engineer's Order No. 1079. The State Engineer concludes the approval of Application 73347 would violate the provisions of Order No. 1079 and threaten to prove detrimental to the public interest.

³ State Engineer's Order No. 1079, dated May 17, 1993, official records in the Office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(5).

RULING

Application 73347 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/ SJT/jm

Dated this 26th day of

November, 2008.