No. 70473

AMENDED
APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Date of filing in State Engineer's Office SEP 30 2003

Returned to applicant for correction NOV 04 2003

Corrected application filed NOV 19 2003

Map filed NOV 19 2003 under 70471

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The applicant **James R. Boyce**, hereby makes application for permission to change the **Point of Diversion, Manner & Place of Use of** of water heretofore appropriated under **Permit 44544**

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1. The source of water is **McAffee Creek**

2. The amount of water to be changed **1.67 c.f.s., not to exceed 904.1 acre-feet ann.**

3. The water to be used for **Irrigation**

4. The water heretofore permitted for **Irrigation and Domestic**

5. The water is to be diverted at the following point **SE¼ NW¼, Section 25, T.3S., R.35E., M.D.B.&M., or at a point from which the NW Corner of said Section 25, bears N. 30°41" W., a distance of 2815.0 feet**

6. The existing permitted point of diversion is located within **NW¼ NW¼, Section 2, T.4S., R.35E., M.D.B.&M., or at a point from which the N¼ Corner of said Section 2, bears N. 58°59' E., a distance of 2664.4 feet. See map filed under Permit 44544.**

7. Proposed place of use **See Attachment "A"**

8. Existing place of use **See Attachment "B"**

9. Use will be from **January 1** to **December 31** of each year.

10. Use was permitted from **February 15** to **November 15** of each year.

11. Description of proposed works **Pump in ditch at southern boundary of property, thence via wheel lines and pivots to the place of use.**

12. Estimated cost of works **$50,000.00**

13. Estimated time required to construct works **Three (3) years**

14. Estimated time required to complete the application of water to beneficial use **Five (5) years**

15. Remarks: **This application is being filed to change the point of diversion, manner and place of use of Permit 44544 in order to fully utilize the extent of the right. The proposed place of use will conform with the remaining place of use as delineated in the letter of withdrawal to the State Engineer dated June 23, 2003. Water will be co-mingled with surface rights under Permits 44542, 44543 and 44550 and with the remaining portion of**

underground rights under Permits 44540, 44548, 44549, 52183 and 52184 for the irrigation of a total of 447.15 acres.

By **Gregory M. Bilyeu**
s/ **Gregory M. Bilyeu**
500 Damonte Ranch Parkway, #1056
Reno, NV 89521

Compared cmf/bk lh/gkl

Protested

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APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

This permit to change the point of diversion, place of use and manner of use of the waters of McAffee Creek as heretofore granted under Permit 44544, is issued subject to the terms and conditions imposed in said Permit 44544, and with the understanding that no other rights on the source will be affected by the change proposed herein. A substantial headgate and measuring device must be installed and maintained to facilitate the measurement and control of water. The State reserves the right to regulate the use of the water under this proposed change at any and all times.

This permit does not extend the permittee the right of ingress and egress on public, private or corporate lands.

The issuance of this permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies.

The total acres irrigated on the southern portion of the ranch by Permits 44540, 44548, 44549, 52183, 52184 and 70471 through 70474 shall be limited to 162.5 acres from surface sources, plus 307.3 acres from non-supplemental underground sources, for a total of 469.8 acres irrigated from all sources within the common described place of use.

The total combined duty of underground water on the southern portion of the ranch under Permits 44540, 44548, 44549, 52183 and 52184 shall be limited to 1,536.5 acre-feet annually (AFA) for non-supplemental underground water, plus 423.5 AFA for supplemental underground water, for a maximum total combined duty of underground water of 1,960.0 AFA.

The total combined diversion rate and duty of the well containing Permits 44540, 44548 and 44549 shall be limited to 2.799 CFS and 812.68 AFA, respectively.

The total combined diversion rate and duty of the well containing Permits 52183 and 52184 shall be limited to 2.715 CFS and 1,316.97 AFA, respectively.

Monthly records shall be kept of the amount of water pumped under Permits 44540, 44548, 44549, 52183 and 52184, and the pumping records shall be submitted to the State Engineer on February 15th of each year.

Surface water rights from McAffee Creek under Permits 70471 through 70474, are junior in priority to McAfee Creek and Tributaries Decree, Proof 02733.

(CONTINUED ON PAGE 3)

70473

(PERMIT TERMS CONTINUED)

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, and not to exceed **1.67** cubic feet per second, **but not to exceed 904.1 acre-feet annually, and not to exceed a yearly duty of 5.0 acre-feet per acre of land irrigated from any and/or all sources.**

Work must be prosecuted with reasonable diligence and be completed on or before:
January 12, 2007

Proof of completion of work shall be filed before:
February 12, 2007

Water must be placed to beneficial use on or before:
January 12, 2011

Proof of the application of water to beneficial use shall be filed on or before:
February 12, 2011

Map in support of proof of beneficial use shall be filed on or before:
February 12, 2011

IN TESTIMONY WHEREOF, I, HUGH RICCI, P.E.,

State Engineer of Nevada, have hereunto set

my hand and the seal of my office,

this **12th** day of **January** A.D. **2006**

Hugh Ricci, P.E.

State Engineer

Completion of work filed _____

Proof of beneficial use filed _____

Cultural map filed **N/A**

Certificate No. _____ Issued _____

70473

Attachment "A"

7. Proposed place of Use

All within T.3S., R.35E., M.D.B. & M.:

Section 23: E ½ NE ¼
Section 23: NE ¼ SE ¼
Section 23: portion of the SE ¼ SE ¼ lying east of State Route 264
Section 23: portion of the NW ¼ SE ¼ lying east of State Route 264
Section 23: portion of the SW ¼ SE ¼ lying east of State Route 264
Section 24: W ½ W ½
Section 25: NW ¼
Section 26: portion of the NE ¼ NE ¼ lying east of State Route 26~~0~~4 A 11/12/03
Section 26: portion of the SE¼ NE ¼ lying east of State Route 264

447.15 acres total within the above described place of use

Attachment "B"

8. Existing Place of Use for Permits 44542, 44543, 44544 and 44550

Sec.	Subdivision	Tsp.	Rng.	
14	SW ¼ NE ¼	3S	35E	
14	N ½ SE ¼	3S	35E	
14	SE ¼ SE ¼	3S	35E	
23	E ½ NE ¼	3S	35E	
23	SE ¼	3S	35E	(That portion East of Nevada State Highway 3-A)
24	W ½ NW ¼	3S	35E	
24	SW ¼	3S	35E	
25	NW ¼	3S	35E	
25	N ½ SW ¼	3S	35E	
26	E ½ NE ¼	3S	35E	(That portion East of Nevada State Highway 3-A)
26	NE ¼ SE ¼	3S	35E	(That portion East of Nevada State Highway 3-A)