

IN THE MATTER OF APPLICATIONS 33923,)
33924, 35315, 35316 AND 35317 FILED)
FOR THE WATER OF AN UNDERGROUND)
SOURCE IN THE MARYS RIVER AREA)
ELKO COUNTY, NEVADA)

R U L I N G.

42

GENERAL

Application 33923 was filed on October 3, 1977 by Fay C. and Anne E. Barger to appropriate 4.5 c.f.s. of the waters of an underground source to be diverted within the SW1/4 NE1/4 Section 11, T.39N., R.60E., M.D.B. & M., and to be used for the irrigation of 645 acres within Section 11, T.39N., R.60E., M.D.B. & M.

Application 33924 was filed on October 3, 1977 by Fay C. and Anne E. Barger to appropriate 4.5 c.f.s. of the waters of an underground source to be diverted within the NW1/4 SE1/4 Section 2, T.39N., R.60E., M.D.B. & M., and to be used for the irrigation of 700 acres within the W1/2 W1/2 Section 1 and all of Section 2, T.39N., R.60E., M.D.B. & M.

Application 35315 was filed on April 18, 1978 by Fay C. and Anne E. Barger to appropriate 8.0 c.f.s. of the waters of an underground source to be diverted within the SW1/4 NW1/4 Section 35, T.40N., R.60E., M.D.B. & M.; and to be used for the irrigation of 5200 acres within Sections 25, 34, 35, 36, E1/2 E1/2, W1/2 SE1/4 Section 26, T.40N., R.60E., W1/2 Section 30, T.40N., R.61E., Sections 2, 3, 11, W1/2 W1/2 Section 1, T.39N., R.60E., M.D.B. & M.

Application 35316 was filed on April 18, 1978 by Fay C. and Anne E. Barger to appropriate 8.0 c.f.s. of the waters of an underground source to be diverted within the NW1/4 SW1/4 Section 36, T.40N., R.60E., M.D.B. & M., and to be used for the irrigation of 5200 acres within Sections 25, 34, 35, 36, E1/2 E1/2, W1/2 SE1/4 Section 26, T.40N., R.60E., W1/2 Section 30, T.40N., R.61E., Sections 2, 3, 11, W1/2 W1/2 Section 1, T.39N., R.60E., M.D.B. & M.

Application 35317 was filed on April 18, 1978 by Fay C. and Anne E. Barger to appropriate 8.0 c.f.s. of the waters of an underground source to be diverted within the NW1/4 SW1/4 Section 36, T.40N., R.60E., M.D.B. & M., and to be used for the irrigation of 5200 acres within Sections 25, 34, 35, 36, E1/2 E1/2, W1/2 SE1/4 Section 26, T.40N., R.60E., W1/2 Section 30, T.40N., R.61E., Sections 2, 3, 11, W1/2 W1/2 Section 1, T.39N., R.60E., M.D.B. & M.

No protests were filed against the granting of Applications 33923 and 33924, however Applications 35315, 35316 and 35317 were protested on August 14, 1978 by Marys River Ranch.

A Field Investigation in the matter of these applications was made on December 13, 1978.

In 1966 Water Resource Bulletin No. 32, "Hydrologic Reconnaissance of the Humboldt River Basin, Nevada" by Thomas E. Eakin and Robert W. Lamke was prepared cooperatively by Nevada Department of Conservation and Natural Resources and the U. S. Department of Interior, Geological Survey.

In 1968 Water Resources - Reconnaissance Series Report 47, "Water Resources Appraisal of Thousand Springs Valley, Elko County, Nevada" by F. Eugene Rush was prepared cooperatively by Nevada Department of Conservation and Natural Resources, Division of Water Resources and U. S. Department of Interior, Geological Survey.

In 1968 Water Resources - Reconnaissance Series Report 48, "Water Resources Appraisal of Thousand Springs Valley, Elko County, Nevada" by F. Eugene Rush was prepared cooperatively by Nevada Department of Conservation and Natural Resources and U. S. Department of Interior, Geological Survey.

In 1971 Water Planning Report, "Hydrologic Atlas - Map S-3 Average Annual Precipitation" was prepared by the Division of Water Resources.

These reports are available in the office of the State Engineer.

Appendix "A" "Estimated Average Annual Precipitation for Tabor and Pole Creeks Watershed at the Marys River Area of the Humboldt River Basin" is attached to this Ruling.

FINDINGS OF FACT

I

The source of water to be used to reclaim lands under Applications 33923, 33924, 35315, 35316 and 35317 is water from an underground source within the Tabor and Pole Creeks watershed of the Marys River area of the Humboldt River Basin. 1/

II

Precipitation within the Humboldt River Basin provides virtually all of the water that enters the ground water system. 2/ Estimated recharge from precipitation to Tabor and Pole Creeks watershed is 2,900 acre-feet. 3/

III

Applications 33923, 33924, 35315, 35316 and 35317 propose to irrigate 5,200 acres of land and if granted, would put a demand of 3.0 acre-feet per acre 4/ of land irrigated or a total of 15,600 acre-feet on the ground water reservoir.

CONCLUSIONS

1. The State Engineer has jurisdiction under NRS 534.020. 5/
2. The State Engineer is prohibited by law from granting a permit where:
 - A. There is no unappropriated water at the source, or
 - B. The proposed use conflicts with existing rights, or
 - C. The proposed use threatens to prove detrimental to the public welfare. 6/
3. If the subject applications were approved and the land irrigated, they would result in consumptive use by farm land irrigation. The withdrawals and consumption would remove water from the ground water reservoir far in excess of the estimated recharge. This would result in depletion of the ground water reservoir, substantial water level declines and interference with the regimen of Tabor and Pole Creeks. The withdrawals and consumption of underground water in the amount requested would, therefore, conflict with existing rights on Tabor and Pole Creeks and the Humboldt River System and threaten to prove detrimental to the public welfare.
4. There is unappropriated groundwater in the Tabor and Pole Creek watershed but not in the amount sought to be appropriated.

RULING

1. Application 33923 will be granted for the diversion of 4.5 c.f.s. to be used for the irrigation of 520 acres of land within Section 11, T.39N., R.60E., M.D.B. & M.
2. Application 33924 will be granted for 4.5 c.f.s. to be used for the irrigation of 520 acres of land within W1/2 W1/2 Section 1 and Section 2, T.39N., R.60E., M.D.B. & M.
3. Applications 35315, 35316 and 35317 will be granted for 6.0 c.f.s., each to be used for the irrigation of 1,560 acres of original water land and 1,040 acres as supplemental to Applications 33923 and 33924 within N1/2, SW1/4, W1/2 SE1/4 Section 25, E1/2 SE1/4 Section 26, E1/2 Section 34, Section 35, NW1/4 Section 36, T.40N., R.60E., M.D.B. & M., W1/2 W1/2 Section 1 and Sections 2 and 11, NE1/4 Section 3, T.39N., R.60E., M.D.B. & M.

4. The applications will be granted further subject to the following terms and conditions:
- a. No perforations of the casing shall be within 100 feet of ground surface. Any well not so constructed shall be modified to meet this condition.
 - b. The wells shall be equipped with a 2-inch opening for measuring depth to water.
 - c. A substantial measuring device shall be installed and measurement of water kept and submitted to this office prior to the first of each calendar year.
 - d. The state retains the right to regulate the use of the water herein granted at any and all times.

Respectfully submitted,



William J. Newman
State Engineer

WJN/TS/bc

Dated this 3rd day
of August, 1979.

APPENDIX "A"

ESTIMATED AVERAGE ANNUAL PRECIPITATION FOR
 TABOR AND POLE CREEKS WATERSHED OF THE MARYS RIVER
 AREA OF THE HUMBOLDT RIVER BASIN

PRECIPITATION ZONE (feet)	AREA (acres)	ESTIMATED PRECIPITATION			ESTIMATED RECHARGE	
		RANGE (inches)	AVERAGE (feet)	AVERAGE (acre-feet)	Percentage of Precipitation	Acre-Feet
78,000	4,600	16	1.3	6,000	15	900
7,000-8,000	15,400	12-16	1.2	18,500	7	1,300
6,000-7,000	30,000	8-12	.8	24,000	3	720
6,000	95,000	8	.5	47,500	-	minor
	<u>145,000</u>			<u>96,000</u>		<u>2,900</u>

FOOTNOTES

1. Public Records in the Office of the State Engineer.
2. Water Resources Bulletin No. 32, page 31.
3. Appendix "A".
4. NRS 533.070, subsection 2 and Humboldt River Adjudication.
5. NRS 534.020.
6. NRS 533.370, subsection 4.