

IN THE MATTER OF APPLICATIONS)
36608, 36609, 36610 AND 36930 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF)
AN UNDERGROUND SOURCE WITHIN THE)
SALMON FALLS CREEK GROUND WATER)
BASIN IN ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 36608¹ was filed on February 2, 1979, by Eyla Glee Boies to appropriate 6.0 c.f.s. of water from an underground source for irrigation purposes on 303 acres of land within the S1/2 Lot 2, Lot 3, S1/2 SW1/4 NW1/4, N1/2 SW1/4 Section 24; SE1/4 NE1/4, NE1/4 SE1/4, NW1/4 SE1/4 Section 23, all in T.43N., R.62E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 23, T.43N., R.62E., M.D.B.&M.

Application 36609¹ was filed on February 2, 1979, by Steven Boies to appropriate 6.0 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E1/2 SW1/4 SE1/4 Section 23; W1/2 SW1/4 NW1/4, W1/2 NW1/4 SW1/4, SW1/4 SW1/4 Section 24; NW1/4 NW1/4, W1/2 SW1/4 Section 25; NE1/4 NE1/4 Section 26; NW1/4 NW1/4, N1/2 SW1/4 NW1/4 Section 36, all in T.43N., R.62E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 26, T.43N., R.63E., M.D.B.&M.

Application 36610¹ was filed on February 2, 1979, by Steven Boies to appropriate 6.0 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E1/2 SW1/4 SE1/4 Section 23; W1/2 SW1/4 NW1/4, W1/2 NW1/4 SW1/4, SW1/4 SW1/4 Section 24; NW1/4 NW1/4, W1/2 SW1/4 Section 25; NE1/4 NE1/4 Section 26; NW1/4 NW1/4, N1/2 SW1/4 NW1/4 Section 36, all in T.43N., R.62E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 36, T.43N., R.63E., M.D.B.&M.

Application 36930¹ was filed on March 12, 1979, by Nina Hollifield to appropriate 6.0 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the SE1/4 NW1/4, E1/2 SW1/4 Section 36, T.43N., R.63E., M.D.B.&M., and the E1/2 W1/2, W1/2 W1/2 NE1/4 Section 1, T.42N., R.63E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 1, T.42N., R.63E., M.D.B.&M.

¹ Public record in the office of the State Engineer under Applications 36608, 36609, 36610 and 36930.

FINDINGS OF FACT

I.

A timely protest¹ to the granting of Applications 36608, 36609, 36610 and 36930 was filed by the Salmon River Canal Co. Ltd. The grounds of the protest are as follows:

"The underground waters in the Salmon Falls Creek Drainage are tributary to the stream waters which ultimately reach this protestant and those stream waters are fully appropriated. The Application would cause the loss of water supplies which have been adjudicated to the protestant."

A timely protest¹ to the granting of Application 36930 was filed by the Bureau of Land Management. The grounds of the protest are as follows:

"That the subject lands are vacant public lands, and that the applicant has no authorization or right to use or convey the applied for waters on or across such lands."

II.

Salmon Falls Creek Area Ground Water Basin was described and designated² by the State Engineer on February 15, 1980, as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.

On February 15, 1980 by Order³ of the State Engineer and under the authority of NRS 534.120, subsection 2, it was declared that the irrigation of additional lands using underground water was not considered to be a preferred use of the limited underground water resource within the Salmon Falls Creek Ground Water Basin.

III.

Records and information⁴ available to the State Engineer indicate that Applications 36608, 36609, 36610 and 36930 were filed in support of Desert Land Entry applications.

² Public record in the office of the State Engineer - Order No. 736.

³ Public records in the office of the State Engineer - Order No. 737.

⁴ Public records in the office of the State Engineer under Applications to Appropriate 36608, 36609, 36610 and 36930.

IV.

The State of Nevada was granted leave to intervene in the legal action between certain land owners and the Salmon River Canal Co.⁵

It was the desire of the parties, by a stipulation and agreement, to reach a settlement and disposition of the litigation. A stated agreement and stipulation was signed the 28th day of December, 1979 by all parties to the litigation described.⁶

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁷

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.⁸

III.

Use of water for irrigation purposes is a non-preferred use in the designated Salmon Falls Creek Ground Water Basin.

In the interest of the public welfare, the State Engineer has declared irrigation as a non-preferred use of the limited water resource.

⁵ Salmon River Canal Co. Ltd v. Bell Brand Ranch Inc., et al,
Civil R-2523 BRT.

⁶ Public record in the office of the State Engineer.

⁷ NRS 533.025 and NRS 533.030, subsection 1.

⁸ NRS 533.370, subsection 4.

RULING

Applications 36608, 36609, 36610 and 36930 are herewith denied on the following grounds:

1. Irrigation is not a preferred use within the Salmon Falls Creek Ground Water Basin.
2. The proposed use would not be in the best interest of the orderly management of the limited resource within the ground water basin and, therefore, would be detrimental to the public welfare.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/GB/bl

Dated this 8th day of
MAY, 1984.