

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 48365)
AND 48502 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE RAILROAD VALLEY)
(NORTHERN PARTY) GROUND WATER BASIN)
IN NYE COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 48365 was filed on September 6, 1984, by Leonard F. Lisslow to change the point of diversion and place of use of 5.4 c.f.s. of water, a portion of water heretofore applied for under Application 31435. The proposed use is for irrigation and domestic purposes within the S $\frac{1}{2}$ Section 13, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, T.5N., R.54E., M.D.B.&M. The existing point of diversion is described as being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, T.4N., R.55E., M.D.B.&M.¹

Application 48502 was filed on October 19, 1984, by Ila A. Larson to change the point of diversion and place of use of 5.4 c.f.s. of water, a portion of water heretofore applied for under Application 31438. The proposed use is for irrigation and domestic purposes within the NE $\frac{1}{4}$ Section 31 and NW $\frac{1}{4}$ Section 32, T.4N., R.53E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, T.4N., R.53E., M.D.B.&M. The existing point of diversion is described as being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T.4N., R.54E., M.D.B.&M.¹

II.

A timely protest was filed to the granting of Applications 48365 and 48502 by Roger Hockersmith. The grounds of the protest are as follows:²

On or about November 11, 1983, Roger Hockersmith entered into an agreement with the agent of several water applicants to

¹ Public record in the office of the State Engineer.

² Public record in the office of the State Engineer filed under Applications 48365 and 48502.

purchase their water applications. Said applications included the underlying applications from whence the herein protested application originated. (Application Nos. 31, 424 through 31, 438, excluding 31, 428 and 31, 432).

Hockersmith thereafter was joined by a third party who was to assist in the financing and development of a project conceived by Hockersmith and involving said water applications. Said third party executed a non-disclosure agreement whereby it agreed not to use any proprietary information accumulated by Hockersmith and utilized by him in the creation of the project.

Notwithstanding said non-disclosure agreement, said third party, under the guise of an amendment of said agreement of November 11, 1983, named itself as the purchaser of said water applications; acquired quitclaim deeds for said water applications from the aforesaid agent; and usurped and put into operation Hockersmith's said project for the sole use and benefit of said third party.

Hockersmith is informed and believes and therefore alleges that the above named applicant is not a bona-fide purchaser for value and that he, Hockersmith, is the true owner of the protested application.

Hockersmith is contemplating an action to determine ownership and respectfully requests that the State Engineer take no action on the above named application for change of point of diversion and place of use until the true owner of said water application is determined.

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications 48365 and 48502 were filed in support of Desert Land Entry applications.²

II.

By letter dated April 25, 1990, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry applications had been closed and the case files are dead.²

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-41320	Lenoard F. Lissolo	T.5N., R.54E., Sec. 13, S $\frac{1}{2}$
N-40993	Ila A. Larson	T.4N., R.53E., Sec. 31, NE $\frac{1}{4}$ T.4N., R.53E., Sec. 32, NW $\frac{1}{4}$

III.

The applicants under Applications 48365 and 48502 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.³

II.

Applications 48365 and 48502 were filed in support of Desert Land Entries. The Desert Land Entry applications described under II of Findings have been closed on the records of the Bureau of Land Management, therefore, the applicants do not own or control the land described under the place of use of the applications and cannot demonstrate the ability to place the water to beneficial use.

III.

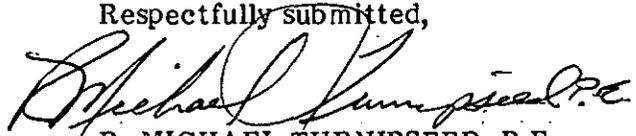
To grant applications to appropriate the public water for irrigation on lands the applicant does not own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare.

³ NRS Chapters 533 and 534.

RULING

Applications 48365 and 48502 are herewith denied on the grounds that to grant the applications for irrigation purposes on lands that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare. No ruling is made on the protest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SW/bk

Dated this 16th day of

May, 1990.