

IN THE MATTER OF APPLICATIONS 35945, 35946,)
AND 35947 FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF WATER HERE-)
TOFORE APPROPRIATED IN THE IMLAY AREA,)
PERSHING COUNTY, NEVADA.)

R U L I N G

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INTRODUCTION

Applications 35945, 35946, and 35947 were filed to change the point of diversion and place of use of water heretofore appropriated for irrigation and domestic purposes in the Imlay Area of the Humboldt River Basin.

FINDINGS OF FACT

US
↓
Application 35945 was filed October 2, 1978, by Allen E. Ross to change the point of diversion and place of use of 3.0 c.f.s. of Permit 29101 for irrigation and domestic purposes. The new point of diversion under Application 35945 is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, T.34N., R.35E., M.D.B. & M. The new place of use is 180 acres within the SW $\frac{1}{4}$ of Section 24, and a portion of the S $\frac{1}{2}$ of Section 23, T.34N., R.35E., M.D.B. & M. The old point of diversion under Permit 29101 is within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T.32N., R.35E., M.D.B. & M.

Application 35946 was filed October 2, 1978, by Allen E. Ross to change the point of diversion and place of use of 2.4 c.f.s. of Permit 29082 for irrigation and domestic purposes. The new point of diversion under Application 35946 is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, T.34N., R.35E., M.D.B. & M. The place of use is 124 acres in the NW $\frac{1}{4}$ of Section 24 and portions of the NE $\frac{1}{4}$ of Section 23, T.34N., R.35E., M.D.B. & M. The old point of diversion under Permit 29082 is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, T.33N., R.35E., M.D.B. & M.

Application 35947 was filed October 2, 1978, by Allen E. Ross to change the point of diversion and place of use of 3.0 c.f.s. of Permit 30801 for irrigation and domestic purposes. The new point of diversion under Application 35947 is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25, T.34N., R.35E., M.D.B. & M. The place of use is 249 acres in the NW $\frac{1}{4}$ of Section 25 and a portion of the N $\frac{1}{2}$ of Section 26, T.34N., R.35E., M.D.B. & M. The old point of diversion under Permit 30801 is within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, T.33N., R.35E., M.D.B. & M.

Applications 28489, 28490, and 28491 were denied on February 18, 1976. The points of diversion under these applications were within the same 40-acre subdivisions as the proposed points of diversion under Applications 35946, 35945, and 35947. A copy of the ruling denying 28489, 28490, and 28491 is attached. 1/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 2/

II

The State Engineer is prohibited by law from granting a permit where:

1. There is no unappropriated water at the proposed source, or
2. The proposed use or change conflicts with existing rights, or
3. The proposed use or change threatens to prove detrimental to the public interest. 3/

III

Applications 35945, 35946, and 35946 propose to appropriate underground water from the same area where previous applications for irrigation ground water have been denied because the granting of additional rights within this area of concentration would be detrimental to the orderly development of the ground water basin and tend to impair the value of existing rights.

IV

Applications 35945, 35946, and 35947 propose to move the points of diversion approximately 10, 7, and 5 miles, respectively, into the concentrated area near Cosgrave where the State Engineer has previously ruled that 640 acres would be the maximum acreage allowed irrigation water rights.

RULING

Applications 35945, 35946, and 35947 are denied on the grounds that the granting of additional rights within this area of concentration would be detrimental to the orderly development of the ground water basin, tend to impair the value of existing water rights, and be detrimental to the public welfare.

Respectfully submitted,



William J. Newman
State Engineer

WJN/RWP/jm

Dated this 8th day

of OCTOBER, 1979.

FOOTNOTES

1. Public records located within the office of the State Engineer.
2. NRS 533.025 and 533.030, subsection 1.
3. NRS 533.370, subsection 4.

IN THE MATTER OF APPLICATIONS 28485)
THROUGH 28496, INCLUSIVE FILED BY)
MINLOVE, INC. TO APPROPRIATE WATER)
FROM AN UNDERGROUND SOURCE IN THE)
IMLAY AREA, PERSHING COUNTY, NEVADA.)

R U L I N G

GENERAL:

Applications 28485 through 28496 were filed on July 8, 1974 by Minlove, Inc. to appropriate water for irrigation purposes from an underground source in the Imlay area in Pershing County.

The point of diversion under Application 28485 is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, T.34N., R.35E., MDM and the application is for 2.7 cfs to irrigate 160 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ of said Section 12.

The point of diversion under Application 28486 is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 12 and the Application is for 2.7 cfs to irrigate 160 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of said Section 12.

The point of diversion under Application 28487 is within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13, T.34N., R.35E., MDM. and the application is for 3.7 cfs to irrigate 220 acres within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 13.

The point of diversion under Application 28488 is within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 13 and the Application is for 3.7 cfs to irrigate 220 acres within the SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ of said Section 13.

The point of diversion under Application 28489 is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, T.34N., R.35E., MDM and the Application is for 3.7 cfs to irrigate 220 acres within the NW $\frac{1}{4}$ Section 24, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, T.34N., R.35E., MDM.

The point of diversion under Application 28490 is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 24 and the Application is for 4.7 cfs to irrigate 280 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 24, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23, T.34N., R.35E., MDM.

The point of diversion under Application 28491 is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25, T.34N., R.35E., MDM and the Application is for 3.7 cfs to irrigate 320 acres within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 25, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 26, T.34N., R.35E., MDM.

The point of diversion under Application 28492 is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 25 and the Application is for 6.0 cfs to irrigate 360 acres within the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 25, S $\frac{1}{2}$ Section 26, T.34N., R.35E., MDM.

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The point of diversion under Application 28493 is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 25 and the Application is for 2.7 cfs to irrigate 160 acres within the NE $\frac{1}{4}$ said Section 25.

The point of diversion under Application 28494 is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 25 and the Application is for 4.0 cfs to irrigate 240 acres within the S $\frac{1}{2}$ said Section 25.

The point of diversion under Application 28495 is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T.34N., R.35E., MDM and the Application is for 5.4 cfs to irrigate 320 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 34, N $\frac{1}{2}$ Section 35, T.34N., R.35E., MDM.

The point of diversion under Application 28496 is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 35 and the Application is for 4.2 cfs to irrigate 250 acres within the S $\frac{1}{2}$ Section 35, E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 34, T.34N., R.35E., MDM.

Applications 28485 through 28496 were protested on September 17, 1974 by the Pershing County Water Conservation District on the grounds that; "The appropriation is being made from an underground source and will impair and injure existing rights of water users appropriating water from the Humboldt Stream System."

A hearing in the matter of the above applications was held on September 3, 1975 in Lovelock, Nevada. The transcript of this hearing is available in the office of the State Engineer.

In response to an indication from the State Engineer that 640 acres was the maximum acreage that could be allowed water rights under the subject applications, the applicant submitted information requesting permits be granted for 640 acres within the following described lands:

E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 26, W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 35, T.34N., R.35E., MDM.

RULING:

Protests to Applications 28492, 28495 and 28496 are hereby overruled and permits will be issued upon receipt of permit fees and made subject to existing prior rights and with the following conditions:

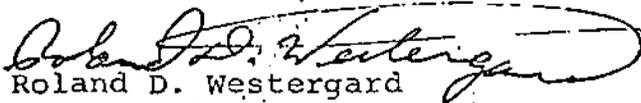
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1. The duty of water is limited to 3.0 acre feet per acre per year of land irrigated from all sources.
2. The place of use under Permits 28492, 28495 and 28496 is limited to a total of 640 acres on the following lands:

E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 26, W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 35, T.34N., R.35E., MDM.

Applications 28485 through 28491, inclusive, and 28493 and 28494 are hereby denied on the grounds that the granting of additional rights within this area of concentration would be detrimental to the orderly development of the ground water basin and tend to impair the value of existing water rights.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:JLC:sk

Dated this 18th day
of February, 1976.