

IN THE MATTER OF APPLICATIONS)
36913, 37446 AND 37447 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
AN UNDERGROUND SOURCE WITHIN THE)
LAMOILLE VALLEY GROUND WATER BASIN)
IN ELKO COUNTY, NEVADA.)
)
)
)

RULING

GENERAL

Application 36913¹ was filed on March 8, 1979, by Jack L. Boyd to appropriate 4.8 c.f.s. of water from an underground source to irrigate 283.0 acres of land within Lot 1 NE1/4, S1/2 NE1/4, N1/2 SE1/4, SE1/4 SW1/4 and SW1/4 SE1/4 Section 5, T.34N., R.58E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 5, T.34N., R.58E., M.D.B.&M.

Application 37446¹ was filed on March 30, 1979, by Sydney M. Smith to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 6, T.34N., R.58E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 6, T.34N., R.58E., M.D.B.&M.

Application 37447¹ was filed on March 30, 1979, by Merle S. Smith to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 6, T.34N., R.58E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 6, T.34N., R.58E., M.D.B.&M.

FINDINGS

I.

A timely protest ² was filed to the granting of Applications 37446 and 37447 by Boyd Ranch on May 15, 1980. The grounds of the protest are as follows:

"The Protestants own and operate a livestock ranch, and own lands with water rights from the Humboldt River stream system that are appurtenant to said lands and are essential to the operation and survival of the ranch. The Protestants also claim a vested right to water livestock from snowmelt runoff and springflow in Long Canyon. Since the groundwater bodies are natural storage reservoirs receiving their supply from

¹ Public record in the office of the State Engineer under applications to appropriate 36913, 37446 and 37447.

² Public record in the office of the State Engineer under applications to appropriate 36913, 37446 and 37447.

precipitation by percolation from the ground surface and discharging through natural outlets to the stream system, the granting of this application and the resulting groundwater withdrawals for irrigation would infringe upon, reduce, and impair the value of the existing water rights of the Protestants."

II.

Records and information³ available to the State Engineer indicate that Applications 36913, 37446 and 37447 were filed in support of Desert Land Entry applications.

III.

By letter⁴ dated May 21, 1984, 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.

| <u>BLM ENTRY NO.</u> | <u>NAME</u> | <u>LAND DESCRIPTION</u> |
|----------------------|-----------------|-------------------------|
| N-22829 | Jack L. Boyd | T.34N., R.58E., Sec. 5 |
| N-23268 | Sydney M. Smith | T.34N., R.58E., Sec. 6 |
| N-23269 | Merle S. Smith | T.34N., R.58E., Sec. 6 |

IV.

The applicants under Applications 36913, 37446 and 37447 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁵ over the matter described herein.

II.

Applications 36913, 37446 and 37447 were filed in support of Desert Land Entries. The Desert Land Entry applications described under III of Findings have been closed on the records

³ Public record in the office of the State Engineer under applications to appropriate 36913, 37446 and 37447.

⁴ Public record in the office of the State Engineer under applications to appropriate 36913, 37446 and 37447.

⁵ NRS Chapters 533 and 534.

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 waters 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.

RULING

Applications 36913, 37446 and 37447 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.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/BD/bl

Dated this 15th day of
JUNE, 1984.