

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS)
45024, 45025, 45096, 45109, 45110,)
45112, 45208, 46007, 46008, 46009,)
46122, 46123, 46124, 46125, 46126,)
48381 AND 48383 FILED TO APPROPRI-)
ATE THE WATERS OF AN UNDERGROUND)
SOURCE IN HONEY LAKE VALLEY, WASHOE)
COUNTY, NEVADA)

RULING

GENERAL

I

Application 45024 was filed November 6, 1981, by Clemens M. and/or Patricia Hodges to appropriate 2.7 c.f.s. of water from an underground source for irrigation and domestic purposes on 80 acres of land within the S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 10, T.26N., R.19E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T.26N., R.19E., M.D.B.&M.¹

Application 45025 was filed November 6, 1981 by Clemens M. and/or Patricia Hodges to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 400 acres of land within the NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and the E $\frac{1}{2}$ NW $\frac{1}{4}$, all in Section 29; S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 20, within T.26N., R.19E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29, T.26N., R.19E., M.D.B.&M.¹

Application 45096 was filed December 1, 1981 by Lolita L. Ferrel to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres of land within the N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 27; NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, all within T.26N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27, T.26N., R.18E., M.D.B.&M.¹

Application 45109 was filed December 8, 1981 by Flanigan Land and Development Company to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 410 acres of land within portions of the NW $\frac{1}{4}$ Section 21; NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, T.27N., R.18E., M.D.B.&M.¹

¹Public record in the office of the State Engineer.

Application 45110 was filed December 8, 1981 by Flanigan Land and Development Company to appropriate 4.7 c.f.s. of water from an underground source for irrigation and domestic purposes on 285 acres of land within portions of the NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 29; S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, all in T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29, T.27N., R.18E., M.D.B.&M.¹

Application 45112 was filed December 8, 1981 by Flanigan Land and Development Company to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 380 acres of land within portions of the SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 28; SW $\frac{1}{4}$ Section 27; NE $\frac{1}{4}$ Section 33; NW $\frac{1}{4}$ Section 34, all in T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, T.27N., R.18E., M.D.B.&M.¹

Application 45208 was filed January 13, 1982 by Claude R. Snead, Edna Loretta Snead, Josephine M. Snead, Alberta Jane Dobson and Colene M. Hammond to appropriate 5.4 c.f.s. of water from an underground source for irrigation and domestic purposes on 578.61 acres of land within portions of the S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and Lot 7 Section 5; Lots 1, 2, 3 and 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8; Lot 1, Section 17, all in T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5, T.27N., R.18E., M.D.B.&M.¹

Application 46007 was filed August 8, 1982 by John Cobb to appropriate 2.77 c.f.s. of water from an underground source for irrigation purposes on 164 acres of land within the NW $\frac{1}{4}$ Section 23, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T.27N., R.18E., M.D.B.&M.¹

Application 46008 was filed August 9, 1982 by John Cobb to appropriate 5.54 c.f.s. of water from an underground source for irrigation purposes on 328 acres of land within the E $\frac{1}{2}$ Section 23, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23, T.27N., R.18E., M.D.B.&M.¹

Application 46009 was filed August 9, 1982 by John Cobb to appropriate 5.47 c.f.s. of water from an underground source for irrigation purposes on 324 acres of land within the N $\frac{1}{2}$ Section 35, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T.27N., R.18E., M.D.B.&M.¹

Application 46122 was filed September 8, 1982 by International Resources to appropriate 2.72 c.f.s. of water from an underground source for irrigation purposes on 161 acres of land within the NW $\frac{1}{4}$ Section 27, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27, T.27N., R.18E., M.D.B.&M.¹

Application 46123 was filed September 8, 1982 by International Resources to appropriate 4.08 c.f.s. of water from an underground source for irrigation purposes on 245 acres of land within the N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, T.27N., R.18E., M.D.B.&M.¹

Application 46124 was filed September 8, 1982 by International Resources to appropriate 6.4 c.f.s. of water from an underground source for irrigation purposes on 374 acres of land within the S $\frac{1}{2}$ Section 35; S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 36, all in T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, T.27N., R.18E., M.D.B.&M.¹

Application 46125 was filed September 8, 1982 by International Resources to appropriate 5.48 c.f.s. of water from an underground source for irrigation purposes on 325 acres of land within the W $\frac{1}{2}$ Section 25, T.27N., R.18E., M.D.B.&M. The point of diversion is described as being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25, T.27N., R.18E., M.D.B.&M.¹

Application 46126 was filed September 8, 1982 by International Resources to appropriate 2.7 c.f.s. of water from an underground source for irrigation purposes on 160 acres of land within the NE $\frac{1}{4}$ Section 10, T.26N., R.19E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T.26N., R.18E., M.D.B.&M.¹

Application 48381 was filed September 10, 1984 by Fish Springs Ranch Ltd., to change the point of diversion and place of use of a portion of water heretofore appropriated under Permit 29344.¹

The application proposes to divert 5.0 c.f.s. of ground water for irrigation and domestic purposes on 592.47 acres of land located within the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25, T.26N., R.18E., M.D.B.&M.; W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 29; S $\frac{1}{2}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30; NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, all in T.26N., R.19E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T.26N., R.19E., M.D.B.&M.¹

Application 48383 was filed September 10, 1984 by Fish Springs Ranch, Ltd., to change the point of diversion, manner and place of use of water heretofore appropriated under Permit 17397.¹

The application proposes to divert 3.0 c.f.s. of ground water for irrigation and domestic purposes on 592.47 acres of land located within the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25, T.26N., R.18E., M.D.B.&M.; W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 29; S $\frac{1}{2}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30; NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, all in T.26N., R.19E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 29, T.26N., R.19E., M.D.B.&M.¹

II

Applications 45024, 45025, 45096, 45109, 45110, 45112, 45208, 46007, 46008, 46009, 46122, 46123, 46124, 46125 and 46126 were timely protested² by the County of Lassen on the following grounds:

"1. The proposed point of diversion is located approximately (45024) 8.4 miles; (45025) 6.6 miles; (45096) 2.9 miles; (45109) 2.0 miles; (45110) 1.2 miles; (45112) 2.8 miles; (45208) 1.15 miles; (46007) 3.3 miles; (46008) 3.7 miles; (46009) 3.5 miles; (46122) 2.3 miles; (46123) 2.5 miles; (46124) 3.5 miles; (46125) 4.3 miles; (46126) 2.8 miles from the Nevada/California (Lassen County) border. 2. Granting of this permit will increase draft within the Nevada portion of Honey Lake Valley. 3. Existing ground water movement is from California to Nevada. 4. Increased draft within the Nevada portion of Honey Lake Valley will, in all probability, increase the hydraulic gradient in favor of the Nevada portion. 5. Flows will be induced from California to Nevada by increased gradient, thereby reducing ground water level which would have the effect of impairing existing rights located within California."

Application 48381 was timely protested³ by Patricia Hodges on November 14, 1984, on the following grounds:

"1. Acres applied for are in excess of acres on which old permits are to be transferred. 2. Area of transfer under Permit #17397 have not be [sic] irrigated by the underground source Well #48212 for in excess of 5 years."

Application 48383 was timely protested³ by Patricia Hodges on November 14, 1984, on the following grounds:

"1. Acres applied for are in excess of acres on which old permits are to be transferred. 2. Acre of transfer under Permit #17397 have not been irrigated by the underground source well #48212 for an excess of 5 years."

III

Application 46007, 46008 and 46009 were assigned from John Cobb to International Resources on September 23, 1982.⁴

²Public record in the office of the State Engineer.

³Public record in the office of the State Engineer.

⁴Public record in the office of the State Engineer.

FINDINGS OF FACT

I

A Portion of Application 45025, and Applications 45096, 45109, 45110, 45112 and 45208 were filed in support of Desert Land Entries.⁵

II

Applications 47056 and 47057 were filed to change the point of diversion and place of use of Applications 45112 and 45208.⁵

III

The Bureau of Land Management has allowed entry to the land within the place of use described under Applications 45096, 47056 and 47057 and disallowed entry to those public lands described under the place of use of Applications 45025, 45109 and 45110.⁵

IV

By an Order dated January 15, 1985, the State Engineer designated and described the Honey Lake Valley Ground Water Basin under the provisions of NRS 534 as a basin in need of additional administration.⁶

V

A public hearing in the matter of the protested applications to appropriate water from Honey Lake Valley Ground Water Basin was held on January 10, 1985⁷.

The protestant, County of Lassen, was notified by certified mail of the hearing at which time evidence and/or testimony was to be presented to support their respective protests. No designated representative from the County of Lassen was present in support of the protests.⁷

The protestant, Patricia Hodges, was present in regard to Applications 48381 and 48383.⁷

⁴Public record in the office of the State Engineer.

⁵Public record in the office of the State Engineer.

⁶State Engineer's Order No. 849.

⁷Public hearing transcript of hearing dated January 10, 1985.

Although extensive testimony was presented at the hearing, there was no substantial evidence presented that would support a finding that there was not sufficient ground water available to supply the proposed uses without creating an adverse effect on prior existing water rights.⁸

VI

Application 48381 that was protested by Patricia Hodges should have been Application 48382, which changed the point of diversion and place of use of Permit 15578, Certificate 4602. Patricia Hodges' testimony was allowed on both Permits 17397, Certificate 4790, and 15578, Certificate 4602, which are being changed by Applications 48381 and 48382.⁹

The applicant and representative for Applications 48381, 48382 and 48383 presented testimony and evidence in support of their Application to change⁹.

CONCLUSIONS

I

The state Engineer has jurisdiction of the parties and the subject matter of this action¹⁰.

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.¹¹

III

The applicant under a portion of Application 45025 and Applications 45109 and 45110 does not own or control the land on which they propose to place the water to beneficial use.¹²

⁸Public hearing transcript of hearing dated January 10, 1985.

⁹Public hearing transcript of hearing dated January 10, 1985.

¹⁰NRS 533.325.

¹¹NRS 533.370, subsection 3.

¹²Public record in the office of the State Engineer filed under Applications 45025, 45109 and 45110.

IV

Lassen County representatives did not appear at the hearing or notify the State Engineer that they could not appear, therefore, did not demonstrate a continuing interest in pursuing their protests.¹³

V

There was no evidence presented at the public hearing of January 10, 1985, before the State Engineer, to support any non-use of water under Permits 15578, Certificate 4602 and Permit 17397, Certificate 4790.¹⁴

RULING

That portion of the place of use under Application 45025 which is public land and Applications 45109 and 45110 are denied on the grounds that the applicants do not own or control the land.

The protest to the granting of Application 45024 and that portion of Application 45025 which is private land and Applications 45096, 45112, 45208, 46007, 46008, 46009, 46122, 46123, 46124, 46125 and 46126 are herewith overruled on the grounds that there is unappropriated water in the source and that the proposed use would not conflict with existing rights and that proposed use would not be detrimental to the public welfare.

The protest to the granting of Applications 48381 and 48383 are herewith overruled on the grounds that there is no evidence of expansion of acreage or the non-use of water under Permits 15578, 17399 and 29344.

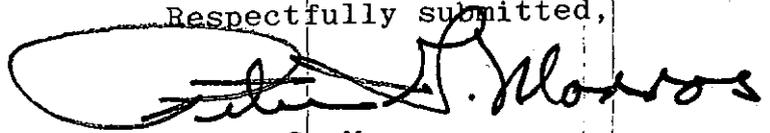
¹³Public hearing transcript of hearing dated January 10, 1985.

¹⁴Public hearing transcript of hearing dated January 10, 1985.

Ruling
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Permits will be issued on all the above listed approved applications upon receipt of the statutory permit fees and completion of chain of title on ownership.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/BD/bc

Dated this 28th day of
FEBRUARY, 1985.