

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 43129,)
44417 AND 44418 FILED TO APPROPRIATE)
THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN THE PINE)
VALLEY GROUND WATER BASIN IN EUREKA)
COUNTY, NEVADA.)

RULING

GENERAL

Application 43129 was filed on January 23, 1981, by Marolyn J. Siddoway to appropriate 5.8 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 18, T.24N., R.50E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 18, T.24N., R.50E., M.D.B.&M.¹

Application 44417 was filed on September 11, 1981, by Richard K. Silva to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 NE1/4, NW1/4, N1/2 SW1/4 Section 32, T.28N., R.52E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 32, T.28N., R.52E., M.D.B.&M.¹

Application 44418 was filed on September 11, 1981, by Morgan Johnson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 31, T.28N., R.52E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 31, T.28N., R.52E., M.D.B.&M.¹

A timely protest was filed to the granting of Application 43129 by Frank Paxton. The grounds of the protest are as follows:²

"Numerous streams, wells and springs surrounding this applicant provide irrigation and stock water for our ranch. These irrigated acreages have been in production since the early 1900's and late 1800's and many have been adjudicated. The remaining sources have long established water right permits and certificates. To grant this application which proposes to utilize large drafts from underground water sources would create an over appropriated ground water system and seriously endanger existing surface and underground water rights."

¹ Public record in the office of the State Engineer under applications to appropriate 43129, 44417 and 44418.

² Public records in the office of the State Engineer.

A timely protest was filed to the granting of Application 44417 by Floyd Slagowski. The grounds of the protest are as follows:²

- "1. If the application of RICHARD K. SILVA is granted, the use of water from a well will cause drawdown of water sources in the area.
2. Drawdown will reduce the flows of present sources.
3. If this permit is granted, the water table will be lowered.
4. This filing would cause interference with my grazing operation as I control the movement of my livestock through control of water. I would have no control over the permitted water use, and thus my livestock management plan may be disrupted.
5. The use of the water on U. S. owned BLM land would interfere with the use of water by me on the same U. S. owned BLM land.
6. Springs within the area may be dried up if RICHARD K. SILVA is permitted to remove water from the ground water basin.
7. Sub-irrigated meadows within the area applied for may be dried up lowering the production of these areas."

A timely protest was filed to the granting of Application 44418 by Floyd Slagowski. The grounds of the protest are as follows:²

- "1. If the application of MORGAN JOHNSON is granted, the use of water from a well will cause drawdown of water sources in the area.
2. Drawdown will reduce the flows of present sources.
3. If this permit is granted, the water table will be lowered.
4. This filing would cause interference with my grazing operation as I control the movement of my livestock through control of water. I would have no control over the permitted water use, and thus my livestock management plan may be disrupted.
5. The use of the water on U. S. owned BLM land would interfere with the use of water by me on the same U. S. owned BLM land.
6. Springs within the area may be dried up if MORGAN JOHNSON is permitted to remove water from the ground water basin.
7. Sub-irrigated meadows within the area applied for may be dried up lowering the production of these areas."

A timely protest was filed to the granting of Application 44417 by United States Department of Interior, Bureau of Land Management. The grounds of the protest are as follows:²

"The Bureau of Land Management protests the granting of application number 44417 for the following reasons and the following grounds:

1. The waters from this surface or underground source are required for multiple use management of the vacant public lands which are adjacent to, adjoining, and overlying the water source.

The BLM therefore requests that the application be denied pending the establishment of the BLM's water policy for implementation in conjunction with state law."

A timely protest was filed to the granting of Application 44418 by United States Department of Interior, Bureau of Land Management. The grounds of the protest are as follows:²

"The Bureau of Land Management protests the granting of application number 44418 for the following reasons and the following grounds:

1. The waters from this surface or underground source are required for multiple use management of the vacant public lands which are adjacent to, adjoining, and overlying the water source.

The BLM therefore requests that the application be denied pending the establishment of the BLM's water policy for implementation in conjunction with state law."

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications² 43129, 44417 and 44418 were filed in support of Desert Land Entry applications.

II.

By letter dated May 6, 1985, 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.³

³ Public record in the office of the State Engineer under Applications 43129, 44417 and 44418.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-31926	Marolyn J. Siddoway	T.24N., R.50E., Sec. 18
N-33990	Morgan Johnson	T.28N., R.52E., Sec's. 31, 32
N-33991	Richard K. Silva	T.28N., R.52E., Sec's. 31, 32

III.

The applicants under Applications 43129, 44417 and 44418 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.⁴

II.

Applications 43129, 44417 and 44418 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 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 43129, 44417 and 44418 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/SW/bl

Dated this 30th day of

May 1985.

⁴ NRS Chapters 533 and 534.