

IN THE MATTER OF APPLICATIONS)
36911, 36912, 36914, 37358, 37444)
AND 37445 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE LAMOILLE VALLEY)
GROUND WATER BASIN IN ELKO COUNTY,)
NEVADA.)

RULING

GENERAL

Application 36911¹ was filed on March 8, 1979, by Andrew M. Boyd 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, E1/2 NW1/4, NE1/4 SW1/4, W1/2 SE1/4 and SE1/4 SE1/4 Section 32, T.35N., R.58E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 32, T.35N., R.58E., M.D.B.&M.

Application 36912¹ was filed on March 8, 1979, by Andrew Q. Boyd to appropriate 4.9 c.f.s. of water from an underground source to irrigate 290 acres of land within Lot 2 NE1/4, Lots 3 and 4 NW1/4, S1/2 NW1/4 and N1/2 SW1/4 Section 5, T.34N., R.58E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 5, T.34N., R.58E., M.D.B.&M.

Application 36914¹ was filed on March 8, 1979, by Marilyn W. Boyd 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, NE1/4 NE1/4, E1/2 NW1/4, SW1/4 NW1/4 and E1/2 SW1/4 Section 20, T.35N., R.58E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 20, T.35N., R.58E., M.D.B.&M.

Application 37358¹ was filed on March 30, 1979, by James H. Hedges to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 5, T.34N., R.58E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 5, T.34N., R.58E., M.D.B.&M.

Application 37444¹ was filed on March 30, 1979 by Robert Ollendick to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 32, T.35N., R.58E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 32, T.35N., R.58E., M.D.B.&M.

Application 37445¹ was filed on March 30, 1979, by Nancy Lahait to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 32, T.35N., R.58E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 32, T.35N., R.58E., M.D.B.&M.

¹ Public record in the office of the State Engineer under applications to appropriate 36911, 36912, 36914, 37358, 37444 and 37445.

FINDINGS

I.

A timely protest² was filed to the granting of Applications 37358 and 37444 by Boyd Ranch on May 15, 1980 and March 24, 1980, respectively. The grounds of the protests 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 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 36911, 36912, 36914, 37358, 37444 and 37445 were filed in support of Desert Land Entry applications.

III.

By letter⁴ dated May 18, 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-22830	Andrew M. Boyd	T.35N., R.58E., Sec. 32
N-22831	Andrew Q. Boyd	T.34N., R.58E., Sec. 5
N-22832	Marilyn W. Boyd	T.35N., R.58E., Sec. 20
N-23272	James M. Hedges	T.34N., R.58E., Sec. 5
N-23277	Robert Ollendick	T.35N., R.58E., Sec. 32
N-23278	Nancy Lahait	T.35N., R.58E., Sec. 32

² Public record in the office of the State Engineer under applications to appropriate 37358 and 37444.

³ Public records in the office of the State Engineer.

⁴ Public record in the office of the State Engineer under Applications 36911, 36912, 36914, 37358, 37444 and 37445.

IV.

The applicants under Applications 36911, 36912, 36914, 37358, 37444 and 37445 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 36911, 36912, 36914, 37358, 37444 and 37445 were filed in support of Desert Land Entries. The Desert Land Entry applications described under III 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 36911, 36912, 36914, 37358, 37444 and 37445 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 27th day of
JUNE, 1984.

⁵ NRS Chapters 533 and 534.