

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 41844,)
41850, 41851, 41852, 41853, 41854, 41855,)
41856, 41953, 42144 AND 42145 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
AN UNDERGROUND SOURCE WITHIN THE)
BIG SMOKY VALLEY (NORTHERN PART))
GROUND WATER BASIN IN LANDER)
COUNTY, NEVADA.)

RULING

GENERAL

Application 41844 was filed on July 21, 1980, by Emma Perk to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 13, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 13, T.18N., R.45E., M.D.B.&M.¹

Application 41850 was filed on July 21, 1980, by Douglas George Cripe to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 27, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 27, T.18N., R.45E., M.D.B.&M.¹

Application 41851 was filed on July 21, 1980, by Jack P. Leach to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 15, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 15, T.18N., R.45E., M.D.B.&M.¹

Application 41852 was filed on July 21, 1980, by Cornelia Leach to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 15, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 15, T.18N., R.45E., M.D.B.&M.¹

Application 41853 was filed on July 21, 1980, by L. Dorothea Bradley to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 12, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 12, T.18N., R.45E., M.D.B.&M.¹

Application 41854 was filed on July 21, 1980, by Harry J. Bradley to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 12, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 12, T.18N., R.45E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer under applications to appropriate 41844, 41850, 41851, 41852, 41853, 41854, 41855, 41856, 41953, 42144 and 42145.

Application 41855 was filed on July 21, 1980, by Frank Vandervort to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 31, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 31, T.18n., R.45E., M.D.B.&M.¹

Application 41856 was filed on July 21, 1980, by Pat Vandervort 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.17N., R.45E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 31, T.18N., r.45E., M.D.B.&M.¹

Application 41953 was filed on July 30, 1980, by Antonio S. Taro to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 27, T.18N., R.45E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 27, T.18N., R.45E., M.D.B.&M.¹

Application 42144 was filed on August 22, 1980, by Syvilla O. Cripe to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 26, T.17N., R.44E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 26, T.17N., r.44E., M.D.B.&M.¹

Application 42145 was filed on August 22, 1980, by John E. Cripe to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 26, T.17N., R.44E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 26, T.17N., R.44E., M.D.B.&M.¹

Water-Supply Paper 423 titled "Geology and Water Resources of Big Smoky, Clayton and Alkali Spring Valleys, Nevada", was prepared by the U.S. Geological Survey, Department of the Interior.

Water Resources Bulletin No. 41 titled "Water Resources of Big Smoky Valley, Lander, Nye and Esmeralda Counties, Nevada", was prepared cooperatively by the U.S. Geological Survey, Department of the Interior and the Nevada Department of Conservation and Natural Resources, Division of Water Resources.

FINDINGS

I.

Timely protests were filed to the granting of Applications 41853 and 41854 by C.W. Parsons on March 13, 1981. The grounds of the protests are as follows:²

"Protestent holds grazing rights in the area. Protestent's well No. 11571 could be adversely affected. Granting the Application would impair existing rights and be detrimental to the public welfare. If granted, Right should be limited to the 120 day growing season."

² Public record in the office of the State Engineer under applications to appropriate 41853, 41854, 41855 and 41856.

II.

Timely protests were filed to the granting of Applications 41855 and 41856 by J. Lavar Young on March 13, 1981. The grounds of the protests are as follows:²

"Protestant holds grazing rights to the area, and has participated in the costs of extensive Range Improvement work. Granting the Application would seriously affect Protestants grazing operation. Granting the Application would impair existing rights and be detrimental to the public welfare. If granted, Right should be limited to the 120 day growing season."

III.

The Big Smoky Valley Ground Water Basin was described and designated by the State Engineer on October 24, 1983, as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.³

IV.

Records and information available to the State Engineer indicate that Applications 41844, 41850, 41851, 41852, 41853, 41854, 41855, 41856, 41953, 42144 and 42145 were filed in support of Desert Land Entry applications.⁴

V.

By letter dated August 27, 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.¹

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-30794	Emma Peck	T.18N., R.45E., Sec. 13
N-30786	Douglas G. Cripe	T.18N., R.45E., Sec. 27
N-30780	Jack P. Leach	T.18N., R.45E., Sec. 15
N-30779	Cornelia Leach	T.18N., R.45E., Sec. 15
N-30789	Lenora Bradley Madison	T.18N., R.45E., Sec. 12
N-30788	Harry J. Bradley	T.18N., R.45E., Sec. 12
N-30787	Frank Vandervort	T.18N., R.45E., Sec. 31
N-30785	Patricia Vandervort	T.17N., R.45E., Sec. 6
N-30781	Tony Taro	T.18N., R.45E., Sec. 27
N-30778	Sylvilla O. Cripe	T.17N., R.44E., Sec. 26
N-30777	John E. Cripe	T.17N., R.44E., Sec. 26

³ Public record in the office of the State Engineer - State Engineer's Order No. 827. See also transcript of public hearing before the State Engineer on October 24, 1983. NRS 534.030.

⁴ Public records in the office of the State Engineer.

VI.

The applicants under Applications 41844, 41850, 41851, 41852, 41853, 41854, 41855, 41856, 41953, 42144 and 42145 do not own or control the land described under the place of use of the applications.

VII.

The State Engineer, in considering applications to appropriate the public waters for irrigation purposes, is subject to criteria set out under the statute regarding priority.⁵

VIII.

The State Engineer has imposed spacing criteria on approval of irrigation wells to protect existing rights and the public interest and preclude the effects of concentrated withdrawals of substantial amounts of ground water within limited areas of the ground water basin. Concentrated withdrawals of ground water in excess of recharge contributes to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, land subsidence and possible reversal of ground water gradients which could result in significant changes in the recharge/discharge relationship. These conditions have developed in several other ground water basins within the State of Nevada where storage depletion and declining water tables have been recorded and documented and provide substantial evidence of the adverse effect of these conditions.⁶ Additionally, areas of concentrated withdrawals are capable of capturing only a limited amount of recharge available to the ground water basin as a whole.

IX.

The Bureau of Land Management, in recognizing and complying with the spacing criteria, has also determined that the lands described under the place of use of the subject applications is unsuitable for agricultural entry based on additional rationale not associated with the availability of water.⁷

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.⁸

⁵ NRS 533.357.

⁶ See Appendix of References.

⁷ Public record in the office of the State Engineer under Applications 41844, 41850, 41851, 41852, 41853, 41854, 41855, 41856, 41953, 42144 and 42145.

⁸ NRS Chapters 533 and 534.

II.

Applications 41844, 41850, 41851, 41852, 41853, 41854, 41855, 41856, 41953, 42144 and 42145 were filed in support of Desert Land Entries. The Desert Land Entry applications described under V 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.

IV.

The granting of the applications would conflict with and adversely affect existing rights and conflict with the orderly withdrawals of available ground water within a concentrated area of development.⁹

V.

In the judgment of the State Engineer, the granting of the applications would not be in the public interest and welfare based on substantial hydrologic evidence of the adverse effects of concentrated withdrawals of ground water.⁶

RULING

Applications 41844, 41850, 41851, 41852, 41853, 41854, 41855, 41856, 41953, 42144 and 42145 are denied on the grounds that the granting thereof would adversely effect existing rights and be detrimental to the public interest and welfare and further that the lands proposed to be irrigated are not owned or controlled by the applicants.

Respectfully submitted,


Peter G. Morros
State Engineer

PGM/SW/bl

Dated this 1st day of
NOVEMBER, 1984.

⁹ Public record in the office of the State Engineer under existing rights within the Big Smoky Valley Ground Water Basin.

APPENDIX OF REFERENCES

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