

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 36454,) 36460 AND 44229 FILED TO CHANGE THE POINT OF DIVERSION AND PLACE OF USE OF A PORTION OF THE WATERS OF AN UNDERGROUND SOURCE HERETOFORE APPROPRIATED UNDER PERMIT 19598,) CERTIFICATE 7303, IN PENOYER VALLEY,) LINCOLN COUNTY, NEVADA.)

RULING 3296

GENERAL

Application 36452 was filed on January 15, 1979, by Nevada Farms, Inc., to change the point of diversion and place of use of 0.31 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the W1/2 SE1/4 Section 33, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 SW1/4 Section 33, T.3S., R.55E., M.D.B.&M.¹

Application 36454 was filed on January 15, 1979, by Nevada Farms, Inc., to change the point of diversion and place of use of 1.0 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the NE1/4 NE1/4 Section 5, T.4S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 SE1/4 Section 5, T.4S., R.55E., M.D.B.&M.¹

Application 36460 was filed on January 15, 1979, by Nevada Farms, Inc., to change the point of diversion and place of use of 2.09 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the NW1/4 Section 33, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 NW1/4 Section 33, T.3S., R.55E., M.D.B.&M.¹

Application 41944 was filed on July 29, 1980, by D. C. Day to change the point of diversion, manner and place of use of 0.22 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for commercial purposes within the NW1/4 NW1/4 Section 36, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the NW1/4 NW1/4 Section 36, T.3S., R.55E., M.D.B.&M.¹

Application 41945 was filed on July 29, 1980, by D. C. Day to change the manner and place of use of 0.11 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for commercial purposes within the NW1/4 NW1/4 Section 36, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SE1/4 SW1/4 Section 36, T.3S., R.55E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

Application 41946 was filed on July 29, 1980, by D. C. Day to change the point of diversion and place of use of 0.3238 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation purposes within the NW1/4 SE1/4 Section 36, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the NW1/4 SE1/4 Section 36, T.3S., R.55E., M.D.B.&M.¹

Application 41947 was filed on July 29, 1980, by D. C. Day to change the point of diversion, manner and place of use of 0.0062 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for quasi-municipal purposes within the NW1/4 SE1/4 Section 36, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the NW1/4 SE1/4 Section 36, T.3S., R.55E., M.D.B.&M.¹

Application 44229 was filed on August 3, 1981, by Nevada Farms, Inc., to change the point of diversion and place of use of 0.3 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the SE1/4 Section 29, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the NE1/4 SE1/4 Section 29, T.3S., R.55E., M.D.B.&M.¹

Application 48285 was filed on August 9, 1984, by D. C. Day to change the place of use of 2.68 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the NW1/4 SE1/4 Section 36, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SE1/4 Section 33, T.3S., R.55E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Permit 19598 was assigned by Jake Dave Hodges and wife to Delbert C. Day on May 7, 1965.²

II.

Permit 19598 was assigned by Delbert C. Day and Nell F. Day to Nevada Farms, Inc., on February 26, 1968.³

² Document No. 42711 in Volume M-1 of Real Estate Deeds, p. 407, from the office of the County Recorder, Lincoln County, Nevada. The original deed is on file in the office of the State Engineer under Permit 19598.

³ A certified copy of Document No. 46378 in Book N-1 of Real Estate Deeds, p. 325, from the office of the County Recorder, Lincoln County, Nevada. The certified copy of the deed is on file in the office of the State Engineer under Permit 19598.

III.

Permit 19598 became certificated on March 12, 1970, for 3.4 c.f.s., not to exceed 1000 acre-feet annually on 200 acres of land in the S1/2 Section 36, T.3S., R.55E., M.D.B.&M.¹

IV.

Permit 19598, Certificate 7303, was assigned by Nevada Farms, Inc., to D. C. Day on July 24, 1978.⁴

V.

On August 10, 1979, Applications 36454 and 36460 were assigned by Nevada Farms, Inc., to Melvin V. Brown.⁵

VI.

A protest to the granting of Application to change 48285, in the name of D. C. Day, was filed by Umetco Minerals Corp. praying that the State Engineer deny the application on the grounds that "the proposed change would adversely affect the existing and prior rights of protestant".¹

VII.

On May 17, 1985, the State Engineer issued Permits 41944, 41945, 41946 and 41947 in the name of D. C. Day. These permits changed 0.22 c.f.s., 0.11 c.f.s., 0.3238 c.f.s., and 0.0062 c.f.s., respectively, leaving 2.74 c.f.s. remaining.¹

VIII.

On May 17, 1985, a letter by certified mail from Hugh Ricci to Melvin V. Brown/Nevada Farms indicated that the State Engineer had issued Permits 41944, 41945, 41946 and 41947 to D. C. Day. The letter requested information in regard to Applications 36454, 36460 and 44229, or "... the State Engineer will consider denial of Applications 36454, 36460 and 44229..." if no response was received.¹

⁴ A certified copy of Document 62904 in Book 27 of Official Records, p. 393, from the office of the County Recorder, Lincoln County, Nevada. The certified copy of the deed is on file in the office of the State Engineer under Permit 19598.

⁵ A certified copy of Document 64961 in Book 31 of Official Records, p. 307 from the office of County Recorder, Lincoln County, Nevada. The certified copy of the deed is on file in the office of the State Engineer under withdrawn Application 36438.

IX.

On May 30, 1985, the State Engineer overruled the protest of Umetco Minerals Corp. to the granting of Application 48285.⁶

X.

As of November 19, 1985, there has been no written response to Hugh Ricci's letter of May 17, 1985.¹

CONCLUSION

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.

RULING

Applications to change 36454, 36460 and 44229 are hereby denied on the grounds that the applicant has failed to establish any ownership interest in Permit 19598, Certificate 7303, the right proposed to be changed.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/KN/bl

Dated this 27th day of
December, 1985.

⁶ See Ruling No. 3197 dated May 30, 1985, public record in the office of the State Engineer.

⁷ NRS 533.025 and NRS 533.345.