

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 36676,)
36677, 36704, 36706, 37179, 37180, 37181,)
37182, 37465, 37492, 37493, 37494, 37495,)
40308, 40618, 41640, 42373, 42454, 42455,)
42456, 42457, 42458, 42459, 42460, 42467,)
42679, 42680, 42789, 42802, 42820, 42947,)
42948, 42949, 42950, 42951, 42952, 42953,)
42960, 42962, 43077, 43078, 43079, 43082 AND)
44458 FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNDERGROUND SOURCE)
WITHIN THE RUBY VALLEY GROUND WATER)
BASIN IN ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 36676 was filed on February 8, 1979, by Josef Lagoja and Delis C. Lagoja to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 10, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 10, T.31N., R.60E., M.D.B.&M.¹

Application 36677 was filed on February 8, 1979, by Delis C. Lagoja and Josef Lagoja to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 10, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 10, T.31N., R.60E., M.D.B.&M.¹

Application 36704 was filed on February 12, 1979, by Steven Jackson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 24, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 24, T.32N., R.60E., M.D.B.&M.¹

Application 36706 was filed on February 12, 1979, by Robin A. Weatherly to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 24, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 24, T.32N., R.60E., M.D.B.&M.¹

Application 37179 was filed on March 26, 1979, by Allen W. Sharp to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 24, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 24, T.32N., R.60E., M.D.B.&M.¹

¹ Public records in the office of the State Engineer.

Application 37180 was filed on March 26, 1979, by Leslie Sharp to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 23, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 23, T.32N., R.60E., M.D.B.&M.¹

Application 37181 was filed on March 26, 1979, by Sandra Sharp to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 23, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 23, T.32N., R.60E., M.D.B.&M.¹

Application 37182 was filed on March 26, 1979, by Patricia Sharp to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 24, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 24, T.32N., R.60E., M.D.B.&M.¹

Application 37465 was filed on April 2, 1979, by Elizabeth A. Peterson to appropriate 4.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 23, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 23, T.32N., R.60E., M.D.B.&M.¹

Application 37492 was filed on April 2, 1979, by DeWayne J. Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 1, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 1, T.31N., R.60E., M.D.B.&M.¹

Application 37493 was filed on April 2, 1979, by Richard E. Warnock and Donna N. Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 12, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 12, T.31N., R.60E., M.D.B.&M.¹

Application 37494 was filed on April 2, 1979, by Robert E. and Phyllis P. Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 14, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 14, T.31N., R.60E., M.D.B.&M.¹

Application 37495 was filed on April 2, 1979, by Del Roi Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 11, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 11, T.31N., R.60E., M.D.B.&M.¹

Application 40308 was filed on January 14, 1980, by Patricia N. Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 36, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 36, T.32N., R.60E., M.D.B.&M.¹

Application 40618 was filed on February 25, 1980, by Donna N. Warnock and Richard E. Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 13, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 13, T.31N., R.60E., M.D.B.&M.¹

Application 41640 was filed on July 7, 1980, by Phyl Rene Warnock to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the NW1/4 Section 24 and NE1/4 Section 23, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 24, T.31N., R.60E., M.D.B.&M.¹

Application 42373 was filed on September 3, 1980, by Ronald D. Sturgeon to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 30, T.31N., R.61E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 30, T.31N., R.61E., M.D.B.&M.¹

Application 42454 was filed on September 15, 1980, by Gary Dannenhauer 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.27N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 5, T.27N., R.59E., M.D.B.&M.¹

Application 42455 was filed on September 15, 1980, by Denise Lacy to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 24, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 24, T.31N., R.60E., M.D.B.&M.¹

Application 42456 was filed on September 15, 1980, by Erma Myers to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 15, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 15, T.28N., R.59E., M.D.B.&M.¹

Application 42457 was filed on September 15, 1980, by O. E. Myers to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 15, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 15, T.28N., R.59E., M.D.B.&M.¹

Application 42458 was filed on September 15, 1980, by Erma R. Dyer to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 5, T.27N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 5, T.27N., R.59E., M.D.B.&M.¹

Application 42459 was filed on September 15, 1980, by Cynthia Georges to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 29, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 29, T.28N., R.59E., M.D.B.&M.¹

Application 42460 was filed on September 15, 1980, by Loren R. Georges to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 29, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 29, T.28N., R.59E., M.D.B.&M.¹

Application 42467 was filed on September 16, 1980, by Patrick A. Thompson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 36, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 36, T.31N., R.60E., M.D.B.&M.¹

Application 42679 was filed on October 16, 1980, by Katherine Wolfe to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 34, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 34, T.28N., R.59E., M.D.B.&M.¹

Application 42680 was filed on October 16, 1980, by Hunter Wolfe to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 34, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 34, T.28N., R.59E., M.D.B.&M.¹

Application 42789 was filed on November 7, 1980, by Dave DeSchryver 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.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 31, T.28N., R.59E., M.D.B.&M.¹

Application 42802 was filed on November 10, 1980, by Martin Taylor to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 23, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 23, T.30N., R.60E., M.D.B.&M.¹

Application 42820 was filed on November 13, 1980, by Connie Edward Cox to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 31, T.31N., R.61E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 31, T.31N., R.61E., M.D.B.&M.¹

Application 42947 was filed on December 12, 1980, by Charles P. Franz to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 36, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 36, T.30N., R.60E., M.D.B.&M.¹

Application 42948 was filed on December 12, 1980, by Marinell Harriman 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.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 26, T.30N., R.60E., M.D.B.&M.¹

Application 42949 was filed on December 12, 1980, by Deane Sturgeon to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 14, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 14, T.30N., R.60E., M.D.B.&M.¹

Application 42950 was filed on December 12, 1980, by Wanda Gordon 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.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 26, T.30N., R.60E., M.D.B.&M.¹

Application 42951 was filed on December 12, 1980, by Rodger Sturgeon to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 14, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 14, T.30N., R.60E., M.D.B.&M.¹

Application 42952 was filed on December 12, 1980, by Mack R. Tolmie to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 22, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 22, T.30N., R.60E., M.D.B.&M.¹

Application 42953 was filed on December 12, 1980, by Donna Tolmie to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 22, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 22, T.30N., R.60E., M.D.B.&M.¹

Application 42960 was filed on December 15, 1980, by Margaret Thompson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 32, T.31N., R.61E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 32, T.31N., R.61E., M.D.B.&M.¹

Application 42962 was filed on December 15, 1980, by Thomas V. Thompson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 36, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 36, T.31N., R.60E., M.D.B.&M.¹

Application 43077 was filed on January 9, 1981, by Sharon E. Beasley to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 33, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 33, T.28N., R.59E., M.D.B.&M.¹

Application 43078 was filed on January 9, 1981, by Robert J. Feist to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 29, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 29, T.28N., R.59E., M.D.B.&M.¹

Application 43079 was filed on January 9, 1981, by Charlotte Sturgeon to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 30, T.31N., R.61E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 30, T.31N., R.61E., M.D.B.&M.¹

Application 43082 was filed on January 9, 1981, by Shirley H. Smith to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 29, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 29, T.28N., R.59E., M.D.B.&M.¹

Application 44458 was filed on September 21, 1981, by Joy Graff to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within Lots 3 and 4, S1/2 NW1/4 and SW1/4 Section 1, T.27N., R.58E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 1, T.27N., R.58E., M.D.B.&M.¹

Timely protests were filed to the granting of Applications 42373, 42460, 42962 and 43079 by the Bureau of Land Management. The grounds of the protests are as follows:¹

"That the subject lands are vacant public lands, and that the applicant has no authorization or right to use or convey the applied for waters on or across such lands."

A timely protest was filed to the granting of Application 42962 by Smith Bros OX Ranch. The grounds of the protest are as follows:¹

"1. We protest the applicants request to irrigate all of the E1/2 of Sec. 36, he would be irrigating on top of our water line that serves two troughs in our allotment where we have vested grazing privileges. 2. We have filed in a prior dated DLE for portion of E1/2 of Sec 36. 3. This application would be in conflict with the application we made for our DLE well. 4. The applicant has no land, patent or otherwise in Sec. 36 as well as no grazing rights, mineral or other rights in this section. 5. Application 42962 would be in conflict with our vested grazing rights in Sec. 36."

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications 36676, 36677, 36704, 36706, 37179, 37180, 37181, 37182, 37465, 37492, 37493, 37494, 37495, 40308, 40618, 41640, 42373, 42454, 42455, 42456, 42457, 42458, 42459, 42460, 42467, 42679, 42680, 42789, 42802, 42820, 42947, 42948, 42949, 42950, 42951, 42952, 42953, 42960, 42962, 43077, 43078, 43079, 43082 and 44458 were filed in support of Desert Land Entry applications.¹

II.

By letter dated November 10, 1986, 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-22185	Delis C. Lagoja	T.31N., R.60E., Sec. 10, S1/2
N-22186	Josef Lagoja	T.31N., R.60E., Sec. 10, N1/2
N-22319	Steven Jackson	T.32N., R.60E., Sec. 24, N1/2
N-22320	Robin A. Weatherly	T.32N., R.60E., Sec. 24, S1/2
N-22731	Elizabeth A. Peterson	T.32N., R.60E., Sec. 23, NE1/4
N-23472	DeWayne J. Warnock	T.31N., R.60E., Sec. 1, W1/2
N-23473	Richard E. Warnock	T.31N., R.60E., Sec. 12, W1/2
N-23552	Del Roi Warnock	T.31N., R.60E., Sec. 11, S1/2
N-23903	Leslie B. Sharp	T.32N., R.60E., Sec. 23, SE1/4
N-23906	Alan W. Sharp	T.32N., R.60E., Sec. 24, N1/2
N-23908	Sandra L. Sharp	T.32N., R.60E., Sec. 23, NE1/4
N-23909	Patricia Sharp	T.32N., R.60E., Sec. 24, S1/2
N-26105	Robert E. Warnock	T.31N., R.60E., Sec. 14, N1/2
N-28232	Patricia N. Warnock	T.32N., R.60E., Sec. 36, W1/2
N-29616	Donna Warnock	T.31N., R.60E., Sec. 13, W1/2
N-29934	Phyl R. Warnock	T.31N., R.60E., Sec. 23, NE1/4 T.31N., R.60E., Sec. 24, NW1/4
N-30825	O. E. Myers	T.28N., R.59E., Sec. 15, W1/2
N-30826	Erma M. Myers	T.28N., R.59E., Sec. 15, E1/2
N-30827	Loren R. Goerges	T.28N., R.59E., Sec. 29, W1/2
N-30828	Cynthia E. Goerges	T.28N., R.59E., Sec. 5, E1/2
N-30830	Erma R. Dyer	T.27N., R.59E., Sec. 5, E1/2
N-30985	Hunter Wolfe	T.28N., R.59E., Sec. 34, E1/2
N-31029	Gary Dannenhauer	T.27N., R.59E., Sec. 5, W1/2
N-31067	Katherine Wolfe	T.28N., R.59E., Sec. 34, W1/2
N-31342	Martin Taylor	T.30N., R.60E., Sec. 23, W1/2

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-31345	Connie B. Cox	T.31N., R.61E., Sec. 31, W1/2
N-31348	Dave DeSchryver	T.28N., R.59E., Sec. 31, E1/2
N-31651	Roger Sturgeon	T.30N., R.60E., Sec. 14, E1/2
N-31652	Margaret A. Thompson	T.31N., R.61E., Sec. 32, W1/2
N-31653	Charles Franz	T.30N., R.60E., Sec. 36, N1/2
N-31655	Denise Lacey	T.31N., R.60E., Sec. 24, S1/2
N-31656	Thomas V. Thompson	T.31N., R.60E., Sec. 3, E1/2
N-31657	Mack R. Tolmie	T.30N., R.60E., Sec. 22, E1/2
N-31658	Donna L. Tolmie	T.30N., R.60E., Sec. 22, W1/2
N-31660	Patrick A. Thompson	T.31N., R.60E., Sec. 36, W1/2
N-31661	Marinell Harriman	T.30N., R.60E., Sec. 26, W1/2
N-31662	Deanne Sturgeon	T.30N., R.60E., Sec. 14, W1/2
N-31663	Wanda Gordon	T.30N., R.60E., Sec. 26, E1/2
N-31664	Ronald D. Sturgeon	T.31N., R.61E., Sec. 30, W1/2
N-31666	Charlotte Sturgeon	T.31N., R.61E., Sec. 30, E1/2
N-31775	Robert J. Feist	T.28N., R.59E., Sec. 29, S1/2
N-31779	Sharon E. Beasley	T.28N., R.59E., Sec. 33, W1/2
N-31799	Shirley H. Smith	T.28N., R.59E., Sec. 29, N1/2
N-35446	Joy Graff	T.27N., R.58E., Sec. 1, W1/2

III.

The applicants under Applications 36676, 36677, 36704, 36706, 37179, 37180, 37181, 37182, 37465, 37492, 37493, 37494, 37495, 40308, 40618, 41640, 42373, 42454, 42455, 42456, 42457, 42458, 42459, 42460, 42467, 42679, 42680, 42789, 42802, 42820, 42947, 42948, 42949, 42950, 42951, 42952, 42953, 42960, 42962, 43077, 43078, 43079, 43082 and 44458 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.²

II.

Applications 36676, 36677, 36704, 36706, 37179, 37180, 37181, 37182, 37465, 37492, 37493, 37494, 37495, 40308, 40618, 41640, 42373, 42454, 42455, 42456, 42457, 42458, 42459, 42460, 42467, 42679, 42680, 42789, 42802, 42820, 42947, 42948, 42949, 42950, 42951, 42952, 42953, 42960, 42962, 43077, 43078, 43079, 43082 and 44458 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.

² NRS Chapters 533 and 534.

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 36676, 36677, 36704, 36706, 37179, 37180, 37181, 37182, 37465, 37492, 37493, 37494, 37495, 40308, 40618, 41640, 42373, 42454, 42455, 42456, 42457, 42458, 42459, 42460, 42467, 42679, 42680, 42789, 42802, 42820, 42947, 42948, 42949, 42950, 42951, 42952, 42953, 42960, 42962, 43077, 43078, 43079, 43082 and 44458 are herewith denied on the grounds that to grant the applications for irrigation purposes on lands that the applicants do 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 27th day of
February, 1987.