

IN THE MATTER OF APPLICATIONS 37448 )  
AND 37449 FILED TO APPROPRIATE THE )  
PUBLIC WATERS FROM AN UNDERGROUND )  
SOURCE WITHIN THE LAMOILLE VALLEY )  
GROUND WATER BASIN IN ELKO COUNTY, )  
NEVADA. )  
)  
)  
)

RULING

GENERAL

Application 37448<sup>1</sup> was filed on March 30, 1979, by Robert B. Hedges to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 28, T.35N., R.58E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 28, T.35N., R.58E., M.D.B.&M.

Application 37449<sup>1</sup> was filed on March 30, 1979, by Roxanne Hedges to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 28, T.35N., R.58E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 28, T.35N., R.58E., M.D.B.&M.

FINDINGS

I.

A timely protest<sup>2</sup> was filed to the granting of Applications 37448 and 37449 by Boyd Ranch on March 19, 1980. The grounds of the protest 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."

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<sup>1</sup> Public record in the office of the State Engineer under applications to appropriate 37448 and 37449.

<sup>2</sup> Public record in the office of the State Engineer under applications to appropriate 37448 and 37449.

II.

Records and information<sup>3</sup> available to the State Engineer indicate that Applications 37448 and 37449 were filed in support of Desert Land Entry applications.

III.

By letter<sup>4</sup> dated September 14, 1982, 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-23270	Robert B. Hedges	T.35N., R.58E., Sec. 28
N-23271	Roxanne Hedges	T.35N., R.58E., Sec. 28

IV.

The applicants under Applications 37448 and 37449 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction<sup>5</sup> over the matter described herein.

II.

Applications 37448 and 37449 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.

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<sup>3</sup> Public records in the office of the State Engineer.

<sup>4</sup> Public record in the office of the State Engineer under Applications 37448 and 37449.

<sup>5</sup> 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 37448 and 37449 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 25th day of  
JUNE, 1984.