

IN THE MATTER OF APPLICATIONS)
41426, 41427, 41429 AND 41982 FILED)
BY LEROY HOUTS TO APPROPRIATE WATER)
FROM UNDERGROUND SOURCES IN BUENA)
VISTA VALLEY, PERSHING COUNTY,)
NEVADA.)

RULING

GENERAL

Application 41426 was filed on May 23, 1980, by Leroy Houts to appropriate 1.036 c.f.s. of water from an underground source for mining, milling and domestic purposes.¹ The point of diversion is decreed as being within the SE1/4 SE1/4 Section 34, T.29N., R.34E., M.D.B.&M., and the place of use is within the SW1/4 Section 36, T.29N., R.34E., M.D.B.&M.

Application 41427 was filed on May 23, 1980, by Leroy Houts to appropriate 1.036 c.f.s. of water from an underground source for mining, milling and domestic purposes.² The point of diversion is decreed as being within the SE1/4 SE1/4 Section 34, T.29N., R.34E., M.D.B.&M., and the place of use is within the SW1/4 Section 36, T.29N., R.34E., M.D.B.&M.

Application 41429 was filed on May 23, 1980, by Leroy Houts to appropriate 1.036 c.f.s. of water from an underground source for mining, milling and domestic purposes.³ The point of diversion is decreed as being within the SE1/4 SE1/4 Section 34, T.29N., R.34E., M.D.B.&M., and the place of use is within the SW1/4 Section 36, T.29N., R.34E., M.D.B.&M.

Application 41982 was filed on August 8, 1980, by Leroy Houts to appropriate 1.0 c.f.s. of water from an underground source for mining, milling and domestic purposes.⁴ The point of diversion is decreed as being within the SW1/4 SW1/4 Section 35, T.29N., R.34E., M.D.B.&M., and the place of use is within the SW1/4 Section 36, T.29N., R.34E., M.D.B.&M.

¹ Application 41426 is a public record on file in the office of the state Engineer.

² Application 41427 is a public record on file in the office of the state Engineer.

³ Application 41429 is a public record on file in the office of the state Engineer.

⁴ Application 41982 is a public record on file in the office of the state Engineer.

Applications 41426, 41427, 41429 and 41982 were timely protested on October 14, 1980, and November 21, 1980, by Warren L. Strickland on the grounds that:⁵

- 1) Mr. Leroy Houts holds no beneficial rights in and to any mining claims in the area adjacent to the site of said water applications. A lease-purchase agreement with Basil Cramer was entered for 3 lode mining claims; however, said agreement is now in default and the subject of litigation between the parties.
- 2) There is no evidence available to sustain premise that the aquifer contains sufficient water reserves to supply more water than is presently granted to Monarch Royalty, Inc.
- 3) The application of Mr. Leroy Houts is specific in that he is applying for water from existing wells owned by Monarch Royalty, Inc. The use of said water is to be applied within a placer mining claim owned by Monarch Royalty, Inc., although there is no connection between Mr. Leroy Houts and Monarch Royalty, Inc. Therefore, it is concluded that Mr. Leroy Houts' applications are speculative in nature and not based upon ability to use said water in the manner prescribed by law.

Mr. Strickland requests that Applications 41426, 41427, 41429 and 41982 be denied.

On July 20, 1984, a certified letter was sent to Leroy Houts in Lovelock, Nevada, requesting that he attend a formal field investigation to be held on August 15, 1984, in an attempt by the State Engineer to resolve the protest and to gain additional information.⁶ The certified letter and Certified Mail Receipt No. P616 538 455 were returned to this office stamped "not deliverable as addressed - unable to forward".

⁵ Copies of the protests signed by Warren L. Strickland dated October 14, 1980, and November 21, 1980, are public records filed with Applications 41426, 41427, 41429 and 41982 in the office of the State Engineer.

⁶ A certified letter to Leroy Houts dated July 20, 1984, and Certified Mail Receipt No. P616 538 455 are public records filed with Application 41426 in the office of the State Engineer.

On July 20, 1984, a certified letter was sent to Warren L. Strickland, Reno, Nevada, requesting that he attend the formal field investigation on August 15, 1984.⁷ The Certified Mail Receipt No. P616 538 456 was signed by W.L. Strickland and returned to this office.

FINDINGS OF FACT

I.

The holder of Applications 41426, 41427, 41429 and 41982, Leroy Houts, did not respond to a certified letter dated July 20, 1984, from this office at his last known address nor does he have a current phone listing in either Churchill or Pershing Counties in Nevada. The State Engineer has been unsuccessful in attempts to contact the applicant. It is the applicant's responsibility to inform the State Engineer of any change in mailing address.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and subject matter of this action.⁸

II.

The State Engineer may, in his discretion, hold a formal field investigation and/or hearing regarding a protested application to gain a full understanding of the rights involved.⁹

III.

There has been no response from the applicant to notice of formal field investigation of Applications 41426, 41427, 41429 and 41982.

IV.

The applicant has failed to demonstrate a continuing interest in the applications.

⁷ A copy of the certified letter to Warren L. Strickland dated July 20, 1984, and Certified Mail Receipt No. P616 538 456 are public records filed with Application 41426 in the office of the State Engineer.

⁸ NRS 535.325.

⁹ NRS 533.365, subsection 3.

RULING

Applications 41426, 41427, 41429 and 41982 are hereby denied on the grounds that the applicant failed to respond to a request for formal field investigation to enable the State Engineer to obtain additional evidence for a full understanding of the rights involved and to grant the applications without additional evidence and/or information would not be in the public interest. No ruling is made on the grounds of the protest.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 13th day of

AUGUST, 1984.