

IN THE MATTER OF APPLICATIONS)
38558, 38560, 38561 AND 38562 FILED)
TO APPROPRIATE THE PUBLIC WATERS)
FROM AN UNDERGROUND SOURCE WITHIN)
THE MARYS RIVER AREA GROUND WATER)
BASIN IN ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 38558¹ was filed on July 16, 1979, by Craig P. Arrington 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.39N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 36, T.39N., R.60E., M.D.B.&M.

Application 38560¹ was filed on July 16, 1979, by John E. Arrington to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 2, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 2, T.38N., R.60E., M.D.B.&M.

Application 38561¹ was filed on July 16, 1979, by Mary F. Arrington to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 6, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 6, T.38N., R.60E., M.D.B.&M.

Application 38562¹ was filed on July 16, 1979, by Patricia M. Arrington 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.39N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 36, T.39N., R.60E., M.D.B.&M.

FINDINGS

I.

Marys River Area Ground Water Basin was described and designated² by the State Engineer on February 14, 1984 as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.

¹ Public record in the office of the State Engineer under applications to appropriate 38558, 38560, 38561 and 38562.

² Public record in the office of the State Engineer - State Engineer's Order No. 837. See also transcript of public hearing before the State Engineer on November 17, 1983. NRS 534.030.

II.

Records and information³ available to the State Engineer indicate that Applications 38558, 38560, 38561 and 38562 were filed in support of Desert Land Entry applications.

III.

By letter⁴ dated December 13, 1983, 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-23457	John Arrington	T.38N., R.60E., Sec. 2
N-23656	Mary Arrington	T.38N., R.60E., Sec. 6
N-23657	Craig Arrington	T.39N., R.60E., Sec. 36
N-23665	Patricia Arrington	T.39N., R.60E., Sec. 36

IV.

The applicants under Applications 38558, 38560, 38561 and 38562 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁵ over the matter described herein.

II.

Applications 38558, 38560, 38561 and 38562 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.

³ Public records in the office of the State Engineer.

⁴ Public record in the office of the State Engineer under applications to appropriate 38558, 38560, 38561 and 38562.

⁵ 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 38558, 38560, 38561 and 38562 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 5th day of
MARCH, 1984.