

IN THE MATTER OF APPLICATION 40832 )  
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 40832<sup>1</sup> was filed on March 5, 1982, by Stella Stephens to appropriate 5.04 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 31, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 31, T.38N., R.60E., M.D.B.&M.

FINDINGS

I.

A timely protest<sup>2</sup> to granting of Application 40832 was filed by William Max and Joyce H. Spratling.

II.

Marys River Area Ground Water Basin was described and designated<sup>3</sup> 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.

III.

Records and information<sup>4</sup> available to the State Engineer indicate that Application 40832 was filed in support of Desert Land Entry application.

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1 Public record in the office of the State Engineer under application to appropriate 40832.

2 Public record in the office of the State Engineer under application to appropriate 40832.

3 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.

4 Public records in the office of the State Engineer.

IV.

By letter<sup>5</sup> dated October 7, 1983, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry Application had been closed and the case file is dead.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-25236	Stella Stephens	T.38N., R.60E., Sec. 31

V.

The applicant under Application 40832 does not own or control the land described under the place of use of the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction<sup>6</sup> over the matter described herein.

II.

Application 40832 was filed in support of Desert Land Entry. The Desert Land Entry application described under III of Findings has been closed on the records of the Bureau of Land Management, therefore, the applicant does not own or control the land described under the place of use of the application and cannot demonstrate the ability to place the water to beneficial use.

III.

To grant application 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.

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<sup>5</sup> Public record in the office of the State Engineer under Application 40832.

<sup>6</sup> NRS Chapters 533 and 534.

RULING

Application 40832 is herewith denied on the grounds that to grant the application 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 15th day of  
MARCH, 1984.