

IN THE MATTER OF APPLICATIONS)
37757, 37758 AND 37760 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
AN UNDERGROUND SOURCE WITHIN THE)
NORTH FORK AREA GROUND WATER BASIN)
IN ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 37757¹ was filed on April 9, 1979, by Betty Smorg to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 20, T.38N., R.55E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 20, T.38N., R.55E., M.D.B.&M.

Application 37758¹ was filed on April 9, 1979, by Bob Mallory to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 20, T.38N., R.55E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 20, T.38N., R.55E., M.D.B.&M.

Application 37760¹ was filed on April 9, 1979, by Mike Fleshman to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 30, T.38N., R.55E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 30, T.38N., R.55E., M.D.B.&M.

FINDINGS

I.

North Fork Area Ground Water Basin was described and designated² by the State Engineer on May 28, 1980, as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.

II.

A timely protest³ to granting of Applications 37757, 37758 and 37760 was filed by the Bureau of Land Management.

¹ Public record in the office of the State Engineer under application to appropriate 37757, 37758 and 37760.

² Public record in the office of the State Engineer - State Engineer's Order No. 744.

³ Public record in the office of the State Engineer under application to appropriate 37757, 37758 and 37760.

III.

Records and information⁴ available to the State Engineer indicate that Applications 37757, 37758 and 37760 were filed in support of Desert Land Entry applications.

IV.

By letter⁵ dated March 14, 1984, 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-22860	Michael L. Fleshman	T.38N., R.55E., Sec. 30 Rejected 9/13/79
N-23813	Robert Mallory	T.38N., R.55E., Sec. 20 Rejected 8/7/79
N-23817	Betty L. Short	T.38N., R.55E., Sec. 20 Rejected 8/7/79

V.

The applicants under Applications 37757, 37758 and 37760 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁶ over the matter described herein.

II.

Applications 37757, 37758 and 37760 were filed in support of Desert Land Entries. The Desert Land Entry applications described under IV 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.

⁴ Public records in the office of the State Engineer.

⁵ Public record in the office of the State Engineer under Applications 37757, 37758 and 37760.

⁶ 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 37757, 37758 and 37760 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

APRIL, 1984.