

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 33037)
AND 33038 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF SHEEP SPRINGS CREEK)
AND PIUTE CREEK IN BLACK ROCK)
DESERT, HUMBOLDT COUNTY, NEVADA.)

RULING

GENERAL

Application 33037 was filed on August 5, 1977, by Ken H. Earp to appropriate 3.0 c.f.s. of water from Sheep Springs Creek for irrigation purposes on 160 acres of land within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 17, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, all in T.39N., R27E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, T.39N., R27E., M.D.B.&M.¹

Application 33038 was filed on August 5, 1977, by Doris N. Earp to appropriate 2.0 c.f.s. of water from Piute Creek for irrigation purposes on 80 acres of land within the E $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, T.39N., R.27E., M.D.B.&M. The point of diversion is described as being within Lot 6 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) Section 6, T.39N., R.27E, M.D.B.&M.¹

FINDINGS OF FACTS

I.

Remarks in Applications 33037 and 33038 indicate these applications were filed in support of segregations under the Carey Act.¹

II.

In a verbal response to Division of Water Resources letter dated July 17, 1984, to Division of State Lands it was determined that Ken H. Earp and Doris N. Earp did not have Carey Act Applications on file within the places of use described in Applications 33037 and 33038.¹

III.

In a letter dated August 13, 1984, the United States Department of the Interior, Bureau of Land Management could not find any record that Ken H. Earp or Doris N. Earp had filed a Desert Land Entry in the areas described under Applications 33037 and 33038. In a subsequent telephone call to the Bureau of Land Management office, it was determined that the place of use on both referenced applications were in fact on public lands.¹

¹ Public record in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

- A. There is no appropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

III.

Applications 33037 and 33038 were filed in support of Carey Act Applications. Although the place of use of both applications is on public lands, there are no current applications for Carey Act applications or Desert Land Entrys on file within these subdivisions of land. Thus, there is no intent by the applicants to own or control the land described under the place of use of Applications 33037 and 33038.

RULING

Applications 33037 and 33038 are hereby denied on the grounds that to grant permits for water for irrigation purposes on lands that the applicants do not own or control and cannot demonstrate ability to place the water to beneficial use would not be in the public interest or welfare.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/GC/II

Dated this 22nd day of
February, 1985.

² NRS 533.325.

³ NRS 533.370 (3).