

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS)
41827, 41828, 41829, 41830, 41831,)
41832, 42515, 42516, 42517, 42518,)
42519, 42520 and 42521 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE LONG)
VALLEY, HYDROGRAPHIC BASIN (175),)
WHITE PINE COUNTY, NEVADA.)

RULING
#4938

GENERAL

I.

The records of the office of the State Engineer contain numerous water right applications that were filed to appropriate underground water in support of Desert Land Entry applications. This ruling is specific to thirteen water right applications that were filed in 1980 to appropriate underground water from the Long Valley Groundwater Basin primarily for irrigation purposes associated with underlying Desert Land Entry applications.¹ The key information contained within each of these water right applications is presented in Attachment "A", which is made part of this ruling.

FINDINGS OF FACT

I.

All of the thirteen Long Valley water right applications addressed in this ruling were filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of Desert Land Entry applications. By letter dated February 24, 2000, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide the office of the State Engineer with information relating to the status of the Desert Land Entry applications

¹ File Nos. 41827, 41828, 41829, 41830, 41831, 41832, 42515, 42516, 42517, 42518, 42519, 42520 and 42521, official records in the office of the State Engineer.

filed in association with the subject water right applications. A timely response was received from the BLM which indicated that all of the Desert Land Entry applications associated with water right Applications 41827, 41828, 41829, 41830, 41831, 41832, 42515, 42516, 42517, 42518, 42519, 42520 and 42521 had been closed by the BLM.¹ The State Engineer finds that the BLM's closure of these Desert Land Entry applications eliminates the possibility of a transfer of land occurring from the Federal Government to the subject water right applicants, therefore, the lands representing the proposed places of use under each of the water right applications remain under federal ownership.

II.

A water right application is filed to request an appropriation of water to be used for a specific purpose which is represented under the subject applications as the irrigation of land that was to be removed from federal jurisdiction by the approval of Desert Land Entry applications. The Desert Land Entry applications associated with the subject water right filings were closed by the BLM with ownership of the land retained by the federal government. The State Engineer finds that the purpose for which Applications 41827, 41828, 41829, 41830, 41831, 41832, 42515, 42516, 42517, 42518, 42519, 42520 and 42521 no longer exists, therefore, the necessity to divert water as proposed under the subject applications has ceased.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

A water right application is filed to appropriate water for a specific purpose which in the case of the subject applications is the irrigation of lands that were to be transferred from the Federal Government to the applicants' control though the approval of the applicants' respective Desert Land Entry applications. These attempts to transfer ownership of the lands described within the subject places of use were terminated when the BLM closed the underlying Desert Land Entry applications. The closure of these Desert Land Entry applications by the BLM removes the purpose for which the subject applications were filed. The State Engineer concludes that to approve water right permits for projects that no longer exist would threaten to prove detrimental to the public interest.

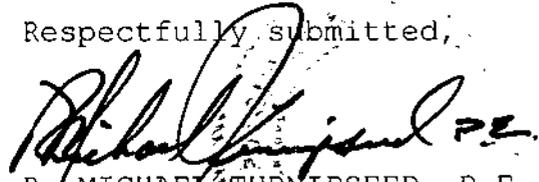
² NRS Chapters 533 and 534.

³ NRS § 533.370(a).

RULING

Applications 41827, 41828, 41829, 41830, 41831, 41832, 42515, 42516, 42517, 42518, 42519, 42520 and 42521 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/dl

Dated this 15th day of
June, 2000.

Attachment "A"

Application 41827 was filed on July 18, 1980, by Robert L. Krueger to appropriate 5.7 cubic feet per second (cfs) of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the S $\frac{1}{2}$ of Section 19, T.23N., R.59E., M.D.B.&M. The proposed point of diversion is described as being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 19.

Application 41828 was filed on July 18, 1980, by Norma M. Krueger to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the N $\frac{1}{2}$ of Section 19, T.23N., R.59E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 19.

Application 41829 was filed on July 18, 1980, by William J. Copeland to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the S $\frac{1}{2}$ of Section 30, T.23N., R.59E., M.D.B.&M. The proposed point of diversion is described as being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30.

Application 41830 was filed on July 18, 1980, by Lucile Norma Copeland to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the N $\frac{1}{2}$ of Section 30, T.23N., R.59E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 30.

Application 41831 was filed on July 18, 1980, by Laurence A. Goldstein to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the S $\frac{1}{2}$ of Section 31, T.23N., R.59E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 31.

Application 41832 was filed on July 18, 1980, by Nancy Jo Goldstein to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being within the N $\frac{1}{2}$ of Section 31, T.23N., R.59E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31.

Application 42515 was filed on September 24, 1980, by Scott P. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being within the E $\frac{1}{2}$ of Section 23, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 23.

Application 42516 was filed on September 24, 1980, by Brian J. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are describe as being located within the N $\frac{1}{2}$ of Section 25, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 25.

Application 42517 was filed on September 24, 1980, by Stephen B. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the S½ of Section 25, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the SE¼ SE¼ of said Section 25.

Application 42518 was filed on September 24, 1980, by Marilyn J. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being within the S½ of Section 13, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the SE¼ SE¼ of said Section 13.

Application 42519 was filed on September 24, 1980, by Philip W. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the N½ of Section 13, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the NE¼ NE¼ of said Section 13.

Application 42520 was filed on September 24, 1980, by David W. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the N½ of Section 24, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the NE¼ NE¼ of said Section 24.

Application 42521 was filed on September 24, 1980, by Bruce K. Peter to appropriate 5.7 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the S½ of Section 24, T.23N., R.58E., M.D.B.&M. The proposed point of diversion is described as being within the SE¼ SE¼ of said Section 24.