

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

IN THE MATTER OF APPLICATIONS)
45028, 45029, 45030, 45031, 45307,)
45308, 45309 AND 45310 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE)
WITHIN THE WHITE RIVER VALLEY,)
HYDROGRAPHIC BASIN (207), NYE)
COUNTY, NEVADA.)

RULING
5187

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 eight water right applications that were filed in 1981 and 1982 to appropriate underground water from the White River Valley Hydrographic Basin 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 eight White River 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 public domain through the approval of Desert Land Entry applications. By letter dated February 8, 2001, 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 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 rights Applications 45028, 45029, 45030, 45031, 45307, 45308, 45309 and 45310 had been closed by the BLM.¹ The State Engineer finds that

¹ File Numbers 45028, 45029, 45030, 45031, 45307, 45308, 45309 and 45310, official records in the Office of the State Engineer.

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 remains controlled by the federal government.

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 lands that were 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 control of the land being retained by the federal government. The State Engineer finds that the purpose for which Applications 45028, 45029, 45030, 45031, 45307, 45308, 45309 and 45310 were filed 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 or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change 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

² NRS chapter 533 and 534.

³ NRS 533.370(a).

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.

RULING

Applications 45028, 45029, 45030, 45031, 45307, 45308, 45309, and 45310 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectively submitted,



HUGH RICCI, P. E.
State Engineer

HR/RAD/jm

Dated this 10th day of
December, 2002.

ATTACHMENT "A"

Application 45028 was filed on November 9, 1981, by June Louise Parker to appropriate 3.5 cubic feet per second (cfs) of underground water for irrigation and domestic purposes upon approximately 160 acres of land that are described as being located within the NE $\frac{1}{4}$ of Section 4, T. 8N., R.61E., M.D.B.&M. The proposed point of diversion is described as being within Lot 2 of said Section 4.

Application 45029 was filed on November 9, 1981, by June Louise Parker to appropriate 3.5 cfs of underground water for irrigation and domestic purposes upon approximately 160 acres of land that are described as being located within the N $\frac{1}{4}$ of Section 4, T. 8N., R.61E., M.D.B.&M. The proposed point of diversion is described as being within Lot 4 of said Section 4.

Application 45030 was filed on November 9, 1981, by Ralph H. Parker to appropriate 3.5 cfs of underground water for domestic and irrigation purposes upon approximately 160 acres of land that are described as being located within the SE $\frac{1}{4}$ of Section 4, T. 8N., R.61E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 4.

Application 45031 was filed on November 9, 1981, by Ralph H. Parker to appropriate 3.5 cfs of underground water for irrigation and domestic purposes upon approximately 160 acres of land that are described as being located within the SW $\frac{1}{4}$ of Section 4, T. 8N., R.61E., 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 4.

Application 45307 was filed on February 10, 1982, by Elizabeth Dunn to appropriate 5.4 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the E $\frac{1}{2}$ of Section 8, T. 6N., R.60E., 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 8.

Application 45308 was filed on February 10, 1982, by Elizabeth Dunn to appropriate 5.4 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the E $\frac{1}{2}$ of Section 8, T. 6N., R.60E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 8.

Application 45309 was filed on February 10, 1982, by Raymond Dunn to appropriate 5.4 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the W $\frac{1}{2}$ of Section 8, T. 6N., R.60E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 8.

Application 45310 was filed on February 10, 1982, by Raymond Dunn to appropriate 5.4 cfs of underground water for irrigation and domestic purposes upon 320 acres of land that are described as being located within the W $\frac{1}{2}$ of Section 8, T. 6N., R.60E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 8.