

IN THE MATTER OF APPLICATIONS 43670 )  
AND 43671 FILED TO APPROPRIATE THE )  
PUBLIC WATERS FROM AN UNDERGROUND )  
SOURCE WITHIN THE DIXIE CREEK- )  
TENMILE GROUND WATER BASIN IN ELKO )  
COUNTY, NEVADA. )

RULING

GENERAL

Application 43670<sup>1</sup> was filed on May 5, 1981, by Leland J. Miller to appropriate 2.7 c.f.s. of water from an underground source to irrigate 160 acres of land within the SE1/4 Section 26, T.33N., R.56E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 26, T.33N., R.56E., M.D.B.&M.

Application 43671<sup>1</sup> was filed on May 5, 1981, by Rodney C. Mothershead to appropriate 5.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 26, T.33N., R.56E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 26, T.33N., R.56E., M.D.B.&M.

FINDINGS

I.

Records and information<sup>2</sup> available to the State Engineer indicate that Applications 43670 and 43671 were filed in support of Desert Land Entry applications.

II.

By letter<sup>3</sup> dated September 23, 1983, 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-24881	Leland J. Miller	T.33N., R.56E., Sec. 26
N-24882	Rodney C. Mothershead	T.33N., R.56E., Sec. 26

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<sup>1</sup> Public record in the office of the State Engineer under applications to appropriate 43670 and 43671.

<sup>2</sup> Public records in the office of the State Engineer.

<sup>3</sup> Public record in the office of the State Engineer under Applications 43670 and 43671.

III.

The applicants under Applications 43670 and 43671 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction<sup>4</sup> over the matter described herein.

II.

Applications 43670 and 43671 were filed in support of Desert Land Entries. The Desert Land Entry applications described under III 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.

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 43670 and 43671 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 15th day of

MARCH, 1984.

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<sup>4</sup> NRS Chapters 533 and 534.