

IN THE MATTER OF APPLICATIONS)
42461, 42821 AND 43075 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
AN UNDERGROUND SOURCE WITHIN THE)
RUBY VALLEY GROUND WATER BASIN IN)
ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 42461¹ was filed on September 15, 1980, by Rosemary Nelson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 319 acres of land within the W1/2 Section 1, T.27N., R.58E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 1, T.27N., R.58E., M.D.B.&M.

Application 42821¹ was filed on November 13, 1980, by Gregory Lee Bergstrom to appropriate 5.4 c.f.s. of water from an underground source to irrigate 315.98 acres of land within the W1/2 Section 31, T.28N., R.59E., M.D.B.&M. The point of diversion is described as being within Lot 2 Section 31, T.28N., R.59E., M.D.B.&M.

Application 43075¹ was filed on January 9, 1981, by Allen J. Elia to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 23, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 23, T.30N., R.60E., M.D.B.&M.

FINDINGS

I.

Records and information² available to the State Engineer indicate that Applications 42461, 42821 and 43075 were filed in support of Desert Land Entry applications.

¹ Public record in the office of the State Engineer under applications to appropriate 42461, 42821 and 43075.

² Public records in the office of the State Engineer.

II.

By letter³ dated May 15, 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-30798 | Rosemary Nelson | T.27N., R.58E., Sec. 1 |
| N-31349 | Gregory Bergstrom | T.28N., R.59E., Sec. 31 |
| N-31777 | Allen Elia | T.30N., R.60E., Sec. 23 |

III.

The applicants under Applications 42461, 42821 and 43075 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁴ over the matter described herein.

II.

Applications 42461, 42821 and 43075 were filed in support of Desert Land Entries. The Desert Land Entry applications described under II. 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.

³ Public record in the office of the State Engineer under Applications 42461, 42821 and 43075.

⁴ NRS Chapters 533 and 534.

RULING

Applications 42461, 42821 and 43075 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 23rd day of

 MAY , 1984.