

IN THE MATTER OF APPLICATIONS)
37365, 37367 AND 37370 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
AN UNDERGROUND SOURCE WITHIN THE)
RUBY VALLEY GROUND WATER BASIN IN)
ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 37365¹ was filed on March 30, 1979, by Connie M. Huyser to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 23, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 23, T.23N., R.60E., M.D.B.&M.

Application 37367¹ was filed on March 30, 1979, by Melvin H. Huyser 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.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 23, T.32N., R.60E., M.D.B.&M.

Application 37370¹ was filed on March 30, 1979, by Audrey J. Huyser to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 35, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 35, T.32N., R.60E., M.D.B.&M.

FINDINGS

I.

Records and information² available to the State Engineer indicate that Applications 37365, 37367 and 37370 were filed in support of Desert Land Entry applications.

II.

By deed³ filed on September 10, 1979, by Connie M. Huyser, Melvin H. Huyser and Audrey J. Huyser, Permits 37365, 37367 and 37370 were assigned to H. and A. Land and Cattle, Inc.

¹ Public record in the office of the State Engineer under applications to appropriate 37365, 37367 and 37370.

² Public records in the office of the State Engineer.

³ Public record in the office of the State Engineer under Applications 37365, 37367 and 37370.

III.

By letter⁴ dated May 23, 1984, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the H. and A. Land and Cattle, Inc., had no Desert Land Entry applications before them.

IV.

By letter⁵ dated May 16, 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-23339	Connie Huyser	T.32N., R.60E., Sec. 23
N-23343	Melvin Huyser	T.32N., R.60E., Sec. 23
N-23345	Audrey Huyser	T.32N., R.60E., Sec. 35

V.

The applicants under Applications 37365, 37367 and 37370 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁶ over the matter described herein.

II.

Applications 37365, 37367 and 37370 were filed in support of Desert Land Entries. The Desert Land Entry applications described under IV 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.

⁴ Public record in the office of the State Engineer under Applications 37365, 37367 and 37370.

⁵ Public record in the office of the State Engineer under applications to appropriate 37365, 37367 and 37370.

⁶ NRS Chapters 533 and 534.

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 37365, 37367 and 37370 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 27th day of
JUNE, 1984.