

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

IN THE MATTER OF APPLICATIONS 38356 AND)
38357 FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNDERGROUND SOURCE WITHIN)
THE HOT CREEK VALLEY GROUNDWATER BASIN)
IN NYE COUNTY, NEVADA.)

RULING

GENERAL

Application 38356¹ was filed on June 18, 1979, by Effie M. Gergen to appropriate 2.7 c.f.s. of water from an underground source to irrigate 160 acres of land within the SE1/4 NE1/4, NE1/4 SE1/4 Section 34 and SW1/4 NW1/4, NW1/4 SW1/4 Section 35 all in T.7N., R.50E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 35, T.7N., R.50E., M.D.B.&M.¹

Application 38357¹ was filed on June 18, 1979, by Effie M. Gergen to appropriate 2.7 c.f.s. of water from an underground source to irrigate 160 acres of land within the SE1/4 NW1/4, NE1/4 SW1/4, SW1/4 NE1/4, and NW1/4 SE1/4 of Section 35, T.7N., R.50E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 35, T.7N., R.50E., M.D.B.&M.¹

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications 38356 and 38357 were filed in support to Desert Land Entry applications.¹

II.

By letter dated August 10, 1988, 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.¹

¹ Public record in the office of the State Engineer.

| <u>BLM ENTRY NO.</u> | <u>NAME</u> | <u>LAND DESCRIPTION</u> |
|----------------------|-------------------|---|
| N-24788 | William E. Gergen | T.7N., R.50E., Sec.'s 26, 27, 34, 35 |

III.

Correspondence from the United States Department of the Interior, Bureau of Land Management, dated November 20, 1985, indicated that the lands under Desert Land Entry No. N-24789 were suitable for entry. The land is described as being located within the SE1/4 NE1/4 and NE1/4 SE1/4 Section 34; and S1/2 NW1/4, SW1/4 NE1/4, N1/2 SW1/4 and NW1/4 SE1/4 Section 35, T.7N., R.50E., M.D.B.&M.

IV.

Personal correspondence in late November, 1990, with the Bureau of Land Management Regional Office in Reno Nevada, indicated that the Desert Land Entry filed in the name of Effie M. Gergen had not been cancelled and the final decision by Bureau of Land Management would be to allow entry on the aforementioned lands.²

V.

Applications 38356 and 38357 were denied by State Engineers Ruling, dated January 31st, 1989, on the grounds that the applicant does not own or control the land and cannot demonstrate the ability to place the water to beneficial use.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.³

² Staff of the Division of Water Resources had a telephone conversation with Ken Stowers at the State office of the U.S. Bureau of Land Management to determine the status of the lands for which entry was applied.

³ NRS Chapters 533 and 534.

II.

After obtaining additional evidence the State Engineer has determined that Applications 38356 and 38357 should not have been denied per the January 31st, 1989, Ruling.

RULING

Applications 38356 and 38357 are herewith returned to "Ready for Action" status with their final disposition dependent upon the final decision of the Bureau of Land Management regarding the Desert Land Entry.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

Dated this 21st day of
December, 1990