

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

IN THE MATTER OF APPLICATIONS 42433, 42657,) )  
42658, 42659, 42660, 42661, 42663, 42667, ) )  
42669, 42671, 42672, 46767, 46768, 46770, ) )  
46771, 46773, 46774 AND 46775 FILED TO ) )  
FILED TO APPROPRIATE THE PUBLIC WATERS ) )  
FROM AN UNDERGROUND SOURCE WITHIN BIG ) )  
SMOKY VALLEY (NORTHERN PART) GROUND WATER ) )  
BASIN IN NYE COUNTY, NEVADA. ) )

RULING  
# 3816

GENERAL

I.

Application 42433<sup>1</sup> was filed on September 12, 1980 by Richard L. and Margaret Carver to appropriate 10.8 c.f.s. of water from an underground to irrigate 1040 acres of land within the W1/2, W1/2 E1/2 Section 27; W1/2 E1/2, N1/2 NW1/4 Section 22; SE1/4 SW1/4, SW1/4 SE1/4 Section 15; NW1/4, W1/4 NE1/4 Section 34, T.11N., R.43E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 27, T.11N., R.43E., M.D.B.&M.

Application 42657<sup>1</sup> was filed on October 15, 1980 by Zimmerman Ranching Corp. to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the NE1/4, N1/2 NW1/4 Section 29; SE1/4 SW1/4, SW1/4 SE1/4 Section 20, all located within T.13N., R.44E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 29, T.13N., R.44E., M.D.B.&M.

Application 42658<sup>1</sup> was filed on October 15, 1980 by Zimmerman Ranching Corp. to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the SW1/4 SW1/4 Section 21; NW1/4 NW1/4, S1/2 NW1/4, N1/2 SW1/4 SW1/4 SW1/4 Section 28; SE1/4 SE1/4 Section 29; all located within T.13N., R.44E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 28, T.13N., R.44E., M.D.B.&M.

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<sup>1</sup> Public record in the office of the State Engineer.

Application 42659<sup>1</sup> was filed on October 15, 1980 by Zimmerman Ranching Corp. to appropriate 5.4 c.f.s. of water from an underground source to irrigate 240 acres of land within the S1/2 SE1/4 Section 12; NE1/4 Section 13; all located within T.12N., R.42E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 13, T.12N., R.42E., M.D.B.&M.

Application 42660<sup>1</sup> was filed on October 15, 1980 by Zimmerman Ranching Corp. to appropriate 5.4 c.f.s. of water from an underground source to irrigate 240 acres of land within the S1/2 SW1/4 Section 12; NW1/4 Section 13; all located within T.12N., R.42E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 13, T.12N., R.42E., M.D.B.&M.

Application 42661<sup>1</sup> was filed on October 15, 1980 by Zimmerman Ranching Corp. to appropriate 5.4 c.f.s. of water from an underground source to irrigate 280 acres of land within the SE1/4 SE1/4 Section 11; NE1/4, W1/2 SE1/4 Section 14; all located within T.12N., R.42E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 14, T.12N., R.42E., M.D.B.&M.

Permit 42663<sup>1</sup> was issued on December 14, 1984, to Tillie A. Zimmerman to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the SW1/4 SE1/4, SW1/4, Section 8; N1/2 NW1/4 Section 17; NE1/4 NE1/4 Section 18; all located within T.12N., R.43E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 18, T.12N., R.43E., M.D.B.&M.

Permit 42667<sup>1</sup> was issued on December 19, 1984 to Julie G. Zimmerman to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 5, T.12N., R.43E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 5, T.12N., R.43E., M.D.B.&M.

Application 42669<sup>1</sup> was filed on October 15, 1980 by Zimmerman Ranching Corporation to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 32, T.13N., R.43E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 32, T.13N., R.43E., M.D.B.&M.

Permit 42671<sup>1</sup> was issued on December 19, 1984 to Dennis M. Zimmerman to appropriate 5.4 c.f.s. of water from an underground source to irrigation 320 acres of land within the S1/2 Section 32, T.13N., R.43E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 32, T.13N., R.43E., M.D.B.&M.

Permit 42672<sup>1</sup> was issued on December 14, 1984 to Hermalinda Zimmerman to appropriate 4.0 c.f.s. of water from an underground source to irrigation 240 acres of land within the SW1/4, W1/2 NW1/4 Section 33, T.13N., R.43E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 33, T.13N., R.43E., M.D.B.&M.

Application 46767<sup>1</sup> was filed on March 29, 1983 by Randall M. DuVal to appropriate 6 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 20, T.15N., R.45E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 20, T.15N., R.45E., M.D.B.&M.

Application 46768<sup>1</sup> was filed on March 29, 1983 by Gary G. DuVal to appropriate 6 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 E1/2 Section 31; W1/2 W1/2 Section 32; all located within T.15N., R.45E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 32, T.15N., R.45E., M.D.B.&M.

Application 46770<sup>1</sup> was filed on March 29, 1983 by Gaylord R. DuVal to appropriate 6 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 23, T.14N., R.44E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 23, T.14N., R.44E., M.D.B.&M.

Application 46771<sup>1</sup> was filed on March 29, 1983 by Gaylord R. DuVal to appropriate 6 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 23, T.14N., R.44E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 23, T.14N., R.44E., M.D.B.&M.

Application 46773<sup>1</sup> was filed on March 29, 1983 by Mabel M. DuVal to appropriate 6 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 22, T.14N., R.44E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 22, T.14N., R.44E., M.D.B.&M.

Application 46774<sup>1</sup> was filed on March 29, 1983 by Beverly A. DuVal to appropriate 6 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 20, T.15N., R.45E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NW1/4 Section 20, T.15N., R.45E., M.D.B.&M.

#### FINDINGS OF FACT

##### I.

Records and information available to the State Engineer indicate that Applications 42433, 42657, 42658, 42659, 42660, 42661, 42663, 42667, 42669, 42671, 42672, 46767, 46768, 46770, 46771, 46773, 46774 and 46775 filed in support of Desert Land Entries and Carey Act applications.<sup>1</sup>

##### II.

By letters dated May 11, 1989, October 26, 1989, January 19, 1990 and June 11, 1991, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry and Carey Act Applications had been closed and the case files are dead.<sup>1</sup>

BLM

<u>ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-38468	Tillie A. Zimmerman	T.12N., R.43E., Sec. 8, 17
N-38988	Dennis M. Zimmerman	T.13N., R.43E., Sec. 32
N-38990	Hermalinda Zimmerman	T.13N., R.43E., Sec. 33
N-38991	Julie G. Zimmerman	T.12N., R.43E., Sec. 5

<u>BLM</u> <u>ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-38989	Ted A. Zimmerman	
N-41331	Richard L. Carver	T.11N., R.43E., Sec. 15, 34
N-33014	State of Nevada	T.12N., R.42E., Sec's. 11-14 T.12N., R.43E., Sec's. 5, 7, 8, 17, 18 T.13N., R.43E., Sec's. 32, 33 T.13N., R.44E., Sec's. 20, 21, 28, 29
N-37899	Gaylord R. DuVal	T.14N., R.44E., Sec. 22
N-37900	Gaylord R. DuVal	T.14N., R.44E., Sec. 22
N-37901	Mabel M. DuVal	T.14N., R.44E., Sec. 23
N-37902	Joetta DuVal	T.15N., R.45E., Sec. 32
N-37903	Gary G. DuVal	T.15N., R.45E., Sec. 31, 32
N-37904	Randall M. DuVal	T.15N., R.45E., Sec. 20
N-37905	Beverly A. DuVal	T.15N., R.45E., Sec. 20
N-41330	Margaret Carver	T.11N., R.43E., Sec's. 15, 22, 27

III.

The State Engineer finds that the applicants under Applications 42433, 42657, 42658, 42659, 42660, 42661, 42663, 42667, 42669, 42671, 42672, 46767, 46768, 46770, 46771, 46773, 46774 and 46775 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.<sup>2</sup>

II.

Applications 42433, 42657, 42658, 42659, 42660, 42661, 42663, 42667, 42669, 42671, 42672, 46767, 46768, 46770, 46771, 46773, 46774 and 46775 were filed in support of Desert Land Entries and Carey Acts. The Desert Land Entry and Carey Act applications described under II of Findings have been closed on

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<sup>2</sup> NRS Chapters 533 and 534.

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.

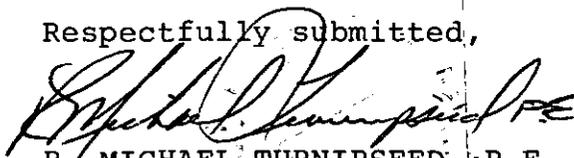
III.

To grant applications or maintain permits to appropriate the public water 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 42433, 42657, 42658, 42659, 42660, 42661, 42663, 42667, 42669, 42671, 42672, 46767, 46768, 46770, 46771, 46773, 46774 and 46775 are herewith denied and any further extensions of time to complete the diversion works and place the water to beneficial use on permits 42663, 42667, 42671 and 42672 are herewith denied on the grounds that to grant applications or maintain permits 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,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SW/pm

Dated this 25th day of  
July 1991.