

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

IN THE MATTER OF APPLICATION 41765)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BUTTE VALLEY)
(SOUTHERN PART) HYDROGRAPHIC)
BASIN (178B), ELKO COUNTY, NEVADA.)

RULING

#5344

GENERAL

I.

Application 41765 was filed on July 15, 1980, by Jean Bright, to appropriate 5.4 cubic feet per second of water from an underground source for irrigation purposes in support of a Desert Land Entry (DLE). The proposed place of use is 320 acres described as being located within E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 8, T.26N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 8.¹

FINDINGS OF FACT

I.

A review of records in the Office of the State Engineer show that the place of use described in the application is public land managed by the United States Department of the Interior, Bureau of Land Management (BLM).² On February 8, 2000, the BLM informed the Office of the State Engineer that the DLE application associated with water right Application 41765 had been "Rejected/Denied".¹ The State Engineer finds the applicant does not own or control the land described under the place of use of Application 41765 and the DLE application has been denied.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

¹ File No. 41765, official records in the Office of the State Engineer.

² United States Bureau of Land Management, "Ruby Lake", 1:100,000-scale topographic map, revised 1998.

³ NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

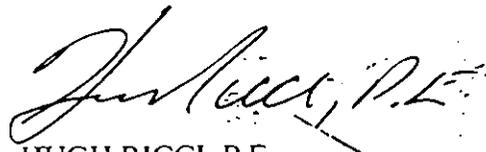
III.

Application 41765 was filed in support of a DLE application that has been denied by the BLM; therefore, the applicant does not own or control the land described under the place of use of the application and cannot demonstrate the ability to place the water to beneficial use. The State Engineer concludes that to grant an application 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.

RULING

Application 41765 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 15th day of

April, 2004.

⁴ NRS § 533.370(4).