

IN THE MATTER OF APPLICATIONS 42499)
AND 42502 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE MARYS RIVER AREA)
GROUND WATER BASIN IN ELKO COUNTY,)
NEVADA.)

RULING

GENERAL

Application 42499¹ was filed on September 23, 1980, by Alec Thomas Dotson to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 4, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 4, T.38N., R.60E., M.D.B.&M.

Application 42502¹ was filed on September 23, 1980, by Marlene D. Alcalá to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 28, T.38N., R.59E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 28, T.38N., R.59E., M.D.B.&M.

FINDINGS

I.

Marys River Area Ground Water Basin was described and designated² by the State Engineer on February 14, 1984, as a ground water basin in need of additional administration under the provisions of NRS Chapter 534.

II.

Records and information³ available to the State Engineer indicate that Applications 42499 and 42502 were filed in support of Desert Land Entry applications.

¹ Public record in the office of the State Engineer under applications to appropriate 42499 and 42502.

² Public record in the office of the State Engineer - State Engineer's Order No. 837. See also transcript of public hearing before the State Engineer on November 17, 1983. NRS 534.030.

³ Public records in the office of the State Engineer.

III.

By letter⁴ dated December 20, 1983, 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-29932	Marlene Alcalá	T.38N., R.59E., Sec. 28
N-29944	Alec Dotson	T.38N., R.60E., Sec. 4

IV.

The applicants under Applications 42499 and 42502 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁵ over the matter described herein.

II.

Applications 42499 and 42502 were filed in support of Desert Land Entries. The Desert Land Entry applications described under III 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.

⁴ Public record in the office of the State Engineer under Applications 42499 and 42502.

⁵ NRS Chapters 533 and 534.

RULING

Applications 42499 and 42502 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,

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a horizontal line.

Peter G. Morros
State Engineer

PGM/BD/bl

Dated this 24th day of

FEBRUARY, 1984.