

IN THE MATTER OF APPLICATIONS)
41767, 41768 AND 41769 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
AN UNDERGROUND SOURCE WITHIN THE)
BUTTE VALLEY (SOUTHERN PART))
GROUND WATER BASIN IN ELKO COUNTY,)
NEVADA.)

RULING

GENERAL

Application 41767¹ was filed on July 15, 1980, by Richard A. Weisberg to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 12, T.26N., R.61E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 12, T.26N., R.61E., M.D.B.&M.

Application 41768¹ was filed on July 15, 1980, by Michael D. Weisberg to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 13, T.26N., R.61E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 13, T.26N., R.61E., M.D.B.&M.

Application 41769¹ was filed on July 15, 1980, by Stuart R. Weisberg to appropriate 10.8 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 SE1/4, S1/2 NE1/4 Section 1 and N1/2 SW1/4, S1/2 NW1/4 Section 6, T.26N., R.62E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 1, T.26N., R.62E., M.D.B.&M.

FINDINGS

I.

Records and information² available to the State Engineer indicate that Applications 41767, 41768 and 41769 were filed in support of Desert Land Entry applications.

¹ Public record in the office of the State Engineer under applications to appropriate 41767, 41768 and 41769.

² Public records in the office of the State Engineer.

II.

By letter³ dated January 20, 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-29254	Richard Weisberg	T.26N., R.61E., Sec. 12
N-29255	Michael Weisberg	T.26N., R.61E., Sec. 13
N-29256	Stuart Weisberg	T.26N., R.61E., Sec. 1

III.

The applicants under Applications 41767, 41768 and 41769 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁴ over the matter described herein.

II.

Applications 41767, 41768 and 41769 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.

³ Public record in the office of the State Engineer under Applications 41767, 41768 and 41769.

⁴ NRS Chapters 533 and 534.

RULING

Applications 41767, 41768 and 41769 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 24th day of
FEBRUARY, 1984.