

IN THE MATTER OF APPLICATION 46400)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNDERGROUND SOURCE)
WITHIN THE BIG SMOKY VALLEY GROUND)
WATER BASIN IN NYE COUNTY, NEVADA.)

RULING

GENERAL

Application 46400¹ was filed on December 1, 1982, by Dana L. Faluey to appropriate 6.0 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 SW1/4 Section 14 and NE1/4, E1/2 SE1/4 Section 15, T.10N., R.43E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 15, T.10N., R.43E., M.D.B.&M.

FINDINGS

I.

Big Smoky Valley Ground Water Basin was described and designated² by the State Engineer on October 24, 1983, 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 Application 46400 was filed in support of Desert Land Entry application.

III.

By letter⁴ dated March 7, 1984, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry Application had been closed and the case file is dead.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-37656	Dana L. Faluey	T.10N., R.43E., Sec. 14, 15

¹ Public record in the office of the State Engineer under application to appropriate 46400.

² Public record in the office of the State Engineer - State Engineer's Order No. 827. See also transcript of public hearing before the State Engineer on September 22, 1983. NRS 534.030.

³ Public records in the office of the State Engineer.

⁴ Public record in the office of the State Engineer under Application 46400.

IV.

The applicant under Application 46400 does not own or control the land described under the place of use of the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction⁵ over the matter described herein.

II.

Application 46400 was filed in support of Desert Land Entry. The Desert Land Entry application described under III of Findings has been closed on the records of the Bureau of Land Management, 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.

III.

To grant 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 and welfare.

RULING

Application 46400 is herewith denied on the grounds that to grant the application 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 15th day of
MARCH, 1984.

⁵ NRS Chapters 533 and 534.