

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 41762, )  
41763 AND 41766 FILED TO APPROPRIATE )  
THE PUBLIC WATERS FROM AN )  
UNDERGROUND SOURCE WITHIN THE )  
BUTTE VALLEY GROUND WATER BASIN IN )  
ELKO COUNTY, NEVADA. )

RULING

GENERAL

Application 41762 was filed on July 15, 1980, by Jay A. Butts 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.26N., R.62E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 5, T.26N., R.62E., M.D.B.&M.<sup>1</sup>

Application 41763 was filed on July 15, 1980, by Andrew Butts to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 5, T.26N., R.62E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 5, T.26N., R.62E., M.D.B.&M.<sup>1</sup>

Application 41766 was filed on July 15, 1980, by Robert E. White to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 13, T.26N., R.61E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 13, T.26N., R.61E., M.D.B.&M.<sup>1</sup>

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications 41762, 41763 and 41766 were filed in support of Desert Land Entry applications.<sup>2</sup>

II.

By letter dated November 19, 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.<sup>3</sup>

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<sup>1</sup> Public record in the office of the State Engineer under applications to appropriate 41762, 41763 and 41766.

<sup>2</sup> Public records in the office of the State Engineer.

<sup>3</sup> Public record in the office of the State Engineer under applications to appropriate 41762, 41763 and 41766.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-28864	Jay A. Butts	T.26N., R.62E., Sec. 5
N-28862	Andrew Butts	T.26N., R.62E., Sec. 5
N-29257	Robert E. White	T.26N., R.61E., Sec. 13

III.

The applicants under Applications 41762, 41763 and 41766 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>4</sup>

II.

Applications 41762, 41763 and 41766 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.

RULING

Applications 41762, 41763 and 41766 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/SW/bl

Dated this 6th day of  
December, 1984.

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<sup>4</sup> NRS Chapters 533 and 534.