

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 36673,)
36682, 36709, 42773, 42774 AND 43176 FILED)
TO APPROPRIATE THE PUBLIC WATERS)
FROM AN UNDERGROUND SOURCE WITHIN)
THE RUBY VALLEY GROUND WATER BASIN)
IN ELKO COUNTY, NEVADA.)

RULING

GENERAL

Application 36673 was filed on February 8, 1979, by Wilmot L. Paullo, Jr., to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 2, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 2, T.31N., R.60E., M.D.B.&M.¹

Application 36682 was filed on February 8, 1979, by Pedro Villalobos to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 2, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within Lot 2, Section 2, T.31N., R.60E., M.D.B.&M.¹

Application 36709 was filed on February 12, 1979, by Amolee Weatherly to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 W1/2 and W1/2 E1/2 Section 1, T.32N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 1, T.32N., R.60E., M.D.B.&M.¹

Application 42773 was filed on November 4, 1980, by Phillip M. and Diane E. Pearson to appropriate 6.0 c.f.s. of water from an underground source to irrigate 640 acres of land within all of Section 16, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 16, T.31N., R.60E., M.D.B.&M.¹

Application 42774 was filed on November 4, 1980, by Phillip M. and Diane E. Pearson to appropriate 6.0 c.f.s. of water from an underground source to irrigate 640 acres of land within all of Section 16, T.31N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 16, T.31N., R.60E., M.D.B.&M.¹

Application 43176 was filed on February 5, 1981, by Margaret M. Wines to appropriate 4.3 c.f.s. of water from an underground source to irrigate 240 acres of land within the NW1/4 Section 13 and E1/2 NE1/4 Section 14, T.31N., R.59E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 14, T.31N., R.59E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer under applications to appropriate 36673, 36682, 36709, 42773, 42774 and 43176.

A timely protest was filed to the granting of Applications 42773 and 42774 by the United States Department of Interior, Bureau of Land Management. The grounds of the protest are as follows:²

"That the subject lands are vacant public lands, and that the applicant has no authorization or right to use or convey the applied for waters on or across such lands.

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications 36673, 36682, 36709, 42773, 42774 and 43176 were filed in support of Desert Land Entry applications.²

II.

By letter dated May 6, 1985, 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.³

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-22317	Amolee Weatherly	T.32N., R.60E., Sec. 1
N-22330	Pedro Villalobos	T.32N., R.60E., Sec. 35
N-22682	Wilmot L. Paullo	T.31N., R.60E., Sec. 11
N-23375	Margaret M. Wines	T.31N., R.59E., Sec's. 13, 14
NONE FILED	Phillip M Pearson and Diane M. Pearson	T.31N., R.60E., Sec. 16

III.

The applicants under Applications 36673, 36682, 36709, 42773, 42774 and 43176 do not own or control the land described under the place of use of the applications.

² Public records in the office of the State Engineer.

³ Public record in the office of the State Engineer under Applications 36673, 36682, 36709, 42773, 42774 and 43176.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.⁴

II.

Applications 36673, 36682, 36709, 42773, 42774 and 43176 were filed in support of Desert Land Entries. The Desert Land Entry applications described under II 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 36673, 36682, 36709, 42773, 42774 and 43176 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 30th day of

May, 1985.

⁴ NRS Chapters 533 and 534.