

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 45669)
AND 45670 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE MONITOR VALLEY -)
SOUTHERN PART HYDROGRAPHIC BASIN)
(140B), NYE COUNTY, NEVADA.)

RULING
5684

GENERAL

I.

Application 45669 was filed on May 14, 1982, by Dick Bell to appropriate 5.4 cubic feet per second (cfs) of underground water from the Monitor Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 21, and the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 22, T.9N., R.46E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 21.¹

II.

Application 45670 was filed on May 14, 1982, by Claudette Bell to appropriate 5.4 cfs of underground water from the Monitor Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 21, and the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 22, T.9N., R.46E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 21.²

FINDINGS OF FACT

I.

Applications 45669 and 45670 were filed to appropriate underground water for use upon land that was to be removed from the

¹ File No. 45669, official records in the Office of the State Engineer.

² File No. 45670, official records in the Office of the State Engineer.

federal domain through the approval of the Applicants' Desert Land Entry Applications, BLM Case #NVN 036211 and #NVN 036210, respectively. In November 2005, the United States Department of the Interior, Bureau of Land Management (BLM), Tonopah Office contacted the Office of the State Engineer regarding a change in status of the Applicants' pending Desert Land Entry Applications. Claudette Bell (#NVN 036210) and Dick Bell (#NVN 036211) had submitted withdrawal letters to the BLM for their Desert Land Entry Applications on July 29, 2005, and August 5, 2005, respectively. On October 19, 2005, the BLM closed the case files. The State Engineer finds that the Applicants' attempt to gain control of the places of use described under Applications 45669 and 45670 was terminated by the Applicants' withdrawal of their respective Desert Land Entry Applications.¹

III.

A water right application is filed to request an appropriation of water to be used for a specific purpose within a well defined place of use, which is represented under Applications 45669 and 45670 as the irrigation of 640 acres of land, which were to be removed from federal jurisdiction by the approval of the Applicants' respective Desert Land Entry Applications, BLM Case #NVN 036211 and #NVN 036210. These Desert Land Entry applications were closed by the BLM with the ownership of the land requested for removal retained by the federal government. The State Engineer finds that the purpose for which Applications 45669 and 45670 were filed no longer exists; therefore, the necessity to divert water as proposed under the subject applications has ceased.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

³ NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

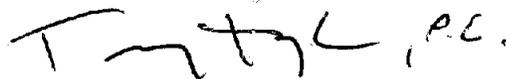
III.

The BLM's closure, at the Applicant's request, of the subject Desert Land Entry Applications removes the purpose for which Applications 45669 and 45670 were filed. The State Engineer concludes that to approve a water right permit for a project that no longer exists would threaten to prove detrimental to the public interest.

RULING

Applications 45669 and 45670 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/WHR/jm

Dated this 6th day of
December, 2006.

⁴ NRS § 533.370(5).