

IN THE MATTER OF APPLICATIONS 38499,)
38514, 38515, 38517, 38518, 38526,)
38632 AND 38862 FILED TO APPROPRIATE)
THE PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE MARYS RIVER AREA)
GROUND WATER BASIN IN ELKO COUNTY,)
NEVADA.)

R U L I N G

GENERAL

Application 38499¹ was filed on July 9, 1979 by Marsha H. Barney to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the W1/2 Section 34, T.39N., R.61E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 34, T.39N., R.61E., M.D.B.&M.

Application 38514¹ was filed on July 9, 1979 by Mary Southwell to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the W1/2 Section 25, T.39N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 25, T.39N., R.60E., M.D.B.&M.

Application 38515¹ was filed on July 9, 1979 by Fred Thomas Hunt to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the W1/2 Section 27, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 27, T.38N., R.60E., M.D.B.&M.

Application 38517¹ was filed on July 9, 1979 by Frank D. Prows to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the E1/2 Section 12, T.38N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 12, T.38N., R.59E., M.D.B.&M.

Application 38518¹ was filed on July 9, 1979 by Carol Sue Prows to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the E1/2 Section 1, T.38N., R.59E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 1, T.38N., R.59E., M.D.B.&M.

Application 38526¹ was filed on July 9, 1979 by Melba P. Larsen to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the S1/2 Section 5, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 5, T.38N., R.60E., M.D.B.&M.

¹ Public record in the office of the State Engineer under applications to appropriate 38499, 38514, 38515, 38517, 38518, 38526, 38632 and 38862.

Application 38632¹ was filed on July 23, 1979 by Suzanne Hunt King to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the E1/2 Section 6, T.39N., R.61E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 6, T.39N., R.61E., M.D.B.&M.

Application 38862¹ was filed on August 27, 1979 by Donald King to appropriate 5.4 cfs of water from an underground source to irrigate 320 acres of land within the E1/2 Section 4, T.39N., R.61E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 4, T.39N., R.61E., M.D.B.&M.

FINDINGS

I

Marys River Area Ground Water Basin was described and designated² by the State Engineer on February 14, 1984 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 Applications 38499, 38514, 38515, 38517, 38518, 38526, 38632 and 38862 were filed in support of desert land entry applications.

III

By letter⁴ dated February 1, 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-23432	Melba Larsen	T.39N., R.60E., Sec. 5
N-23437	Marsha Barney	T.39N., R.61E., Sec. 34
N-23453	Mary Southwell	T.39N., R.60E., Sec. 25
N-23439	Fred Hunt	T.38N., R.60E., Sec. 27
N-25232	Frank Prows	T.38N., R.59E., Sec. 12
N-25231	Carol Prows	T.38N., R.59E., Sec. 1
N-23644	Suzanne King	T.39N., R.61E., Sec. 6
N-23646	Donald King	T.39N., R.61E., Sec. 4

² Public record in the office of the State Engineer - State Engineer's Order No. 837. See also transcript of public hearing before the State Engineer on November 17, 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 Applications 38499, 38514, 38515, 38517, 38518, 38526, 38632 and 38862.

IV

The applicants under Applications 38499, 38514, 38515, 38517, 38518, 38526, 38632 and 38862 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I

The State Engineer has jurisdiction⁵ over the matter described herein.

II

Applications 38499, 38514, 38515, 38517, 38518, 38526, 38632 and 38862 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.

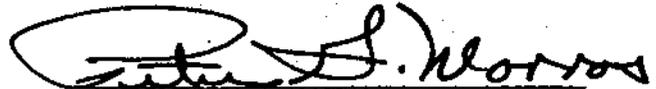
III

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 38499, 38514, 38515, 38517, 38518, 38526, 38632 and 38862 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/bc

Dated this 16th day of
FEBRUARY, 1984.

⁵ NRS Chapters 533 and 534.