

IN THE MATTER OF APPLICATIONS )  
41757, 41758 AND 41759 FILED TO )  
APPROPRIATE THE PUBLIC WATERS FROM )  
AN UNDERGROUND SOURCE WITHIN THE )  
BUTTE VALLEY (NORTHERN PART) )  
GROUND WATER BASIN IN ELKO COUNTY, )  
NEVADA. )

RULING

GENERAL

Application 41757<sup>1</sup> was filed on July 15, 1980, by William P. Schmitz, Jr., to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 NE1/4, N1/2 SE1/4 Section 33 and S1/2 NW1/4, N1/2 SW1/4 Section 34 T.30N., R.62E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 34, T.30N., R.62E., M.D.B.&M.

Application 41758<sup>1</sup> was filed on July 15, 1980, by Dave McOmber to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 NW1/4, E1/2 SW1/4 Section 28 and W1/2 NE1/4, W1/2 SE1/4 Section 22, T.30N., R.62E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 22, T.30N., R.62E., M.D.B.&M.

Application 41759<sup>1</sup> was filed on July 15, 1980 by Daniel R. Keller to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 NE1/4, N1/2 SE1/4 Section 28 and S1/2 NW1/4, N1/2 SW1/4 Section 27, T.30N., R.62E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4, Section 27, T.30N., R.62E., M.D.B.&M.

FINDINGS

I.

Records and information<sup>2</sup> available to the State Engineer indicate that Applications 41757, 41758 and 41759 were filed in support of Desert Land Entry applications.

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<sup>1</sup> Public record in the office of the State Engineer under applications to appropriate 41757, 41758 and 41759.

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

II.

By letter<sup>3</sup> dated January 25, 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-29729	David McOmber	T.30N., R.62E., Sec. 22
N-29933	Dan Keller	T.30N., R.62E., Sec. 27
N-29960	William Schmitz, Jr.	T.30N., R.62E., Sec. 34

III.

The applicants under Applications 41757, 41758 and 41759 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction<sup>4</sup> over the matter described herein.

II.

Applications 41757, 41758 and 41759 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.

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<sup>3</sup> Public record in the office of the State Engineer under Applications 41757, 41758 and 41759.

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

RULING

Applications 41757, 41758 and 41759 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/BD/bl

Dated this 24th day of  
FEBRUARY, 1984.