

IN THE MATTER OF APPLICATIONS 42959)
AND 42961 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE RUBY VALLEY)
GROUND WATER BASIN IN ELKO COUNTY,)
NEVADA.)
)
)
)

RULING

GENERAL

Application 42959¹ was filed on December 15, 1980, by Jean Perrine to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 12, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 12, T.30N., R.60E., M.D.B.&M.

Application 42961¹ was filed on December 15, 1980, by Spencer Perrine to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the S1/2 Section 12, T.30N., R.60E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 12, T.30N., R.60E., M.D.B.&M.

FINDINGS

I.

A timely protest² was filed to the granting of Applications 42959 and 42961 by Smith Bros. Ox Ranch on April 13, 1980. The grounds of the protest are as follows:

- "1. The drilling of the proposed irrigation well would interfere with our present livestock well in Section 12 T30 R60E. The recharge of this well is very slow and the depth of static water level is very shallow. This livestock well serves a water system that supplies water to six troughs in Sections 12, 10, 3, T30N R60E; Section 6 T30N R61E; Section 36 T31N; Section 31 T31N R61E.
2. We have vested grazing rights in Section 12 T30N R60E.

¹ Public record in the office of the State Engineer under applications to appropriate 42959 and 42961.

² Public record in the office of the State Engineer under applications to appropriate 42959 and 42961.

3. The applicant has no land, patent or otherwise in Section 12 as well as no grazing rights, mineral or other rights in this section.

II.

Records and information³ available to the State Engineer indicate that Applications 42959 and 42961 were filed in support of Desert Land Entry applications.

III.

By letter⁴ dated October 19, 1982, 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-31659	Majorie Jean Perrine	T.30N., R.60E., Sec. 12
N-31665	Spencer Perrine	T.30N., R.60E., Sec. 12

IV.

The applicants under Applications 42959 and 42961 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 42959 and 42961 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.

³ Public records in the office of the State Engineer.

⁴ Public record in the office of the State Engineer under Applications 42959 and 42961.

⁵ NRS Chapters 533 and 534.

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 42959 and 42961 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 20th day of
JULY, 1984.