

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

IN THE MATTER OF APPLICATION 42069 FILED)
TO APPROPRIATE THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN THE SNAKE)
VALLEY GROUND WATER BASIN IN WHITE PINE)
COUNTY, NEVADA.)

RULING
3940

GENERAL

I.

Application 42069¹ was filed on August 15, 1980, by Coleen P. Anderton to appropriate 5.6 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within W1/2, Section 36, T.13N., R.70E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 36, T.13N., R.70E., M.D.B.&M.

Application 42069 was timely protested on April 27, 1981 by Fredrick Baker of Baker Ranches, Inc. on the following grounds:

"The granting of this application would conflict and interfere with existing prior water rights in area."¹

FINDINGS OF FACT

I.

Records and information available to the State Engineer indicate that Application 42069 was filed in support of a Desert Land Entry application.²

II.

By letter dated January 16, 1992, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the Desert Land Entry application that corresponds to the place of use of Application 42069 has been closed.

¹ Public record in the office of the State Engineer.

² Public record of the office of the State Engineer filed under Application 42069.

III.

By virtue of the fact that the place of use is public land available for entrymen, the Applicant under Application 42069 does not own or control the land described under the place of use of the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.³

II.

Application 42069 was filed in support of a Desert Land Entry. The applicant's Desert Land Entry Application has been closed by the United States, Bureau of Land Management, therefore, the applicant does not own or control the land described under the place of use of the application and cannot demonstrate the ability to place the water to beneficial use.

III.

To grant an application to appropriate the public water 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.

IV.

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

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

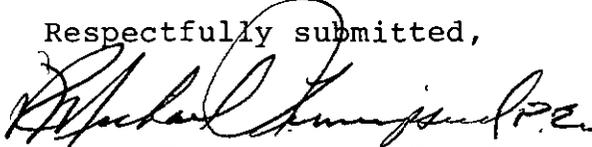
³ NRS Chapters 533 and 534.

⁴ NRS Chapter 533.370(3).

RULING

Application 42069 is herewith denied on the grounds that to grant an application 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. No finding is made on the validity of the protest submitted by Fredrick Baker.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MR/pm

Dated this 24th day of
February, 1993.