

IN THE OFFICE OF STATE ENGINEER  
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 41962 )  
AND 41963 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE PUMPERNICKEL )  
VALLEY GROUNDWATER BASIN, (065) )  
HUMBOLDT COUNTY, NEVADA. )

RULING

#4818

GENERAL

I.

Application 41962 was filed on August 1, 1980, by T.A. Lewis to appropriate 5.4 cubic feet per second (cfs) of underground water for the irrigation of 320 acres of land which are described as being located within the E $\frac{1}{2}$  of Section 34, T.34N., R.40E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 34.<sup>1</sup>

II.

Application 41963 was filed on August 1, 1980, by Maxine Lewis to appropriate 5.4 cfs of underground water for the irrigation of 320 acres of land which are described as being within the W $\frac{1}{2}$  of Section 34, T.34N., R.40E., 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 34.<sup>2</sup>

FINDINGS OF FACT

I.

Applications 41962 and 41963 were filed to appropriate underground water for use upon land which was to be removed from the federal domain through the approval of the applicants' respective Desert Land Entry applications. By letter dated September 8, 1999, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide information to the office of the State Engineer relating to the

<sup>1</sup> File No. 41962, official records in the office of the State Engineer.

<sup>2</sup> File No. 41963, official records in the office of the State Engineer.

current status of the T.A. Lewis and Maxine Lewis Desert Land Entry applications.<sup>1,2</sup> A timely response from the BLM was received in the office of the State Engineer which indicated that the Lewis' case files had been closed by the BLM in 1994 and 1996. The State Engineer finds that the applicants' attempts to gain control of the places of use requested under Applications 41962 and 41963 have been terminated by the proper governing federal agency.

**II.**

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 41962 and 41963 as the irrigation of two separate 320-acre parcels of land which were to be removed from federal jurisdiction by the approval of the applicants' Desert Land Entry applications. The Desert Land Entry applications filed by T.A. Lewis and Maxine Lewis 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 purposes for which Applications 41962 and 41963 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.<sup>3</sup>

**II.**

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

A. there is no unappropriated water at the proposed source;

---

<sup>3</sup> NRS Chapters 533 and 534.

<sup>4</sup> NRS § 533.370(3).

- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

**III.**

A water right application is filed to appropriate water for a specific purpose which in the case of Applications 41962 and 41963 is the irrigation of separate 320-acre parcels of land that were to be transferred from the federal government to the applicants' control through the approval of their respective Desert Land Entry applications. These attempts to transfer ownership of the lands described within the places of use under Applications 41962 and 41963 was terminated when the BLM closed the applicants' Desert Land Entry applications. The BLM's closure of these Desert Land Entry applications removes the purpose for which Applications 41962 and 41963 were filed. The State Engineer concludes that to approve water right permits for projects that no longer exist would threaten to prove detrimental to the public interest.

**RULING**

Applications 41962 and 41963 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 7th day of  
December, 1999.