

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 37361)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNDERGROUND SOURCE)
WITHIN THE DIAMOND VALLEY GROUND)
WATER BASIN IN EUREKA COUNTY,)
NEVADA.)

RULING

GENERAL

Application 37361 was filed on March 30, 1979, by Lon R. Chaney to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the N1/2 Section 33, T.23N., R.54E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 2, T.22N., R.54E., M.D.B.&M.¹

Application 37361 was timely protested on January 16, 1980, by Larry B. Phelps on the following grounds:¹

"Protestant holds vested and permitted rights upon the surface waters which are the source for the application and granting of the application will adversely affect the present water rights of the protestant.

Protestant holds permitted water rights for an underground source within the basin which is the source of the water for this application and the diversion of these waters may adversely affect the underground source.

The season of use (1-1 to 12-31) exceeds the growing season, and therefore, exceeds the amount of water required for irrigation."

FINDINGS

I.

Records and information available to the State Engineer indicate that Application 37361 was filed in support of a Desert Land Entry application.¹

II.

By letter dated May 13, 1986, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that no Desert Land Entry application had been filed for the place of use under Application 37361.¹

¹ Public record in the office of the State Engineer under Application 37361.

III.

The applicant under Application 37361 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.²

II.

Application 37361 was filed in support of a Desert Land Entry. No Desert Land Entry application has been filed with the 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.

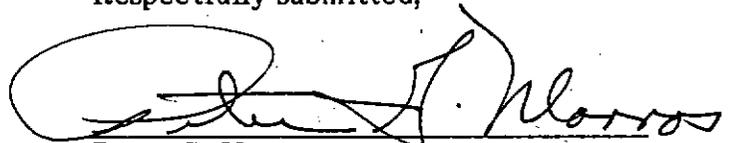
III.

To grant an application to appropriate the public 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

Application 37361 is herewith denied on the grounds that to grant the 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 ruling is made regarding the protest to Application 37361.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/SW/bl

Dated this 11th day of
August, 1986.

² NRS Chapters 533 and 534.