

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

IN THE MATTER OF APPLICATION 39034 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE NEWARK VALLEY )  
HYDROGRAPHIC BASIN (154), WHITE )  
PINE COUNTY, NEVADA. )

RULING

**# 5588**

GENERAL

I.

Application 39034 was filed on September 11, 1979, by Elizabeth B. Murphy to appropriate 5.4 cubic feet per second of underground water from the Newark Valley Hydrographic Basin for the irrigation of 320 acres of land within the N½ of Section 17, T.17N., R.55E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of said Section 17.<sup>1</sup>

FINDINGS OF FACT

I.

Application 39034 was filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of the applicant's respective Desert Land Entry Application, BLM Case #NVN 026011. On March 4, 1994, the United States Department of the Interior, Bureau of Land Management (BLM), contacted the Office of the State Engineer by letter requesting the status of Elizabeth Barker's (a.k.a.: Elizabeth B. Murphy) water right Application 39034. By return letter on April 27, 1994, the Office of the State Engineer informed the BLM that Application 39034 would not be approved due to spacing criteria. On May 31, 2005, the, Ely BLM Field Office was contacted by telephone to provide information to the Office of the State Engineer relating to the current status of the applicant's Desert Land Entry Application #NVN 026011. The BLM

<sup>1</sup> File No. 39034, official records in the Office of the State Engineer.

mailed copies of the applicant's Serial Register Page, received June 6, 2005, which indicated that the applicant's Desert Land Entry fees were refunded and the case closed by the BLM on June 10, 1994.<sup>1</sup>

The State Engineer finds that the applicant's attempt to gain control of the place of use described under Application 39034 has 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 Application 39034 as the irrigation of a 320 acre parcel of land, which was to be removed from federal jurisdiction by the approval of the applicant's respective Desert Land Entry Application #NVN 026011. The Desert Land Entry application filed by the applicant was rejected by the BLM with the ownership of the land requested for removal retained by the federal government.<sup>1</sup>

The State Engineer finds that the purpose for which Application 39034 was filed no longer exists; therefore, the necessity to divert water as proposed under the subject application has ceased.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

### II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>3</sup>

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

III.

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;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

IV.

The State Engineer concludes the BLM's closure of the subject Desert Land Entry application removes the purpose for which Application 39034 was filed and, that to approve a water right permit for a project that no longer exists would threaten to prove detrimental to the public interest.

RULING

Application 39034 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



Hugh Ricci, P.E.  
State Engineer

HR/WHR/jm

Dated this 13th day of  
March, 2006.

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<sup>4</sup> NRS § 533.370(4).