

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

IN THE MATTER OF APPLICATIONS 53244)
AND 53245 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE IN CONTINENTAL LAKE VALLEY,)
HUMBOLDT COUNTY, NEVADA.)

RULING

3796

GENERAL

I.

Application 53244 was filed on May 10, 1989 by Donald Eugene Morris to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres within E1/2 SE1/4 Section 10, W1/2 SW1/4 Section 11, W1/2 NW1/4 Section 14 and E1/2 NE1/4 Section 15, T.45N., R.28E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 14, T.45N., R.28E., M.D.B.&M.¹

II.

Application 53245 was filed on May 10, 1989 by Phyllis Marie Morris to appropriate 6.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 320 acres within E1/2 SE1/4 Section 22, W1/2 SW1/4 Section 23, W1/2 NW1/4 Section 26 and E1/2 NE1/4 Section 27, T.45N., R.28E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 26, T.45N., R.28E., M.D.B.&M.¹

III.

Application 53244 was timely protested by the U.S.D.I., Bureau of Land Management on December 7, 1989 on the grounds that:

"The point of diversion and all the place of use are on public land administered by the Bureau of Land Management. Donald Morris is not authorized to irrigate on the public land listed under item 6. on water rights application #53244.

Therefore the protestant requests that the application be denied."¹

¹ Public record in the office of the State Engineer.

"This proposed land classification decision classifies the public lands as Unsuitable for entry on Desert Land Entry Applications N-52409 and N-52310."¹

V.

In a letter dated July 20, 1990, by Fred Wolf, acting State Director, Nevada, the Bureau of Land Management sent correspondence to the State Engineer regarding Desert Land Entry Applications N-52409 and N-52410 for Donald E. and Phyllis M. Morris stating in part:

"It is the office's conclusion that the proposed classification decision was properly issued and the attached initial classification decision is hereby issued without modification."¹

VI.

During personal correspondence on April 8, 1991, Ms. Vienna Wolder, Bureau of Land Management informed Ms. Diana Lefler, State Engineer's Office that Desert Land Entry's for Donald E. and Phyllis M. Morris have been denied for locations appurtenant to water Applications 53244 and 53245.¹

VII.

The applicant under Applications 53244 and 53245 has not demonstrated that he controls the land on which he plans to place the water to beneficial use.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.³

II.

Applications 53244 and 53245 filed by Donald Eugene Morris and Phyllis Marie Morris, respectively, requests water rights be granted for lands on which the applicant has no control and cannot put the water to beneficial use.

³ NRS Chapter 533.

FINDINGS OF FACT

I.

The perennial yield of a hydrologic system is the maximum amount of water of usable chemical quality that can be consumed economically each year for an indefinite period of time. If the perennial yield is continually exceeded, ground water levels will decline until the ground water reservoir is depleted of water of usable quality or until the pumping lifts become uneconomical to maintain. Perennial yield cannot exceed the natural replenishment to an area indefinitely, and ultimately is limited to the maximum amount of natural discharge that can be salvaged for beneficial use.²

II.

For long-term natural or near-natural conditions, ground water inflow to and outflow from an area are about equal, assuming that climate conditions remain reasonably constant. For Continental Lake Valley, the estimate of ground water inflow and outflow which is considered to be the perennial yield of the hydrologic ground water basin is 11,000 acre-feet annually.²

III.

In a letter dated February 1, 1990, by Ron Wenker, District Manager, Bureau of Land Management, to the State Engineer's Office, the Bureau of Land Management withdrew protest of Application 53244 stating:

"We would like to withdraw our protest of application 53244 by Donald Morris. He has applied for a Desert Land Entry for the areas described under place of use."¹

IV.

In a letter received March 15, 1990, the Bureau of Land Management sent notice to the State Engineer of proposed land classification decision for Desert Land Entry Applications N-52409 and N-52410 by Donald E. and Phyllis M. Morris. The notice stated in part:

² Water Resources-Reconnaissance Series Report 60.

III.

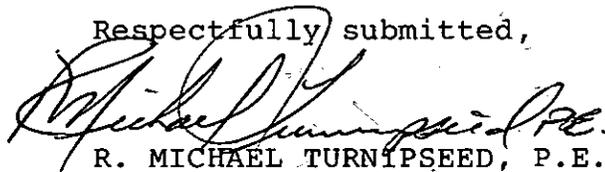
The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

- 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.

RULING

Applications 53244 and 53245 are hereby denied on the grounds that to grant 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.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 19th day of
April, 1991.

⁴ NRS Chapter 533.370