

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

IN THE MATTER OF APPLICATION 47309)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF HUNT'S CANYON STREAM)
WITHIN THE RALSTON VALLEY)
HYDROGRAPHIC BASIN (141) NYE)
COUNTY, NEVADA.)

RULING
#4871

GENERAL

I.

Application 47309 was filed on October 7, 1983, by Fred W. Carrillo to appropriate 5.0 cubic feet per second of water from Hunt's Canyon Stream for irrigation purposes on 340 acres of land located within the S $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, all in Section 34, T.8N., R.45E., M.D.B.&M., the S $\frac{1}{2}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, all within T.8N., R.45E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T.8N., R.46E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 47309 was filed to appropriate surface water for use upon land which was to be removed from the federal domain through the approval of a Desert Land Entry application. By letter dated November 9, 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 current status of the Fred W. Carrillo Desert Land Entry application. A timely response from the BLM was received in the office of the State Engineer which indicated that the BLM had rejected the Desert Land Entry application associated with Application 47309. The State Engineer finds that the applicant's

¹ File Number 47309, official records in the office of the State Engineer.

attempt to gain control of the place of use described under Application 47309 was rejected and the case file closed by the proper governing federal agency.

II.

A water right application is filed to request an appropriation of water for a specific purpose within a well defined place of use which is represented under Application 47309 as the irrigation of 340 acres of land which were to be removed from federal jurisdiction by the approval of the applicant's Desert Land Entry application. The applicant's Desert Land Entry application was rejected by the BLM with the ownership of the land requested for removal retained by the federal government. The State Engineer finds that the purpose for which Application 47309 was filed no longer exists, therefore, the necessity to divert water as proposed under Application 47309 has ceased.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

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

² NRS Chapters 533 and 534.

³ NRS § 533.370(3).

III.

A water right application is filed to appropriate water for a specific purpose, which in the case of Application 47309 is the irrigation of 340 acres of land which was to be transferred from the federal government to the applicant's control through the approval of his Desert Land Entry application. This attempt to transfer ownership of the lands described within the place of use under Application 47309 was terminated when the BLM rejected the applicant's Desert Land Entry application. The BLM's rejection of the applicant's Desert Land Entry application removes the purpose for which Application 47309 was filed. The State Engineer concludes 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 47309 is hereby denied on the grounds that it would threaten to prove detrimental to the public interest to approve a permit for a project that does not exist.

Respectfully submitted,

 R.E.

R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 8th day of
March, 2000.