

IN THE MATTER OF APPLICATION 43175 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNDERGROUND SOURCE )  
WITHIN THE RUBY VALLEY GROUND WATER )  
BASIN IN ELKO COUNTY, NEVADA. )

RULING

GENERAL

Application 43175<sup>1</sup> was filed on February 5, 1981, by Calvin S. Wines to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the NW1/4, W1/2 NE1/4 and the N1/2 SW1/4 Section 14, T.31N., R.59E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 14, T.31N., R.59E., M.D.B.&M.

FINDINGS

I.

A timely protest<sup>1</sup> was filed to the granting of Application 43175 by James K. Stonier on March 8, 1982. The grounds of the protest are as follows:

"Privileges of the Act of June 2, 1981, by the Nevada Legislature AB 428. We have filed well Applications #45315 & #45314 on our private lands. We also have DLE Applications #N22322 and #N22323. Said DLE applications cover the N1/2 of Sec 13."

II.

Records and information<sup>2</sup> available to the State Engineer indicate that Application 43175 was filed in support of Desert Land Entry application.

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<sup>1</sup> Public record in the office of the State Engineer under application to appropriate 43175.

<sup>2</sup> Public records in the office of the State Engineer.

III.

By letter<sup>3</sup> dated May 31, 1984, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry Application had been closed and the case file is dead.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-23376	Calvin Wines	T.31N., R.59E., Sec. 14

IV.

The applicant under Application 43175 does not own or control the land described under the place of use of the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction<sup>4</sup> over the matter described herein.

II.

Application 43175 was filed in support of Desert Land Entry. The Desert Land Entry application described under III of Findings has been closed on the records of 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 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.

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<sup>3</sup> Public record in the office of the State Engineer under Application 43175.

<sup>4</sup> NRS Chapters 533 and 534.

RULING

Application 43175 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.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/BD/bl

Dated this 20th day of

JULY, 1984.