

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
45735 FILED TO APPROPRIATE)
THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN)
THE MONITOR VALLEY (SOUTHERN)
PART) GROUND WATER BASIN IN)
NYE COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 45735¹ was filed on June 1, 1982 by Fred Wharton to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 SE1/4 Section 17; and SW1/4, W1/2 SE1/4 Section 16 T.9N., R.46E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 17, T.9N., R.46E., M.D.B.&M.

FINDINGS OF FACT

I.

Records and information available to the State Engineer indicate that Application 45735 was filed in support of a Desert Land Entry application.²

II.

By letter dated November 30, 1989, 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.²

¹ Public record in the Office of the State Engineer.

² Public record in the Office of the State Engineer filed under Application 45735.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
36382	Fred O. Wharton	T.9N., R.46E., Section 16, W1/2 SE1/4, SW1/4 Section 17, E1/2 SE1/4.

III.

The applicant under Application 45735 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.³

II.

Application 45735 was filed in support of a Desert Land Entry. The Desert Land Entry application described under II 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.

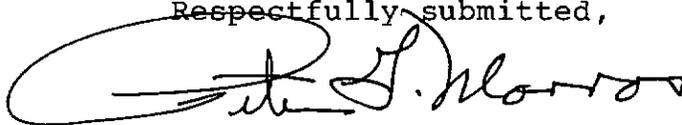
To grant an application to appropriate the public waters for irrigation on land the applicant does not own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest.

³ NRS Chapters 533 and 534.

RULING

Application 45735 is herewith denied on the grounds that to grant an application for irrigation purposes on land 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,

A handwritten signature in black ink, appearing to read "Peter G. Morros", written over a large, loopy flourish.

PETER G. MORROS
State Engineer

PGM/SW/pm

Dated this 28th day of

December, 1989