

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

IN THE MATTER OF APPLICATION 42488 FILED)
TO APPROPRIATE THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN THE STARR)
VALLEY AREA GROUND WATER BASIN IN ELKO)
COUNTY, NEVADA.)

RULING
3999

GENERAL

I.

Application 42488¹ was filed on September 23, 1980, by Chester R. Seapy to appropriate 5.4 c.f.s. of water from an underground source for irrigation purposes on 320 acres of land within the E $\frac{1}{2}$ of Section 34 T.36N., R.58E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34, T.36N., R.58E., M.D.B.&M.

FINDINGS OF FACT

I.

Records and information available to the State Engineer indicate that Application 42488 was filed in support of a Desert Land Entry application.¹

II.

By letter dated September 11, 1992, 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.¹

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-30389	Chester R. Seapy	T.36N., R.58E., Section 34, E $\frac{1}{2}$.

III.

The Applicant under Application 42488 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.²

¹ Public record in the office of the State Engineer filed under Application 42488.

² NRS Chapters 533 and 534.

II.

Application 42488 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 water 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.

IV.

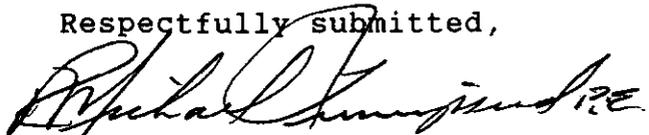
The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:¹

- 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

Application 42488 is herewith denied on the grounds that to grant an 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,



E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MR/pm

Dated this 14th day of
June, 1993.

³ NRS Chapter 533.370(3).