

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

IN THE MATTER OF TEMPORARY APPLICATION 56439-T)
FILED TO CHANGE THE POINT OF DIVERSION, MANNER)
AND PLACE OF USE OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE IN THE CARSON VALLEY)
GROUNDWATER BASIN, DOUGLAS COUNTY, NEVADA,)
HERETOFORE APPROPRIATED UNDER PERMIT 49103.)

RULING

4058

GENERAL

I.

Temporary Application 56439-T was filed on June 11, 1991 by Jacobsen Family Trust to change the point of diversion, manner and place of use of 2.5 acre-feet of water heretofore appropriated under Permit 49103. The proposed point of diversion was within SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11 T.12N., R.20E., M.D.B.&M. The existing point of diversion was within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, T.13N., R.20E., M.D.B.&M. The proposed place of use was within SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11, T.12N., R.20E., M.D.B.&M. The existing place of use was within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, T.13N., R.20E., M.D.B.&M. The proposed manner of use was industrial (temporary), while the existing manner of use is quasi-municipal.¹

FINDINGS OF FACT

I.

Temporary Application 56439-T was filed to support a permanent structure for Bert Machinery at the described place of use. Accordingly, permanent use would require an application for a permanent change.²

The State Engineer finds that it is not in the public interest to approve a temporary application where a permanent use is contemplated.

¹ File No. 56439-T, official records in the office of the State Engineer.

² Notification by the State Engineer's office dated February 6, 1992, File No. 56439-T.

II.

The Applicant and agent were notified by letter from the State Engineer's office dated February 6, 1992, that the temporary change was not in the public interest and to submit an additional \$50.00 fee to cover the cost associated with publishing Temporary Application 56439-T, in accordance with NRS 533.360.¹ Applicant was also notified to submit a supporting map. No fee or supporting map were received as a result of the notice.³

CONCLUSIONS

I.

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 and NRS 533.435.⁴

II.

If an applicant is seeking a temporary change of place of diversion, manner of use or place of use of water already appropriated, the State Engineer shall approve the application if:

- A. The application is accompanied by the prescribed fees;
- B. The temporary change is in the public interest; and
- C. The temporary change does not impair the water rights held by other persons.⁵

III.

When the State Engineer determines that the temporary change may not be in the public interest, or may impair the water rights held by other persons, he shall give notice of the application as provided in NRS 533.360.⁶

IV.

The applicant has not submitted the additional fee to cover the cost associated with publication. The State Engineer concludes

³ A check of the record in the office of the State Engineer indicates that no fee, or map have been received.

⁴ NRS Chapters 533 and 534.

⁵ NRS 533.345(2).

⁶ NRS 533.345(3).

that the publication of Application 56439-T cannot proceed without payment of the prescribed fees.

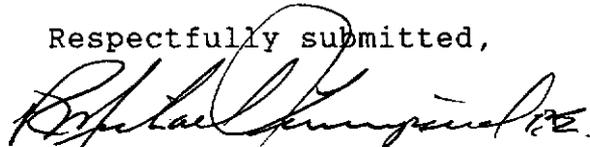
V.

The supporting map was not submitted by the required deadline. The State Engineer concludes that Application 56439-T cannot be approved without the map.

RULING

Temporary Application 56439-T is hereby denied on the grounds that the applicant has failed to submit the prescribed fees and the supporting map required under NRS 533.345.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 16th day of
December, 1993.