

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

IN THE MATTER OF APPLICATION 56875 FILED)
TO CHANGE THE WATERS ALREADY APPROPRIATED)
FROM AN UNDERGROUND SOURCE IN THE LAS)
VEGAS ARTESIAN BASIN (212), CLARK COUNTY,)
NEVADA.)

RULING

#4225

GENERAL

I.

Application 56875 was filed on October 28, 1991, by W.M.K. Transit Mix, Inc., to change the point of diversion and place of use of 0.367 cfs of underground water heretofore appropriated under Permit 21998 for industrial and domestic use. The proposed point of diversion is located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T.19S., R.62E., M.D.B.&M. Application 56875 became ready for action by the State Engineer on January 22, 1992.¹

II.

Permit 21998 was granted on August 21, 1964, for industrial and domestic use. The point of diversion being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, T.21S., R.60E., M.D.B.&M., Clark County, Nevada. Proof of Application of the Water to Beneficial Use was filed on April 3, 1969, showing that 0.367 cfs of water was proved beneficially used.²

III.

The State Engineer initially described and designated a portion of the Las Vegas Artesian Basin on January 10, 1941, under the provisions of NRS 534.030, as a basin in need of administration.³

¹ File No. 56875, official records in the Office of the State Engineer.

² File No. 21998, official records in the Office of the State Engineer.

³ State Engineer's Order No. 175, dated January 10, 1941, official records in the Office of the State Engineer.

The State Engineer subsequently extended the boundaries of the designated area of the Las Vegas Artesian Basin on February 29, 1944,⁴ November 22, 1946,⁵ April 18, 1961,⁶ May 25, 1964,⁷ and December 27, 1983.⁸

IV.

Most permits issued in the Las Vegas Artesian Basin after March 24, 1955, are revocable water rights for the temporary use of ground water, and subject to revocation when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water.⁹

FINDINGS OF FACT

I.

The State Engineer finds that Permit 21998, issued August 21, 1964,² was within the area of the Las Vegas Artesian Basin described and designated by State Engineer's Order No. 249,⁶ was issued as a revocable right for the temporary use of ground water, and was subject to revocation.

II.

The State Engineer finds that on July 15, 1992, the State Engineer sent by certified mail to owners of record a Notice of Intent to Revoke Permit 21998.² The State Engineer finds that the certified letter was returned to the State Engineer as unclaimed.²

⁴ State Engineer's Order No. 182, dated February 29, 1944, official records in the Office of the State Engineer.

⁵ State Engineer's Order No. 189, dated November 22, 1946, official records in the Office of the State Engineer.

⁶ State Engineer's Order No. 249, dated April 18, 1961, official records in the Office of the State Engineer.

⁷ State Engineer's Order No. 275, dated May 25, 1964, official records in the Office of the State Engineer.

⁸ State Engineer's Order No. 833, dated December 27, 1983, official records in the Office of the State Engineer.

⁹ NRS 534.120(3)(a).

III.

The State Engineer finds it is the responsibility of the permittee or his successor in interest to keep this office informed of his current mailing address.

IV.

The State Engineer finds that on September 9, 1992, the State Engineer issued Order 1065 revoking Permit 21998.^{2,10} The water right represented by Permit 21998, which Application 56875 proposes to change, was revoked and is no longer a water right in good standing.

V.

The State Engineer finds that a permit cannot be granted for Application 56875 because there is no longer a water right that can be changed by the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.¹¹

NRS 533.345(1) provides that an application can be filed to change the place of diversion, manner or place of use of water already appropriated. Water already appropriated in reference to a change application refers to water represented by a permit or certificate in good standing.¹² Where a permit has been revoked, the water right is no longer a valid; thus, it is not in good standing and cannot be used to support a change application.

¹⁰ State Engineer's Order No. 1065, dated September 9, 1992, official records in the Office of the State Engineer.

¹¹ NRS Chapter 533 and NRS 534.

¹² NRS 533.324.

II.

In the case of a change application, if the underlying permit has been revoked, there is no water right on which to support the change application.

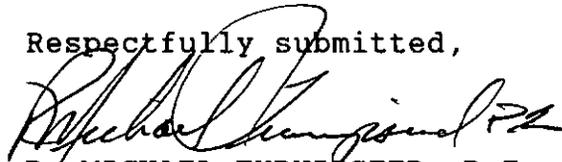
III.

The State Engineer concludes that as Permit 21998 was revoked there is no water right existing in Permit 21998 that can be changed by a permit granted for Application 56875.

RULING

Application 56875 is hereby denied on the grounds that the base permit was revoked in 1992, thus no water right exists which can be changed by Application 56875.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJT/CAB/pm

Dated this 11th day of
October, 1995.