

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

IN THE MATTER OF APPLICATION 50310 FILED TO )  
CHANGE THE PLACE OF USE OF WATER FROM AN )  
UNDERGROUND SOURCE HERETOFORE APPROPRIATED )  
UNDER PERMIT 43578, CERTIFICATE 11183, IN )  
THE SMITH VALLEY GROUNDWATER BASIN (107), )  
LYON COUNTY, NEVADA. )

RULING

# 4241

GENERAL

I.

Application 50310 was filed October 24, 1986, by F.M. Fulstone, Inc., to change the place of use of 0.025 cubic feet per second (cfs) of water heretofore appropriated for stockwatering purposes under Permit 43578, Certificate 11183.<sup>1</sup> The proposed new use is stockwatering of 826 cattle. The manner of use under Permit 43578 was for stockwatering 426 cattle and 2,000 sheep. The point of diversion is no different than that under Permit 43578 being described as an existing well located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 21, T.13N., R.24E., M.D.B.&M. The proposed place of use is described as being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 16, SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 20, SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 21, and SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 28, T.13N., R.24E., M.D.B.&M. Application 50310 became ready for the State Engineer's action on March 22, 1987.<sup>1</sup>

II.

Permit 43578 was issued on January 8, 1982, to appropriate 0.0258 cfs for stockwatering 426 cattle and 2,000 sheep within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 21, T.13N., R.24E., M.D.B.&M.<sup>2</sup> The point of diversion is described as being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 21. Certificate 11183, issued on Permit 43578 on June 3, 1985, is held by F.I.M. Inc.<sup>2</sup>

<sup>1</sup> File No. 50310, official records in the Office of the State Engineer.

<sup>2</sup> File No. 43578 and Certificate No. 11183, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer finds the applicant and its agent were notified by letter from the State Engineer's Office dated January 17, 1992, that a permit on Application 50310 could not be issued until the ownership of Application 50310 and the Permit 43578/Certificate 11183 were in the same name.<sup>1,2</sup>

II.

The State Engineer finds the applicant and its agent were again notified by certified mail dated June 22, 1994, that a permit could not be issued on Application 50310 until Application 50310 and Permit 43578 were under the same ownership.<sup>1,2</sup> The return receipts were returned to the State Engineer's Office as received.<sup>2</sup>

III.

The State Engineer finds that to date the requested information has not been received.<sup>1,2</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>4</sup>

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>5</sup>

- A. There is no unappropriated water at the proposed source,  
or

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<sup>3</sup> NRS Chapters 533 and 534.

<sup>4</sup> NRS 533.375.

<sup>5</sup> NRS 533.370(3).

- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

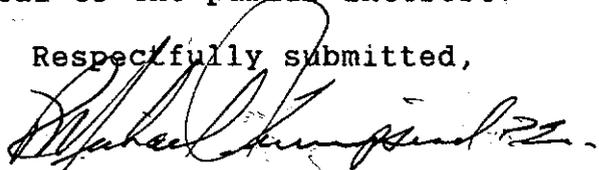
IV.

The applicant and its agent have been properly notified of the requirement for additional information concerning Application 50310 and have failed to submit the required information to the State Engineer's Office. The State Engineer concludes that without the additional information the State Engineer cannot properly guard the public interest and to grant Application 50310 would be detrimental to the public interest.

RULING

Application 50310 is hereby denied on the grounds that the applicant failed to submit the information requested by the State Engineer's Office, and that without the information the granting of the application would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CAB/ab

Dated this 24th day of  
October, 1995.