

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

IN THE MATTER OF APPLICATION 51832 FILED)
TO CHANGE THE POINT OF DIVERSION, PLACE OF)
USE, AND MANNER OF USE OF THE UNDERGROUND)
WATERS OF THE PAHRUMP VALLEY GROUNDWATER)
BASIN (162), NYE COUNTY, NEVADA.)

RULING

4499

GENERAL

I.

Application 51832 was filed on February 11, 1988, by Preferred Equities Corporation to change the point of diversion and place and manner of use of 0.35 cubic feet per second (cfs) not to exceed 192.35 acre feet annually (AFA), a portion of the underground waters previously appropriated under Permit 23471, Certificate 7775 within the Pahrump Valley Groundwater Basin, Nye County, Nevada. The use of water is proposed to be changed from irrigation and domestic to municipal (golf course). The place of use is proposed to be changed to the golf course located within the S $\frac{1}{2}$ S $\frac{1}{2}$ Section 26 and the N $\frac{1}{2}$ N $\frac{1}{2}$ Section 35, T.20S., R.53E., M.D.B.&M. The existing place of use is composed of 38.47 acres located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, T.21S., R.53E., M.D.B.&M. The proposed point of diversion is located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T.20S., R.53E., M.D.B.&M. The existing point of diversion is located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, T.21S., R.53E., M.D.B.&M.¹

FINDINGS OF FACT

I.

On September 15, 1992, a hearing was held to consider the possible forfeiture of the base water right, Permit 23471, Certificate 7775. After consideration of the evidence, the State Engineer ruled that the portion of Permit 23471, Certificate 7775, appurtenant to 38.47 acres located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12,

¹File No. 51832, official records in the Office of the State Engineer.

T.21S., R.53E., M.D.B.&M., was forfeited.² The State Engineer found that the water had not been placed to beneficial use for a five year period of time that expired before Application 51832 was filed. This ruling was not appealed. Therefore, Application 51832 was filed to change a forfeited water right. The State Engineer finds that Application 51832 cannot be approved because the base right has been forfeited.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action.³

II.

The State Engineer is prohibited by law from granting an application to change the public waters of Nevada where:⁴

- A. The proposed change conflicts with existing rights or
- B. The proposed change threatens to prove detrimental to the public interest.

III.

An application may be filed to change the point of diversion, manner or place of use of water already appropriated.⁵ Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing.⁶ Where a water right certificate has been forfeited, the water right is no longer valid. It is not in good standing and cannot be used to support a change application.

²State Engineer's Ruling No. 4481, dated December 20, 1996, official records of the Office of the State Engineer.

³NRS Chapters 533 and 534.

⁴NRS 533.370.

⁵NRS 533.325.

⁶NRS 533.324.

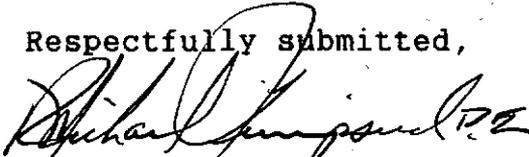
Ruling
Page 3

The State Engineer has ruled that the base right which Application 51832 seeks to change is forfeited. Therefore, the base right is no longer in good standing and cannot be changed by Application 51832. The State Engineer concludes that Application 51832 must be denied.

RULING

Application 51832 is hereby denied on the grounds that the water right that forms the basis for the change application is forfeited and is no longer an active water right.

Respectfully submitted,



E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JCP/ab

Dated this 25th day of
February, 1997.