

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

IN THE MATTER OF APPLICATIONS 33159 AND)
33161 FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE WITHIN)
THE CALIFORNIA WASH GROUNDWATER BASIN)
(218), CLARK COUNTY, NEVADA.)

RULING

4621

GENERAL

I.

Application 33159 was filed August 15, 1977, by Carolyn L. Perkins to appropriate 2.0 cubic feet per second (cfs) of water from an underground source for irrigation purposes within the E½ of the SW¼ and the W½ of the SE¼ of Section 1, T.15S., R.65E., M.D.B.& M. The proposed point of diversion is described as being located within the SW¼ SE¼ of said Section 1.¹

II.

Application 33161 was filed August 15, 1977, by John G. Perkins to appropriate 2.0 cfs of water from an underground source for irrigation purposes within the S½ of the SE¼ of Section 2, and the W½ of the SW¼ of Section 1, T.15S., R.65E., M.D.B.& M. The proposed point of diversion is described as being located within the SW¼ SE¼ of Section 2, T.15S., R.65E., M.D.B.& M.²

FINDINGS OF FACT

I.

Records and information available to the State Engineer indicate that the proposed places of use under Applications 33159 and 33161 are lands which were transferred from public land to the Moapa Indian Reservation by Public Law 96-491 dated December 2, 1980.^{1,2}

¹ File No. 33159, official records in the office of the State Engineer.

² File No. 33161, official records in the office of the State Engineer.

II.

By letters dated October 18, 1996, and November 8, 1996, the office of the State Engineer informed the applicants that the office had been informed that the places of use under the applications were now an Indian reservation and that the applicants would be required to submit documentation or information confirming they had control of the land identified under the applications at the existing places of use. The applicants were requested to respond within 30 days of the November 8, 1996, letter. The State Engineer finds that by letter received November 25, 1996, John Perkins requested the State Engineer keep the applications active, but no documentation was received indicating any control of the land identified.

III.

By letter dated January 8, 1997, applicant Carolyn Perkins was asked to submit a copy of a lease from the Moapa Indian Reservation allowing the applicants to control the places of use identified under the applications. In a letter to this office dated February 25, 1998, Jacquelyn Perkins Leavitt, daughter of Carolyn Perkins, replied that she was not able to locate the above requested lease.^{1,2} The State Engineer finds that information in the records of the State Engineer indicates that the Southern Paiute Field Station of the Bureau of Indian Affairs advises that no lease is on file regarding the above-described proposed places of use.^{1,2}

CONCLUSIONS

I.

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

II.

The proposed places of use under Applications 33159 and 33161 are currently within the Moapa Indian Reservation and there is no

³ NRS Chapters 533 and 534.

evidence that a lease exists between the Moapa Indian Reservation and the applicants; therefore, there is no evidence in the records of the State Engineer that the applicants own or control the land described as the places of use under the applications nor can the applicants demonstrate the ability to place the water to beneficial use. The State Engineer concludes it would be detrimental to the public interest to grant applications to appropriate the public water for irrigation on lands the applicants do not own or control, for which the applicants cannot demonstrate the ability to place the water to beneficial use.

III.

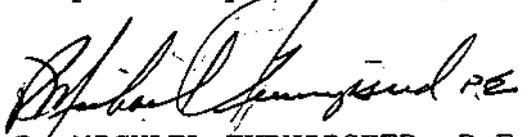
The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

- 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

Applications 33159 and 33161 are hereby denied on the grounds that to grant an application for irrigation purposes on land that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use would be detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RAD/cl
Dated this 13th day of
April, 1998.

⁴ NRS Chapter 533.370(3).