

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

IN THE MATTER OF APPLICATION 64651)
FILED TO CHANGE THE MANNER OF USE)
OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE PREVIOUSLY)
APPROPRIATED UNDER PERMIT 42191,)
CERTIFICATE 10837 WITHIN THE)
CARSON VALLEY HYDROGRAPHIC)
BASIN (105), DOUGLAS COUNTY,)
NEVADA.)

RULING
5240

GENERAL

I.

Application 64651 was filed on December 2, 1998, by Bently Buckeye Ranch to change the manner of use of 0.062 cubic feet per second (cfs), not to exceed 14.63 million gallons annually, of the underground waters previously appropriated under Permit 42191, Certificate 10837. The proposed manner of use is quasi-municipal. The existing manner of use is stockwatering and domestic. The proposed place of use is within portions of the NW¹/₄ NW¹/₄, NE¹/₄ NW¹/₄, SW¹/₄ NW¹/₄, SE¹/₄ NW¹/₄, NW¹/₄ NE¹/₄, SW¹/₄ NE¹/₄, NW¹/₄ SW¹/₄, NE¹/₄ SW¹/₄, and SE¹/₄ SW¹/₄ of Section 27, T.13N., R.20E., M.D.B.&M. The point of diversion is described as being located within the NE¹/₄ SW¹/₄ of said Section 27.¹

II.

Certificate 10837 was issued under Permit 42191 on December 13, 1983, for 0.062 cfs for stockwatering and domestic purposes. The place of use and point of diversion is the same as that of Application 64651.²

FINDINGS OF FACT

I.

A review of records in the Office of the State Engineer shows the State Engineer forfeited Certificate 10837 on April 27, 1999.² Due to the forfeiture, water no longer exists under Certificate 10837, which forms the basis for change Application 64651. The

¹ File No. 64651, official records in the Office of the State Engineer.

² File No. 42191, official records in the Office of the State Engineer.

State Engineer finds that Application 64651 cannot be approved because the certificate that forms the basis for the change application has been forfeited.

CONCLUSIONS

I.

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

II.

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or 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 as the basis for a change application. The State Engineer concludes that Certificate 10837 is not in good standing and cannot be used as the basis for change Application 64651. The State Engineer concludes that Application 64651 is subject to denial.

³ NRS chapters 533 and 534.

⁴ NRS § 533.370 (3).

⁵ NRS § 533.325.

⁶ NRS § 533.324.

RULING

Application 64651 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 available to be changed, and to grant a permit to change a forfeited water right would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 9th day of

May, 2003.