

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

IN THE MATTER OF APPLICATIONS)
13635 AND 15488 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
FROM SURFACE SOURCES WITHIN)
THE MUD MEADOW HYDROGRAPHIC)
BASIN (26), HUMBOLDT COUNTY,)
NEVADA.)

RULING
5274

GENERAL

I.

Application 13635 was filed on February 13, 1951, by Vern R. Parman and Ralph G. Parman, known as Parman Brothers and later assigned to Estill Ranches, LLC, to appropriate 5.0 cubic feet per second (cfs) of water from Donelly Creek for irrigation and domestic purposes. The place of use is 308.83 acres described as being located within SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Lot 6, Lot 8, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Lot 1 NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, all within T.37N., R.25E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T.37N., R.25E., M.D.B.&M.¹

II.

Application 15488 was filed on February 5, 1954, by Vern R. and Ralph G. Parman and Geo. Schadler, and later assigned to Estill Ranches, LLC, to appropriate 5.0 cfs of water from Soldier Meadow and tributaries for irrigation and domestic purposes. The place of use is 805.14 acres described as being located within NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32, all within T.40N.,

¹ File No. 13635, official records in the Office of the State Engineer.

R.25E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 19, T.40N., R.25E., M.D.B.&M.²

III.

The Fresno-Madera Federal Land Bank Association, FLCA filed a Notice of Pledge encumbering Applications 13635 and 15488.

IV.

Application 13635 was timely protested by A. F. and G. C. Jackson on the following grounds:¹

Having 331 acre feet of the excess and flood waters of Donelly Creek approved [sic] rights, and not having been able to fill this in the past nine years, we protest any further filing on Donelly Creek.

V.

Application 15488 was timely protested by C. W. Fick on the following grounds:²

Protestant through his said attorney is informed and believes that there is no unappropriated water in said Soldier Meadow Creek and its tributaries at the point from which applicants seek to appropriate waters to be conveyed to Sections, 19, 29, 30 and 32, T.40N., R.25E., M.D.B.&M. That Protestant is the owner of what is known as the Soldier Meadow ranch through which said Soldier Meadow Creek and its tributaries run and through appropriations of the waters of said stream system long past made has a vested water right for the irrigation of sufficient lands owned by him to utilize all the waters of said Soldier Meadow Creek and its tributaries.

That there is pending before the Office of the State Engineer an adjudication of said stream system and that protestant has filed his proofs in connection with the said adjudication which shows the dates of the appropriation of the waters of said stream system on the lands irrigated thereby.

That in the granting of said Application No. 15,488, the protestant's water rights in connection with said Soldier Meadow irrigated lands would cause irreparable damage to protestant's ownership of said water rights in connection with said lands as well as the use of said waters thereon.

² File No. 15488, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The applicant was notified by certified mail dated March 4, 2003, to submit additional information to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. Properly endorsed certified mail receipts were returned to the Office of the State Engineer by the U.S. Postal Service on March 6, 2003, and March 10, 2003, respectively.¹ To date, there has been no response from the applicant. The State Engineer finds that the applicant was properly notified of the request for additional information regarding Applications 13635 and 15488 and has failed to respond.

II.

Applications 13635 and 15488 have been pending for 52 and 49 years, respectively, and over the years ownership has transferred multiple times. The original owners first transferred the applications by Grant, Sale, and Bargain Deed, dated August 1, 1958.¹ A review of records on file in the Office of the State Engineer show that not a single owner, subsequent to the original applicant, has expressed an intention of pursuing Applications 13635 and 15488. The State Engineer finds that there has been no interest expressed in pursuing Applications 13635 and 15488 since at least 1958.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water 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.

³ NRS chapter 533.

⁴ NRS § 533.370(3).

III.

The applicant was properly notified of the requirement for additional information concerning interest in these applications and has failed to submit any information to the State Engineer's office. The State Engineer concludes that the failure to respond to the certified request for additional information demonstrates the applicant's lack of interest in pursuing Applications 13635 and 15488. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under applications for which no interest is expressed.

RULING

Applications 13635 and 15488 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 5th day of
September, 2003.