

IN THE MATTER OF APPLICATION 29752)
TO CHANGE THE POINT OF DIVERSION)
AND PLACE OF USE OF PERMIT 28167)
IN HUMBOLDT COUNTY, NEVADA.)

R U L I N G

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GENERAL:

Application 29752 was filed on November 5, 1975, in the name of Jack and Irene F. Fullenwider to change the point of diversion and place of use of 4.0 c.f.s. of water heretofore appropriated under Permit 28167 for irrigation and domestic purposes. The proposed point of diversion is an underground source located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T.36N., R.38E., M.D.B.& M. and the proposed place of use is 240 acres within the S $\frac{1}{2}$ N $\frac{1}{2}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ of said Section 3. The existing point of diversion is an underground source located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1, T.37N., R.40E., M.D.B.& M., and the existing place of use is 240 acres located within the NE $\frac{1}{4}$ of said Section 1 and the S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6, T.37N., R.41E., M.D.B.& M. Application 29752 became ready for action by the State Engineer on February 26, 1976.

Permit 28167, which is to be changed by Application 29752, was issued on June 24, 1974, in the amount of 4.0 c.f.s. for the irrigation of the 240 acres described as the existing place of use under Application 29752. Application 28167 specified that the water was to "supplement water from existing springs," and Permit 28167 is therefore considered as being a supplemental Permit. The records of the Nevada State Engineer's office indicate that Permit 28167 is supplemental to water from Springs #1, #2 and #3 on 176.56 acres claimed under Proofs of Appropriation No. 02695, 02696 and 02697. A field investigation conducted on June 8, 1976, by a member of the State Engineer's office, confirmed that there is sufficient irrigation of lands by Springs 1, 2 and 3 within the existing place of use to support the designation of Permit 28167 as being supplemental to surface water. However, the proposed place of use under Application 29752 is covered by surface water rights under Claim 00119 of the Humboldt River Decree on only 66.07 acres, which is 110.49 acres less than the acreage with supplemental rights on the existing place of use. The granting of Application 29752 would therefore constitute an expansion of water right acreage, thus necessitating an increased withdrawal from the ground water basin.

Application 29752
Ruling
Page 2

The point of diversion under Permit 28167 and under Application 29752 are both located within the Winnemucca Segment ground water basin, although separated by a distance of 15.7 miles. The Winnemucca Segment ground water basin has been designated by the State Engineer in accordance with Chapter 534 NRS. While the point of diversion under Permit 28167 is situated near the extreme northeast boundary of the basin and is located in an area where there is little withdrawal from the ground water system, the point of diversion under Application 29752 is located within a portion of the basin in which there is a concentrated development and withdrawal from the ground water system. The granting of a permit under Application 29752 would therefore also interfere with other existing rights.

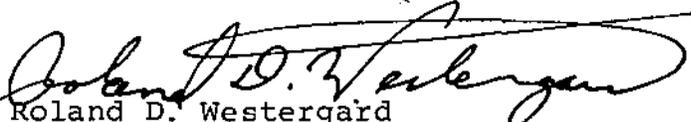
RULING

Application 29752 is hereby denied on the grounds that the granting would constitute an expansion of water right acreage and in addition would tend to impair the value of existing rights and be otherwise detrimental to the public welfare.

The deadline for the filing of a Proof of Completion of Work under Permit 28167 was February 21, 1976, with the provision that no extension of time for the filing of said proof would be granted. With the denial of Application 29752, a 30-day grace period is hereby allowed for the filing of a Proof of Completion of Work under Permit 28167. In the event no Proof is filed within 30 days of the date of this Ruling, Permit 28167 will be subject to cancellation for failure to comply with the terms of the permit.

The deadline for the filing of a Proof of Beneficial Use under Permit 28167 was October 21, 1976. A 30-day grace period is hereby also allowed for the filing of a Proof of Beneficial Use or Application for Extension of Time, with the understanding that it can be accepted only if a Proof of Completion of Work is filed under the permit as described above.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW/BAR/bs

Dated this 9th day
of November, 1976.