

IN THE MATTER OF APPLICATION 36032 FILED)
TO CHANGE THE POINT OF DIVERSION OF A)
PORTION OF PERMIT 7862, CERTIFICATE 1734,)
IN THE CARSON VALLEY GROUND WATER BASIN,)
DOUGLAS COUNTY, NEVADA)

R U L I N G

105

FINDINGS OF FACT

I

Application 36032 was filed by Edward P. Sullivan and Mary Olive Sullivan on October 13, 1978, to change the point of diversion of 0.06 c.f.s., a portion of water heretofore appropriated under Permit 7862, Certificate 1734. The proposed point of diversion is described as being within the NW $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17, T.12N., R.20E., M.D.B. & M. The proposed place of use is 6.11 acres in the NW $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17, T.12N., R.20E., M.D.B. & M. The proposed manner of use is irrigation and domestic.

II

The owner of record of Permit 7862, Certificate 1734, for the portion appurtenant to the place of use of Application 36032 is George and Ruby E. Fitz. (W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17, T.12N., R.20E., M.D.B. & M.)

III

On August 30, 1979, a certified letter was sent to Mr. Edward P. Sullivan stating that the base right, Permit 7862, appurtenant to the W $\frac{1}{2}$ NW $\frac{1}{4}$, is in the name of George and Ruby E. Fitz and that action on Application 36032 could not be taken until they submitted documentary evidence substantiating their ownership or control of Permit 7862. Nothing was received within the time limit specified in the notice.

On June 27, 1980, a certified letter was again sent requesting evidence of ownership of Permit 7862 and stipulating that if nothing was received within 30 days from the date of the letter, Application 36032 would be denied. A properly endorsed receipt for the certified letter was returned to the State Engineer's office. Nothing was received before the deadline nor has anything been received prior to the date of this ruling.

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and subject matter of this action. 1/

II

The State Engineer is prohibited by law from granting a permit where:

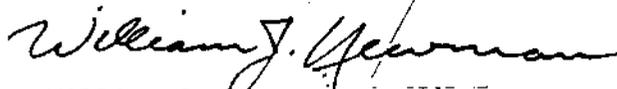
A) there is no unappropriated water in the proposed source or

- B) the proposed use conflicts with existing rights or
- C) the proposed use threatens to prove detrimental to the public welfare. 2/

RULING

Application 36032 is denied on the grounds that the applicant has failed to show ownership or control of the water right proposed to be changed and, therefore, its granting would be detrimental to the public welfare.

Respectfully submitted,



William J. Newman
State Engineer

WJN/HW/ja

Dated this 13th day
of AUGUST, 1980.