

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

IN THE MATTER OF APPLICATION 60866)
FILED TO CHANGE THE PLACE OF USE)
OF THE UNDERGROUND WATERS OF THE)
AMARGOSA DESERT GROUNDWATER BASIN)
(230), NYE COUNTY, NEVADA.)

RULING

4563

GENERAL

I.

Application 24729 was filed on October 23, 1968, by C. G. Haycock, Stephen E. Wall and C. M. Smith to appropriate the underground waters within the Amargosa Desert Groundwater Basin, Nye County, Nevada. Permit 24729 was approved on October 1, 1969, for 3.12 cubic feet per second (cfs) for irrigation and domestic use. Certificate 7336 under Permit 24729 was issued on April 21, 1970, for 3.12 cfs of water, not to exceed 250 acre-feet annually (afa), for the irrigation of 50 acres of land located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T.17S., R.49E., M.D.B.&M. The point of diversion is located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 9.¹

II.

On March 17, 1993, Amargosa Resources, Inc. (ARI) petitioned the State Engineer to declare certain water rights forfeited.² Permit 24729, Certificate 7336 was included in the petition.

III.

Application 60866 was filed by Amargosa Development Inc., dba Amargosa Farms, on January 26, 1995, to change the place of use of 2.49 cfs a portion of the underground waters previously appropriated under Permit 24729, Certificate 7336, within the Amargosa Desert Groundwater Basin, Nye County, Nevada. The proposed use is for domestic purposes and the irrigation of 40

¹ File No. 24729, official records in the office of the State Engineer.

² Exhibit Nos. 1 and 2, public administrative hearing before the State Engineer, May 16-18, 1994.

acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T.17S., R.49E., M.D.B.&M. The point of diversion is located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 9.³

IV.

Application 60866 was timely protested by ARI on the following grounds that the base right Permit 24729, Certificate 7336, was subject to forfeiture and therefore "...the water appropriated under Permit 24729, Certificate 7336, returned to the public domain, and was again available for appropriation [by ARI]."³

FINDINGS OF FACT

I.

The State Engineer finds that ARI withdrew its petition to forfeit water rights under Permit 24729, Certificate 7336.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.⁴

II.

NRS § 533.345(1) provides that an application can be filed to change the point of diversion, manner or place of use of water already appropriated. Water already appropriated, in reference to a change application, refers to water represented by a water right, permit or certificate in good standing.⁵ The State Engineer concludes that the portion of water represented by Permit 24729, Certificate 7336, to be changed by Application 60866 is not forfeited; therefore, Application 60866 may be permitted pursuant to NRS Chapters 533 and 534.

³ File No. 60866, official records in the office of the State Engineer.

⁴ NRS Chapters 533 and 534.

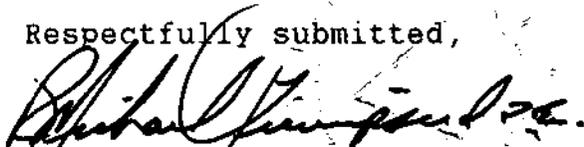
⁵ NRS § 533.324.

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The protest to Application 60866 is hereby overruled and said application is hereby granted subject to existing rights and the payment of the statutory permit fee.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/BEM/ab

Dated this 17th day of
September, 1997.