

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

IN THE MATTER OF APPLICATION 62927)
FILED TO CHANGE THE POINT OF DIVERSION,)
PLACE OF USE AND MANNER OF USE OF A)
PORTION OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE PREVIOUSLY)
APPROPRIATED UNDER PERMIT 26810,)
CERTIFICATE 8427, WITHIN THE LAS VEGAS)
ARTESIAN GROUNDWATER BASIN (212), CLARK)
COUNTY, NEVADA.)

RULING

4652

GENERAL

I.

Application 62927 was filed on March 17, 1997, by Sherryl A. Patterson and Craig Patterson to change the point of diversion, place and manner of use of 0.01 cubic feet per second (cfs), not to exceed 4.0 acre-feet annually (afa), a portion of the underground waters previously appropriated under Permit 26810, Certificate 8427. The proposed manner of use is for quasi-municipal purposes within the E $\frac{1}{4}$ E $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T.22S., T.61E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, T.22S., R.61E., M.D.B. & M.¹

II.

Application 62927 was timely protested by Gene Cline on June 6, 1997, on the following grounds:¹

The amount of 4 acre feet being requested for transfer from permit #26810 has not been used on parcel #177-02-603-010 since prior to 1990. All water used from 1990 to 1997 was used on parcel #177-02-603-008 and the reason for the reduction in use after 1994 was due to the sale of horses. Parcel #177-02-603-010 was vacant from 1990-1993 and when purchased by Sherryl A. Patterson a domestic well was drilled.

¹ File No. 62927, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

On April 23, 1998, a public administrative hearing was held to consider the possible forfeiture of the base water right that the Pattersons seek to change Permit 26810, Certificate 8427. After consideration of the evidence, the State Engineer ruled that that portion of Permit 26810 currently held by the Pattersons, represented by 4.56 acre-feet of water appurtenant to Nye County Assessor's Parcel Number 177-02-603-010, was forfeited.² This ruling was not appealed and has become final. The State Engineer finds that Application 62927 cannot be approved because the base water right which supported said change application has been forfeited.

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 an application to change the public waters where:⁴

- A. the proposed use conflicts with existing rights; or
- B. the proposed use 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

² State Engineer's Ruling No. 4633, dated June 4, 1998, official records in the office of the State Engineer.

³ NRS § Chapters 533 and 534.

⁴ NRS § 533.370(3).

⁵ NRS § 533.325.

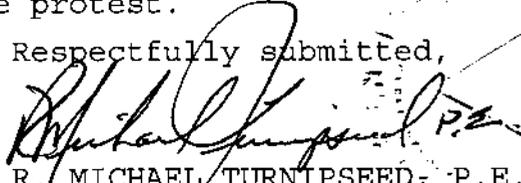
to water represented by a water right permit or certificate in good standing.⁶ Where a water right certificate has been forfeited, the water right is no longer valid, it is not in good standing and cannot be used to support a change application.

The State Engineer has ruled that the portion of the base right which Application 62927 seeks to change is forfeited. Therefore, that portion of the base right is no longer in good standing and cannot be changed by Application 62927. The State Engineer concludes that Application 62927 must be denied.

RULING

Application 62927 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. No ruling is made on the merits of the protest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 30th day of
July, 1998.

⁶ NRS § 533.324.