

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

IN THE MATTER OF APPLICATIONS 59853)
AND 59854 FILED TO CHANGE THE POINTS)
OF DIVERSION AND PLACES OF USE OF)
UNDERGROUND WATER PREVIOUSLY)
APPROPRIATED UNDER PERMITS 34670)
AND 39166 WITHIN WARM SPRINGS VALLEY)
(084), WASHOE COUNTY, NEVADA.)

RULING

4759

GENERAL

I.

Application 59853 was filed on March 24, 1994, by Billy G. and Jerry L. Nelms to change the point of diversion and place of use of water previously appropriated under Permit 39166, Certificate 10496. The proposed point of diversion is described as being located in the NE¼ SE¼ of Section 36, T.22N., R.20E., M.D.B. & M.¹

II.

Application 59854 was filed on March 24, 1994, by Billy G. and Jerry L. Nelms to change the point of diversion and place of use of water previously appropriated under Permit 34670, Certificate 9862. The proposed point of diversion is described as being located in the NE¼ SE¼ of Section 36, T.22N., R.20E., M.D.B. & M.²

FINDINGS OF FACT

I.

The records of the office of the State Engineer indicate that the applicants once owned certificated Permits 39166 and 34670; however, further documentation indicates that the applicants then conveyed all interest in certificated Permits 39166 and 34670 to another party prior to the filing of Applications 59853 and 59854. The State Engineer finds that the applicant does not own or control any portion of certificated Permits 39166 and 34670, which are the base rights that Applications 59853 and 59854 purport to change.^{1,2}

¹ File No. 59853, official records in the office of the State Engineer.

² File No. 59854, official records in the office of the State Engineer.

II.

The applicants were notified by letter from the office of the State Engineer dated August 22, 1996, to submit a report of conveyance to establish themselves as owners of the certificated permits to be changed by Applications 59853 and 59854. The applicants and their agent were again notified by certified mail dated February 5, 1999, to submit the previously requested report. A time limit of thirty (30) days was assigned for the submission of a response. The applicants and their agent were re-notified by certified mail dated April 8, 1999, to submit the previously requested report. A time limit of thirty (30) days was assigned for a submission of a response or the applications would be subject to denial. Properly endorsed return receipts were received from the addressees on April 12, 1999. The State Engineer finds that the applicant was properly notified of the request for additional information and that to date no information has been received.^{1,2}

CONCLUSIONS

I.

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

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 previously appropriated. Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing.⁴ Billy G. and Jerry L. Nelms have demonstrated no right, title, or interest in certificated Permits 39166 or 34670. The State Engineer concludes that as the applicants have no ownership interest in certificated

³ NRS Chapters 533 and 534.

⁴ NRS § 533.345(1).

Permits 39166 or 34670 there is no water right in the applicants' names to support the change applications.

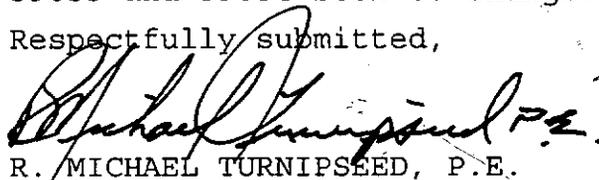
III.

NRS § 533.386(3) prohibits the State Engineer from considering or treating any person as the holder of the application or permit who has not properly completed a report of conveyance.⁵ The applicants and their agent were properly notified of the requirement for a report of conveyance concerning these applications and have failed to submit the requested information to the State Engineer's office. The State Engineer concludes that without the report of conveyance sufficient information is not available for the State Engineer to support a claim of ownership interest in certificated Permits 39166 or 34670.

RULING

Applications 59853 and 59854 are hereby denied on the grounds that the applicants have not established ownership of the base rights that Applications 59853 and 59854 seek to change.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MJA/cl

Dated this 5th day of
August, 1999.

⁵ NRS § 533.386(3).