

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

IN THE MATTER OF APPLICATION 46387)
FILED TO APPROPRIATE AND)
APPLICATION 46817 FILED TO CHANGE)
THE POINT OF DIVERSION OF THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE LONG VALLEY)
GROUNDWATER BASIN (009), WASHOE)
COUNTY, NEVADA.)

RULING

4819

GENERAL

I.

Application 46387 was filed on November 23, 1982, by Laurence V. Friese to appropriate 5.4 cubic feet per second (cfs) of underground water for the irrigation of 320 acres of land which are described as being located within the W $\frac{1}{2}$ of Section 19, T.41N., R.20E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 19.¹

II.

Application 46817 was filed on April 13, 1983, by Laurence V. Freise to change the point of diversion of 2.7 cfs of underground water applied for under Application 46387 for the irrigation of the same place of use described under Application 46387. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, T.41N., R.20E., M.D.B.&M.²

FINDINGS OF FACT

I.

Applications 46387 and 46817 were filed to appropriate underground water for use upon land which was to be removed from the federal domain through the approval of the applicant's Desert Land Entry application. By letter dated September 15, 1999, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide information to the

¹ File No. 46387, official records in the office of the State Engineer.

office of the State Engineer relating to the current status of the Laurence V. Friese Desert Land Entry application.^{1,2} A timely response from the BLM was received in the office of the State Engineer which indicated that the applicant had withdrawn the Desert Land Entry application associated with Applications 46387 and 46817. The BLM also informed the State Engineer that due to the withdrawal of the subject Desert Land Entry application the BLM had closed the applicant's case file in 1985. The State Engineer finds that the applicant's attempt to gain control of the place of use described under Applications 46387 and 46817 has been terminated by the applicant.^{1,2}

II.

A water right application is filed to request an appropriation of water to be used for a specific purpose within a well defined place of use which is represented under Applications 46387 and 46817 as the irrigation of 320 acres of land which were to be removed from federal jurisdiction by the approval of the applicant's Desert Land Entry application. The Desert Land Entry application filed by Laurence V. Friese was withdrawn by the applicant with the ownership of the land requested for removal retained by the federal government. The State Engineer finds that the purpose for which Applications 46387 and 46817 were filed no longer exists, therefore, the necessity to divert water as proposed under the subject applications has ceased.

CONCLUSIONS

I.

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

² File No. 46817, official records in the office of the State Engineer.

³ NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

A water right application is filed to appropriate water for a specific purpose which in the case of Applications 46387 and 46817 is the irrigation of 320 acres of land that were to be transferred from the federal government to the applicant's control through the approval of his Desert Land Entry application. This attempt to transfer ownership of the land described within the place of use under Applications 46387 and 46817 was terminated when the applicant withdrew his Desert Land Entry application. The BLM's withdrawal of the Desert Land Entry application removes the purpose for which Applications 46387 and 46817 were filed. The State Engineer concludes that to approve water right permits for a project that no longer exists would threaten to prove detrimental to the public interest.

⁴ NRS § 533.370(3).

RULING

Applications 46387 and 46817 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 7th day of
December, 1999.