

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

IN THE MATTER OF APPLICATION 63966 )  
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 13019, )  
CERTIFICATE 4632, WITHIN THE LAS VEGAS )  
ARTESIAN GROUNDWATER BASIN (212), CLARK )  
COUNTY, NEVADA. )

**RULING**  
**# 5106**

**GENERAL**

**I.**

Application 63966 was filed on March 18, 1998, by Craig O. and Sonja R. Brooksby to change the point of diversion, place and manner of use of 11.95 acre-feet annually (afa), a portion of the underground waters previously appropriated under Permit 13019, Certificate 4632. The proposed manner of use is for quasi-municipal and domestic purposes within the W $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, T.19S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, T.19S., R.60E., M.D.B. & M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

On July 8, 1998, by certified mail the State Engineer advised the water right holders of Permit 13019, Certificate 4632, of the possible forfeiture of water rights under Certificate 4632, and requested any information showing that water had indeed been beneficially used within the last five years.<sup>2</sup>

After consideration of replies to the July 8, 1998, letter, and information in the records of the State Engineer, which indicated water use on these parcels was from a domestic well, which is a different well than the certificated well, and

<sup>1</sup> File No. 63966, official records in the Office of the State Engineer.

<sup>2</sup> File No. 13019, official records in the Office of the State Engineer.

consideration that no change application to move water rights from the certificated well had ever been filed, the State Engineer found no evidence of beneficial use of water under Permit 13019 on Clark County Assessor's Parcels (APN) 177-02-601-007 and 177-02-601-008, 2.35 acres, 11.83 afa, held by Craig O. and Sonja R. Brooksby. On January 20, 1999, by certified mail the State Engineer advised the water right holders that he had determined that a portion of Permit 13019, Certificate 4632, was forfeited.<sup>2</sup> The portion forfeited includes the 11.83 afa held by Craig O. and Sonja R. Brooksby.<sup>2</sup> The State Engineer finds that his determination was not appealed and has become final. The State Engineer finds that Application 63966 cannot be approved because that portion of the water right which forms the basis for change that 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.<sup>3</sup>

##### II.

The State Engineer is prohibited by law from granting an application to change the public waters where:<sup>4</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

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<sup>3</sup> NRS § chapters 533 and 534.

<sup>4</sup> NRS § 533.370(3).

**III.**

An application may be filed to change the point of diversion, manner or place of use of water already appropriated.<sup>5</sup> Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing.<sup>6</sup> 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 that Application 63966 seeks to change is forfeited. Therefore, that portion of the base right is no longer in good standing and cannot be changed by Application 63966. The State Engineer concludes that Application 63966 must be denied.

**RULING**

Application 63966 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.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/CB/jm

Dated this 22nd day of  
February, 2002.

<sup>5</sup> NRS § 533.325.

<sup>6</sup> NRS § 533.324.