

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

IN THE MATTER OF APPLICATION 25896)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF THE)
PUBLIC WATERS OF BASSETT CREEK)
PREVIOUSLY APPROPRIATED UNDER)
PERMIT 11301 WITHIN THE SPRING)
VALLEY HYDROGRAPHIC BASIN (184),)
WHITE PINE COUNTY, NEVADA.)

RULING
6018

GENERAL

I.

Application 25896 was filed on December 21, 1970, by B. H. Robison, later assigned to the Southern Nevada Water Authority, to change the point of diversion and place of use of 4.0 cubic feet per second of water heretofore appropriated under Permit 11301. The existing place of use is described as being located within the W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, T.18N., R.66E., M.D.B.&M., and the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 7, T.18N., R.67E., M.D.B.&M. The existing point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.18N., R.66E., M.D.B.&M. The proposed place of use is described as being located within the W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, T.18N., R.66E., M.D.B.&M., and the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T.18N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, T.18N., R.66E., M.D.B.&M.¹

II.

Application 25896 was timely protested by George Eldridge & Son, Inc. on the following grounds:¹

1. It is believed to grant this application would divert water belonging to the corporation from the high water and winter water channel used by it.
2. There is no diversion box nor provision made for one which would provide a means for the protestant to obtain its water from the old channel.
3. In order to make the highest and best use of the waters if permission be granted on the above application, it should require the applicant to install a pipe to transmit his water from the point of diversion to the point of use.

¹ File No. 25896, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Application 25896 is seeking to change water already appropriated under Permit 11301. In reviewing a change application, one of the first steps is to determine if there is still water available under the permit that forms the basis for the change application. A review of records on file in the Office of the State Engineer show that Permit 11301 was canceled on April 4, 1995, for failure to comply with the terms of the permit. The State Engineer finds that Application 25896 cannot be approved because the water under canceled Permit 11301 is no longer available for change.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit for an application to change the public waters where:³

- 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.

III.

An application may be filed to change the point of diversion, manner or place of use, of water already appropriated.⁴ Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing.⁵ A review of the records on file in the Office of the State Engineer has found that Permit 11301 is canceled and is no longer a valid water right; therefore, it cannot be used as the basis for a change application. The State Engineer concludes that Permit 11301 cannot be used as the basis for change Application 25896; therefore, change Application 25896 is subject to denial.

² NRS Chapter 533.

³ NRS § 533.370(5).

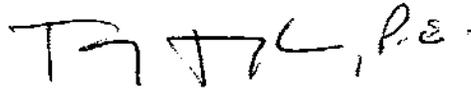
⁴ NRS § 533.325.

⁵ NRS § 533.324.

RULING

Application 25896 is hereby denied on the grounds that there is no water available under the water right that forms the basis for the change application. No ruling is made on the merits of the protest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

Dated this 12th day of
November, 2009.