

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

ORDER

1164

J. Chester Young
HC 65, Box 98
Austin, Nevada 89310
CERTIFIED MAIL 709932200010-
24945113

The Town of Kingston
HCR 65, Box 130
Austin, Nevada 89310
CERTIFIED MAIL 709932200010-
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Ralph Young
Route 2, Box 5
Austin, Nevada 89310
CERTIFIED MAIL 709932200010-
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WHEREAS, the waters of Kingston Creek (aka Big Smoky Creek) and its tributaries were adjudicated under Case No. 3073, by Decree dated March 22, 1963, in the Third Judicial District Court of the State of Nevada in and for the County of Lander

WHEREAS, Application 23503 was a new appropriation filed on Kingston Creek, and permitted on October 28, 1968, with the point of diversion located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, T.16N., R 44N., M.D B.&M. Certificate 8294 was issued under Permit 23503 on June 7, 1974.

WHEREAS, Application 34444 was permitted on January 27, 1982, to change the points of diversion of Proofs 02410, 02411, 02412, and 02416 (Certificate 366), under the Kingston Creek Decree from the decreed points of diversion to a common point of diversion located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, T 16N , R 43E , M D B &M

WHEREAS, Application 34445 was permitted on January 27, 1982, to change the points of diversion of Proofs 01527, 02413, 02414, and 02415 (Certificate 367), under the Kingston Creek Decree from the decreed points of diversion to a common point of diversion located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, T.16N., R 43E , M D B &M

WHEREAS, Application 34446 was permitted on January 27, 1982, to change the point of diversion under Permit 23503, Certificate 8294, from the SE¼ SW¼ of Section 15, T 16N., R 44E., M.D.B &M., to the NW¼ NE¼ of Section 35, T 16N., R.43E., M.D.B &M.

WHEREAS, Applications 34444, 34445, and 34446 all have a common point of diversion.

WHEREAS, Application 47401 filed by J Chester Young was permitted on October 23, 1985, to change the place of use under Permit 34444.

WHEREAS, Application 47402 filed by J. Chester Young was permitted on October 23, 1985, to change the place of use under Permit 34446.

WHEREAS, Application 47403 filed by J. Chester Young was permitted on October 23, 1985, to change the place of use under Permit 34445

WHEREAS, Application 47402 was cancelled on July 22, 1993, for failure to comply with the terms of the permit.

WHEREAS, Application 47403 was cancelled on July 22, 1993, for failure to comply with the terms of the permit

WHEREAS, the State Engineer's office did not receive a written petition within 60 days from the date of cancellation as set forth in NRS § 533 395 for either Permit 47402 or Permit 47403.

WHEREAS, Permit 47401 was cancelled on May 20, 1994, for failure to comply with the terms of the permit.

WHEREAS, the State Engineer's office did not receive a written petition within 60 days from the date of cancellation as set forth in NRS § 533 395 for Permit 47401

WHEREAS, the water rights under cancelled Permits 47401 and 47403 reverted back to decreed points of diversion and places of use under Proofs 01527, 02410, 02411, 02412, 02413, 02414, 02415, and 02416

WHEREAS, the water under cancelled Permit 47402 reverted back to the certificated point of diversion and place of use under Permit 23503, Certificate 8294 .

WHEREAS, a field investigation conducted on June 29, 2000, by personnel from the Elko and Winnemucca branches of the State Engineer's office found that water is still being diverted from a point located in the NW¼ NE¼ of Section 35, T 16N., R 43E , M.D.B.&M., by Mr. Young or his successors

NOW, THEREFORE, YOU ARE HEREBY ORDERED to cease and desist immediately any diversion of water of Kingston Creek (aka Big Smoky Creek) located within the NW¼ NE¼ of Section 35, T.16N., R 43E., M D.B.&M , and no further diversions are allowed at this point of diversion until change applications have been filed with the office of the State Engineer and approved which change the points of diversion and places of use from the decreed and certificated points of diversion and places of use to the desired points of diversion and places of use. You are also hereby ordered to remove any material that you placed in Kingston Creek to assist that diversion.



R. Michael Turnipseed, P.E.
State Engineer

Dated at Carson City, Nevada,

This 25th day of July, 2000