

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 49415)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF 26988 BY)
LIMBO MINES IN WINNEMUCCA LAKE)
VALLEY, PERSHING COUNTY, NEVADA.)

RULING

GENERAL

Application 49415 was filed on September 27, 1985, by Limbo Mines to change the point of diversion and place of use of water from an underground source (North Adit) heretofore appropriated under Permit 26988 (Certificate 9458) for mining, milling and domestic purposes.¹

FINDINGS OF FACT

I.

Permit 26988, Certificate 9458 was filed on September 14, 1972, by Limbo Mines. Certificate 9458 was issued on September 8, 1980. The point of diversion is described as being within the SE1/4 SW1/4 Section 21, T.30N., R.24E., M.D.B.&M., falling within the Kumiva Valley Groundwater Basin.¹

II.

A field investigation was held at the site of the point of diversion under Application 49415 on January 15, 1986.²

The point of diversion for Application 49415 falls within the Winnemucca Lake Valley Groundwater Basin, as verified by the field investigation.

¹ Public record in the office of the State Engineer.

² Report of field investigation #774 on file in the office of the State Engineer.

III.

Application 49415 attempts to change the point of diversion from the Kumiva Valley hydrologic basin to the Winnemucca Lake Valley hydrologic basin. This in effect would allow the transfer of an existing right and priority from one source to another. The State Engineer finds that this would not be in the public interest, contrary to the intent of NRS 533.330 and would be detrimental to existing rights on the source of the proposed point of diversion.

CONCLUSIONS

I.

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

II.

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

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

III.

Application 49415 seeks to change the point of diversion from one source to another source.

³ NRS Chapters 533 and 534.

⁴ NRS 533.370 (3).

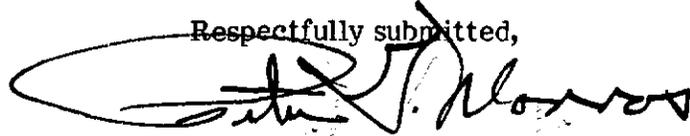
The State Engineer concludes that Application 49415 must be denied because:

1. It would not be in the public interest to allow a priority to the use of water to be established on a new source through the change of point of diversion from another source.
2. Approval of Application 49415 would be contrary to the intent of NRS 533.330.
3. Approval of Application 49415 would be detrimental to existing rights within Winnemucca Lake hydrologic basin.

RULING

Application 49415 is hereby denied on the grounds that approval of said application would conflict with and impair the value of existing rights on the source and would be detrimental to the public interest.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/DL/bk

Dated this 18th day of
August, 1988.