

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

IN THE MATTER OF APPLICATIONS 50654 AND 50655)
FILED TO CHANGE THE POINT OF DIVERSION, PLACE)
OF USE AND PERIOD OF USE OF WATER, HERETOFORE)
APPROPRIATED UNDER PERMITS 48326 AND 48327,)
RESPECTIVELY, OF THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE IN STEPTOE VALLEY)
GROUNDWATER BASIN, WHITE PINE COUNTY, NEVADA.)

RULING

4126

GENERAL

I.

Application 50654 was filed on March 4, 1987, by Marion E. Johnson to change the point of diversion, place of use and period of use of 2.7 cfs of water from an underground source heretofore appropriated under Permit 48326. The proposed point of diversion is within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The existing point of diversion is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The proposed place of use is within the E $\frac{1}{2}$ W $\frac{1}{2}$, NE $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The existing place of use is within the NE $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The proposed period of use is from January 1st to December 31st of each year. The existing period of use is from May 1st to September 30th of each year.¹

II.

Application 50655 was filed on March 4, 1987, by Marion E. Johnson to change the point of diversion, place of use and period of use of 2.7 cfs of water from an underground source heretofore appropriated under Permit 48327. The proposed point of diversion is within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The existing point of diversion is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The proposed place of use is within the E $\frac{1}{2}$ W $\frac{1}{2}$, NE $\frac{1}{4}$, Section 18, T.21N., R.64E., M.D.B.&M. The existing place of use is within the E $\frac{1}{2}$ W $\frac{1}{2}$, Section 18, T.21N., R.64E., M.D.B.&M. The proposed period of use is from January 1st to December 31st of each year. The existing period of use is from May 1st to September 30th of each year.¹

¹ Public records in the office of the State Engineer.

FINDINGS OF FACT

I.

Application 31965 was permitted on February 3, 1986 for Marion E. Johnson. Application 48326 was filed by Marion E. Johnson on August 17, 1984, to change the point of diversion and place of use of the entire amount of water under Permit 31965. Permit 31965 was consequently totally abrogated when Permit 48326 was granted on February 3, 1986. Permit 48326 was then withdrawn by Richard W. Forman, P.E. acting as agent for Marion E. Johnson on March 31, 1989.¹ The State Engineer finds that the applicant filed the application to change, before the original application could even be approved, therefore, the original appropriation and permission to change the point of diversion and place of use were approved simultaneously. The State Engineer further finds that no proof of completion of work nor proof of beneficial use were filed by the permittee, therefore, when the permit was withdrawn on March 31, 1989, the water appropriated, returned to the public waters of the State of Nevada.

Application 31964 was permitted on February 3, 1986 for Marion E. Johnson. Application 48327 was filed by Marion E. Johnson on August 17, 1984, to change the point of diversion of the entire amount of water under Permit 31964. Permit 31964 was subsequently totally abrogated when Permit 48327 was granted on February 3, 1986. Permit 48327 was then withdrawn by Richard W. Forman, P.E. acting as agent for Marion E. Johnson on March 31, 1989.¹ The State Engineer finds that the applicant filed the application to change, before the original application could even be approved, therefore, the original appropriation and permission to change the point of diversion and place of use were approved simultaneously. The State Engineer further finds that no proof of completion of work nor proof of beneficial use were filed by the permittee, therefore, when the permit was withdrawn on March 31, 1989, the water appropriated, returned to the public waters of the State of Nevada.

CONCLUSIONS

I.

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

II.

The State Engineer concludes that no valid water rights exist under abrogated Permits 31964 and 31965.

III.

The State Engineer concludes that no valid appropriated water rights exist under withdrawn Permits 48326 and 48327 to be changed by proposed Applications 50654 and 50655, respectively.

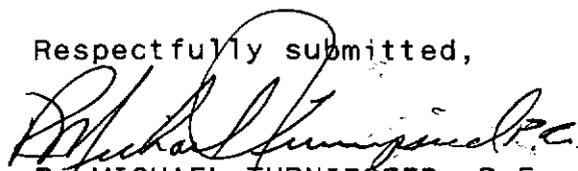
IV.

The State Engineer concludes that no beneficial use was made of the water appropriated and when the permits were withdrawn, the water rights ceased to exist and the water for which the permits were based, returned to the public waters of the State of Nevada and became available for further appropriation.

RULING

Application 50654 and 50655 are herewith denied on the grounds that there is no valid appropriated water rights to be changed under withdrawn Permits 48326 and 48327.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 14th day of
July, 1994.

² NRS 533 and NRS 534.