

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

IN THE MATTER OF APPLICATION 44573 FILED)  
TO CHANGE THE WATER ALREADY APPROPRIATED)  
FROM AN UNDERGROUND SOURCE LOCATED IN )  
THE SMITH VALLEY GROUNDWATER BASIN )  
(107), LYON COUNTY, NEVADA. )

RULING

# 4167

GENERAL

I.

Application 44573 was filed on October 1, 1981, by Ralph T. Casebolt, Inc., and Ralph T. and Josephine Casebolt to change the point of diversion and place of use of 1.6 cfs for domestic use and the irrigation of 96 acres, a portion of underground water heretofore appropriated under Permit 25690, Certificate 9215. The proposed point of diversion is in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 12, T.11N., R.23E., M.D.B.&M. The proposed place of use is located within the SW $\frac{1}{4}$  of said Section 12.<sup>1</sup> The existing point of diversion is located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 12, T.11N. R.23E., M.D.B.&M. The existing place of use is located within the W $\frac{1}{2}$  of said Section 12.<sup>2</sup>

II.

Certificate 9215 under Permit 25690 was issued on April 27, 1978, to Max W. and Frances M. Schlutsmeyer and Kit C. and Melba Jo Medlin for 4.88 cfs not to exceed 1172 acre feet per annum for irrigation and domestic use on 293 acres.<sup>3</sup>

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<sup>1</sup> Application 44573, public record in the office of the State Engineer.

<sup>2</sup> Application 44573, public record in the office of the State Engineer.

<sup>3</sup> Permit 25690, public record in the office of the State Engineer.

FINDINGS OF FACT

I.

On October 3, 1980, Ralph T. Casebolt, Inc., and Ralph T. and Josephine Casebolt purchased a portion of Certificate 9215, (Casebolt portion) amounting to 3.22 cfs, and not to exceed 773.76 acre feet of water for the irrigation of 193.44 acres.<sup>4</sup>

Since the filing of Application 44573, the Casebolts have sold portions of Certificate 9215 amounting to 1.7216 cfs and not to exceed 413.94 AFA.<sup>5</sup> In addition, the Casebolts filed Application 49446, to change 1.32 cfs and not to exceed 320 AFA, a portion of Certificate 9215. Permit 49446 was issued and later certificated.<sup>6</sup> Considering the quantity of water that was sold and the quantity of water that was changed, there remains 0.1784 cfs and 39.82 AFA in Certificate 9215, under the ownership of the Casebolts. The State Engineer finds that Application 44573, which seeks to change 1.6 cfs and 384 AFA, cannot be approved because there is insufficient water rights remaining in the base right (Certificate 9215).

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>7</sup>

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<sup>4</sup> Document 56261 filed August 30, 1982, in Permit 25543, public record in the office of the State Engineer.

<sup>5</sup> Documents 0108403, 0108404, 131502, 133636 and 149873 filed in Permit 25690, document 71704 filed in Permit 50926, Document 150050 filed in Permit 51946 and Documents 150364, 150365 and 150366 filed in Permit 55840, official records in the office of the State Engineer.

<sup>6</sup> File No. 49446, official records in the office of the State Engineer.

<sup>7</sup> NRS 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>8</sup>

- 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.

The State Engineer concludes that there is not sufficient water rights remaining under the Casebolts' ownership in Certificate 9215 to support the issuance of a permit for Application 44573.

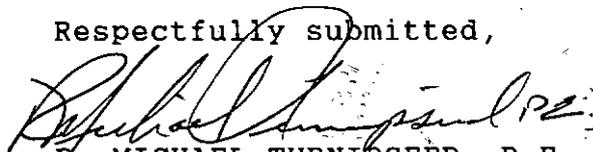
IV.

The State Engineer concludes that to issue a permit for Application 44573 when there is not sufficient water rights to support that permit would conflict with existing rights and would threaten to prove detrimental to the public interest.

RULING

Application 44573 is hereby denied on the grounds that the granting of a permit would conflict with existing rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CAB/pm

Dated this 15th day of  
February  
\_\_\_\_\_, 1995.