

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

IN THE MATTER OF APPLICATION 62618)
FILED TO CHANGE THE POINT OF DIVERSION,)
PLACE AND MANNER OF USE OF A PORTION OF)
WATER PREVIOUSLY APPROPRIATED FROM THE)
UNDERGROUND WATERS OF THE LAS VEGAS)
ARTESIAN GROUNDWATER BASIN (212),)
CLARK COUNTY, NEVADA.)

RULING

4559

GENERAL

I.

Application 62618 was filed by Jerry Dean on November 25, 1996, to change the point of diversion, place and manner of use of 0.013 cubic foot per second (cfs), not to exceed 9.8 acre-feet annually (afa), a portion of the underground waters previously appropriated under Permit 10409, Certificate 2779, for quasi municipal purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, T.22S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 23.¹

FINDINGS OF FACT

I.

The State Engineer finds that by State Engineer's Ruling No. 4529, the remaining portion of Permit 10409, Certificate 2779, was declared forfeited and no appeal was timely filed from that decision.² Therefore, the forfeiture of the remaining portion of Permit 10409, Certificate 2779, is final. The State Engineer finds that the forfeiture of Permit 10409, Certificate 2779, left no active water right which could support the change requested under Application 62618.

¹ File No. 62618, official records in the office of the State Engineer.

² State Engineer's Ruling No. 4529, dated June 3, 1997, official records in the office of the State Engineer.

II.

An examination of the records of the office of the State Engineer indicates that the applicant has failed to file the required Report of Conveyance and the supporting transfer documents necessary to obtain title to that portion of Permit 10409, Certificate 2779, which the subject application seeks to change. The State Engineer finds that the applicant does not hold title to any portion of Permit 10409, Certificate 2779.

CONCLUSIONS

I.

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

II.

Nevada Revised Statute § 533.345(1) provides that an application can be filed to change the point of diversion, manner or place of use of water already appropriated. Water already appropriated refers to water represented by a water right permit or certificate in good standing. Where a water right certificate has been forfeited the water right is no longer valid; thus, it is not in good standing and cannot be used to support a change application.

The State Engineer concludes that change Application 62618 cannot be granted as the underlying Permit 10409, Certificate 2779, which supports the change application has been forfeited; therefore, no water right exists which can be used to support the change application.

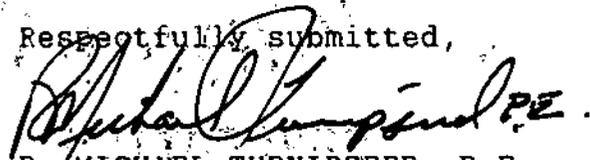
³ NRS Chapters 533 and 534.

⁴ NRS § 533.324.

RULING

Application 62618 is hereby denied on the basis that the base permit supporting the change application is forfeited; thus no water right exists that can be changed by Application 62618.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 19th day of
August, 1997.