

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

IN THE MATTER OF APPLICATION 60150 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF THE )  
UNDERGROUND WATERS OF THE )  
AMARGOSA DESERT GROUNDWATER )  
BASIN (230), NYE COUNTY, NEVADA. )

RULING

# 4564

GENERAL

I.

Application 18772 was filed on April 29, 1960, by Sarah Downey to appropriate the underground waters within the Amargosa Desert Groundwater Basin, Nye County, Nevada. Permit 18772 was approved on December 23, 1960, for 3.5 cubic feet per second (cfs) for irrigation and domestic use. Certificate 6117 under Permit 18772 was issued on January 4, 1967, for 3.01 cfs of water not to exceed 995 acre-feet annually (afa) for the irrigation of 199 acres of land located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  SW $\frac{1}{4}$ , of Section 20 and the SE $\frac{1}{4}$  NE $\frac{1}{4}$  and Lot 4 of Section 19 all in T.16S., R.48E., M.D.B.&M. The point of diversion is located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 20.<sup>1</sup>

II.

On March 17, 1993, Amargosa Resources, Inc. (ARI) petitioned the State Engineer to declare certain water rights forfeited.<sup>2</sup> Permit 18772, Certificate 6117 was included in the petition.

III.

Application 60150 was filed by Vernon L. and Thalia M. Mann on June 23, 1994, to change the point of diversion and the place of use of 0.153 cfs, not to exceed 50 afa, a portion of the underground waters previously appropriated under Permit 18772, Certificate 6117, within the Amargosa Desert Groundwater Basin, Nye County, Nevada. The proposed use is for irrigation and domestic

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<sup>1</sup> File No. 18772, official records in the office of the State Engineer.

<sup>2</sup> Exhibit Nos. 1 and 2, public administrative hearing before the State Engineer, May 16-18, 1994.

purposes within 10 acres of land located within the N $\frac{1}{2}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 19 of T.16S., R.48E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 19.<sup>3</sup>

IV.

Application 60150 was timely protested by ARI on the grounds that the base right Permit 18772, Certificate 6117, was subject to forfeiture and therefore "...the water appropriated under permit 18772 Certificate 6117 returned to the public domain, and was again available for appropriation [by ARI]."<sup>3</sup>

V.

On February 28, and March 1, 1995, an administrative hearing was held before representatives of the State Engineer to consider the possible forfeiture of Permit 18772, Certificate 6117.<sup>4</sup>

VI.

The place of use of Permit 18772, Certificate 6117, has been subdivided into several different parcels and sold to several different owners. Testimony and evidence were taken separately regarding each individual parcel of land. The parcel of land covered by the place of use of that portion of Permit 18772, Certificate 6117, owned by Vernon L. and Thalia M. Mann is designated as APN 19-071-07.

FINDINGS OF FACT

I.

As a result of the above mentioned hearings the State Engineer entered Ruling No. 4190 on May 22, 1995, which concluded that the right to beneficially use water under Permit 18772, Certificate 6117, appurtenant to the ten acres on APN 19-071-07 owned by Vernon L. and Thalia M. Mann was not forfeited. This ruling was appealed

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<sup>3</sup> File No. 60150, official records in the office of the State Engineer.

<sup>4</sup> Exhibit No. 29, public administrative hearing before the State Engineer, February 28, and March 1, 1995.

by ARI and the matter was heard in District Court. The Court modified the State Engineer's Ruling pertaining to another portion of the place of use of Permit 18772, Certificate 6117, but did not modify the State Engineer's decision regarding APN 19-071-07. The State Engineer finds that portion of water appurtenant to APN 19-071-07 was not declared forfeited for the alleged period of non-use; and, therefore, the protest has no merit.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.<sup>5</sup>

II.

NRS § 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, in reference to a change application, refers to water represented by a water right, permit or certificate in good standing.<sup>6</sup> The State Engineer concludes that the portion of water represented by Permit 18772, Certificate 6117, requested to be changed by Application 60150 is not forfeited, is in good standing, and is available for transfer. The State Engineer further concludes as the water right was declared not forfeited the protest is without merit.

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<sup>5</sup> NRS Chapters 533 and 534.

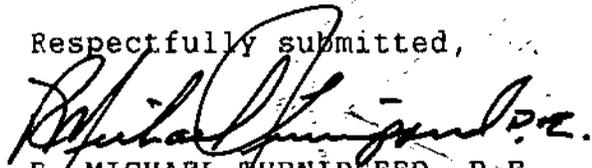
<sup>6</sup> NRS § 533.324.

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RULING

The protest to Application 60150 is hereby overruled and said application is hereby granted subject to existing rights and the payment of the statutory permit fee.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/BEM/ab

Dated this 17th day of  
September, 1997.