

IN THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 42602)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE PUMPERNICKEL VALLEY)
GROUNDWATER BASIN (065), HUMBOLDT)
COUNTY, NEVADA.)

RULING

4809

GENERAL

I.

Application 42602 was filed on October 8, 1980, by Roger B. Conner to appropriate 5.4 cubic feet per second of underground water for the irrigation of 320 acres of land which are described as being located within the E $\frac{1}{2}$ of Section 16, T.34N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 16.¹

FINDINGS OF FACT

I.

Application 42602 was filed to appropriate underground water for use upon land which was to be removed from the federal domain through the approval of the applicant's Desert Land Entry application. By letter dated September 8, 1999, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide information to the office of the State Engineer relating to the current status of the Roger B. Conner Desert Land Entry application.¹ A timely response from the BLM was received in the office of the State Engineer which indicated that the Roger B. Conner case file had been closed in 1996. The State Engineer finds that the applicant's attempt to gain control of the place of use described under Application 42602 has been terminated by the proper governing federal agency.

¹ File No. 42602, official records in the office of the State Engineer.

II.

A water right application is filed to request an appropriation of water to be used for a specific purpose within a well defined place of use which is represented under Application 42602 as the irrigation of 320 acres of land which were to be removed from federal jurisdiction by the approval of the applicant's Desert Land Entry application. The Desert Land Entry application filed by Roger B. Conner was closed by the BLM with ownership of the land requested for transfer retained by the federal government. The State Engineer finds that the purpose for which Application 42602 was filed no longer exists, therefore, the necessity to divert water as proposed under the subject application has ceased.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

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

III.

A water right application is filed to appropriate water for a specific purpose which in the case of Application 42602 is the irrigation of a 320 acre parcel of land which was to be

² NRS Chapters 533 and 534.

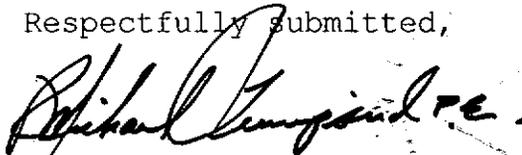
³ NRS § 533.370(3).

transferred from the federal government to the applicant's control through the approval of his Desert Land Entry application. This attempt to transfer ownership of the land described within the place of use under Application 42602 was terminated when the BLM closed the applicant's Desert Land Entry application. The BLM's closure of the Desert Land Entry application removes the purpose for which Application 42602 was filed. The State Engineer concludes that to approve a water right permit for a project that no longer exists would threaten to prove detrimental to the public interest.

RULING

Application 42602 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 7th day of
December, 1999.