

THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 43416)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE PUMPERNICKEL VALLEY)
GROUNDWATER BASIN (065), HUMBODLT)
COUNTY, NEVADA.)

RULING

4810

GENERAL

I.

Application 43416 was filed on March 30, 1981, by Saraha S. Ford to appropriate 5.4 cubic feet per second of underground water for the irrigation of 297.78 acres of land. The proposed place of use is located within Lots 3, 4, 5, 6, 7, and the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, T.35N., R.42E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 6.¹

FINDINGS OF FACT

I.

Application 43416 was filed to appropriate underground water for use upon land that 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 Saraha S. Ford Desert Land Entry application.¹ A timely response from the BLM was received in the office of the State Engineer which indicated that the applicant's case file had been closed by the BLM on October 1, 1984. The State Engineer finds that the applicant's attempt to gain control of the place of use described under Application 43416 have been terminated by the proper governing federal agency.¹

¹ File No. 43416, 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 43416 as the irrigation of 297.78 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 Sarah S. Ford was closed by the BLM with the ownership of the land requested for removal retained by the federal government. The State Engineer finds that the purpose for which Application 43416 was filed no longer exists, therefore, the necessity to divert water as proposed under the subject applications 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 43416 is the irrigation of 297.78 acres of land that were to be transferred

² NRS Chapters 533 and 534.

³ NRS § 533.370(3).

Ruling
Page 3

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 43416 was terminated when the BLM closed the applicant's Desert Land Entry application. The BLM's closure of the subject Desert Land Entry application removes the purpose for which Application 43416 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 43416 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.