

THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 47054)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE NORTH FORK AREA)
GROUNDWATER BASIN (044), ELKO)
COUNTY, NEVADA.)

RULING

4814

GENERAL

I.

Application 47054 was filed on July 7, 1983, by Winnie LaFortune, Mark Hines and Michael Hines to appropriate 10.00 cubic feet per second of underground water for the irrigation of 609.29 acres of land within Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15 and 16 of Section 12, T.36N., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within Lot 8 of said Section 12.¹

FINDINGS OF FACT

I.

Application 47054 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 November 2, 1983, the United States Department of the Interior, Bureau of Land Management (BLM) informed the State Engineer that the Winnie LaFortune Desert Land Entry application had been closed by the BLM. The State Engineer finds that the applicants' attempt to gain control of the place of use described under Application 47054 has been terminated by the proper governing federal agency.¹

¹ File No. 47054, 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 47054 as the irrigation of 609.29 acres of land which were to be removed from federal jurisdiction by the approval of the applicants' Desert Land Entry application. The Desert Land Entry application 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 47054 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 47054 is the irrigation of 609.29 acres of land that was to be transferred from the federal government to the applicants' control through the

² NRS Chapters 533 and 534.

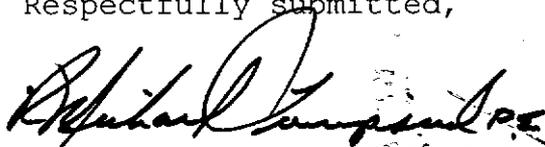
³ NRS § 533.370(3).

approval of a Desert Land Entry application. This attempt to transfer ownership of the land described within the places of use under Application 47054 was terminated when the BLM closed the applicants' Desert Land Entry application. The BLM's closure of the subject Desert Land Entry application removes the purpose for which Application 47054 was filed. The State Engineer concludes that to approve water right permit for a project that no longer exists would threaten to prove detrimental to the public interest.

RULING

Application 47054 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.