

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

IN THE MATTER OF APPLICATION 40851)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE GRASS VALLEY GROUNDWATER)
BASIN (138), LANDER COUNTY, NEVADA.)

RULING

#4876

GENERAL

I.

Application 40851 was filed on March 7, 1980, by Leora S. Coffey to appropriate 5.4 cubic feet per second of underground water for irrigation and domestic purposes within 320 acres of land within the N $\frac{1}{2}$ of Section 29, T.22N., R.47E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 29.¹

FINDINGS OF FACT

I.

Application 40851 was filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of a Desert Land Entry application. By letter dated November 9, 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 Leora S. Coffey Desert Land Entry application.¹ A timely response from the BLM was received in the office of the State Engineer that indicated that the BLM had no record of a Desert Land Entry application being filed in support of Application 40851. The State Engineer finds that the applicant has failed to initiate the procedure necessary to remove the land representing the place of use under the subject application from federal control, therefore, said land remains under federal jurisdiction.

¹ File Number 40851, official records in the office of the State Engineer.

II.

A water right application is filed to appropriate water for a specific purpose which in the case of Application 40851 is for the irrigation of 320 acres of land that was to be removed from federal control and transferred to the applicant through the filing and approval of a Desert Land Entry application. The State Engineer finds that the applicant's failure to file the required Desert Land Entry application removes the purpose for which Application 40851 was filed.

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.

Application 40851 requests an appropriation of water for a project that does not exist. The State Engineer concludes that to approve a permit where the need to appropriate water has ceased would threaten to prove detrimental to the public interest.

² NRS Chapters 533 and 534.

³ NRS § 533.370(3).

RULING

Application 40851 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



A handwritten signature in cursive script, appearing to read "Michael Turnipseed P.E.", is written over a circular official seal. The seal contains text around its perimeter, including "STATE ENGINEER" and "MICHAEL TURNIPSEED", and a central emblem.

R/ MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 8th day of
March, 2000.