

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

IN THE MATTER OF APPLICATION 49733 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE INDEPENDENCE VALLEY )  
HYDROGRAPHIC BASIN (188), ELKO )  
COUNTY, NEVADA. )

RULING

4902

GENERAL

I.

Application 49733 was filed on February 26, 1986, by Winnie LaFortune to appropriate 5.4 cubic feet per second of underground water for irrigation purposes within 320 acres of land located within the E½ of Section 10, T.37N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of said Section 10.<sup>1</sup>

FINDINGS OF FACT

I.

Application 49733 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 January 3, 2000, 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 Winnie LaFortune Desert Land Entry application. A timely response from the BLM was received in the office of the State Engineer that indicated that the Desert Land Entry application filed in support of Application 49733 had been denied by the BLM.<sup>1</sup> The State Engineer finds that the BLM'S denial of the Winnie LaFortune Desert Land Entry application terminated the applicant's attempt to obtain title to the lands representing

<sup>1</sup> File No. 49733, official records in the office of the State Engineer.

the place of use under Application 49733, therefore, said land remains under federal jurisdiction.

II.

A water right application is filed to appropriate water for a specific purpose, which in the case of Application 49733 is for the irrigation of 320 acres of land that were 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 BLM's denial of the Winnie La Fortune Desert Land Entry application removes the purpose for which Application 49733 was filed.

CONCLUSIONS

I.

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

II.

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

- 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 49733 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.

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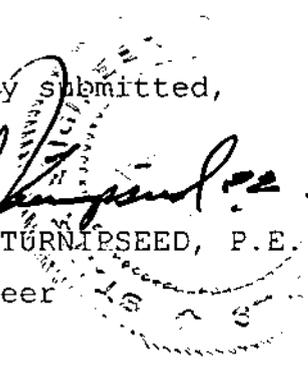
<sup>2</sup> NRS chapters 533 and 534.  
<sup>3</sup> NRS § 533.370(3).

RULING

Application 49733 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
E. MICHAEL TURNIPSEED, P.E.  
State Engineer



RMT/MDB/dl

Dated this 31st day of  
March, 2000.