

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

IN THE MATTER OF APPLICATION 51756)
FILED TO CHANGE THE PLACE OF USE)
AND MANNER OF USE OF A PORTION OF)
THE UNDERGROUND WATER PREVIOUSLY)
APPROPRIATED WITHIN THE PAHRUMP)
VALLEY HYDROGRAPHIC BASIN (162),)
NYE COUNTY, NEVADA.)

RULING

#5063

GENERAL

I.

Application 51756 was filed on January 12, 1988, by Floyd B. and Shirley B. Neth to change the place of use and manner of use of 25 acre-feet annually (afa), a portion of the underground water previously appropriated under Permit 29199, Certificate 8770. The proposed manner of use is to provide water for irrigation and domestic use on 5 acres located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T.20S., R.53E., M.D.B.& M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 3.¹

II.

Certificate 8770 was issued on May 21, 1976, under Permit 29199 for 2.0 cubic feet per second, but not to exceed 1125.6 afa, for the irrigation of 360.46 acres of land. The water rights represented by Permit 29199, Certificate 8770, have been through a series of title assignments, partial relinquishment and reversion to the groundwater basin.²

FINDINGS OF FACT

I.

The State Engineer finds from records in his office that the applicants, Floyd B. and Shirley B. Neth, do not own that portion

¹ File No. 51756, official records in the office of the State Engineer.

² File No. 29119, official records in the office of the State Engineer.

of Permit 29199, Certificate 8770, requested for change under Application 51756.²

II.

Records in the State Engineer's office show that no permits have been granted to change Permit 29199, Certificate 8770.² Records also show that 179.14 afa of water has been relinquished or reverted to the groundwater basin to support the development of subdivisions.² The State Engineer finds that no part of the annual duty of 946.46 afa remaining under Permit 29199, Certificate 8770, is held by the Applicants under 51756.

III.

By letter dated March 19, 1990, the State Engineer requested information from the applicants as to whether they had owned any portion of the water rights they sought to change under Application 51756, particularly since the records of the State Engineer indicated the applicants had transferred what water rights they owned under Permit 29199 to other persons. The State Engineer finds no information was received from the applicants in response to the inquiry.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:⁴

- A. the proposed use or change conflicts with existing rights;
 - B. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS § 533.024;
- or

³ NRS chapters 533 and 534.

⁴ NRS § 533.370(3).

C. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that the records of the State Engineer do not indicate that the applicants hold any portion of Permit 29199, Certificate 8770, which would support the changes proposed by Application 51756.

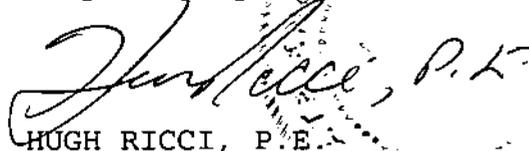
IV.

The State Engineer concludes that to grant a permit under a change Application 51756 when the applicants do not hold any of the water right under Permit 29199, Certificate 8770, would threaten to prove detrimental to the public interest.

RULING

Application 51756 is hereby denied on the grounds that to grant a permit under a change application when the applicants have not demonstrated ownership of the water right requested for change would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/CAB/dl

Dated this 4th day of
September, 2001.